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

FORM 10-Q

(Mark One)

x QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the quarterly period ended December 31, 2009

or

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

Commission File Number 0-22175

EMCORE Corporation
(Exact name of registrant as specified in its charter)

New Jersey	**22-2746503**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
10420 Research Road, SE, Albuquerque, New Mexico	**87123**
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number, including area code: **(505) 332-5000**

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

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

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

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). ¨ Yes **xNo**

The number of shares outstanding of the registrant's no par value common stock as of February 4, 2010 was 81,741,138.

CAUTIONARY STATEMENT
FOR PURPOSES OF "SAFE HARBOR PROVISIONS"
OF THE PRIVATE SECURITIES LITIGATION ACT OF 1995

This Quarterly Report on Form 10-Q includes forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, and Section 21E of the Exchange Act of 1934. These forward-looking statements are largely based on our current expectations and projections about future events and financial trends affecting the financial condition of our business. Such forward-looking statements include, in particular, projections about our future results included in our Exchange Act reports, statements about our plans, strategies, business prospects, changes and trends in our business and the markets in which we operate. These forward-looking statements may be identified by the use of terms and phrases such as "anticipates", "believes", "can", "could", "estimates", "expects", "forecasts", "intends", "may", "plans", "projects", "targets", "will", and similar expressions or variations of these terms and similar phrases. Additionally, statements concerning future matters such as the development of new products, enhancements or technologies, sales levels, expense levels and other statements regarding matters that are not historical are forward-looking statements. Management cautions that these forward-looking statements relate to future events or our future financial performance and are subject to business, economic, and other risks and uncertainties, both known and unknown, that may cause actual results, levels of activity, performance or achievements of our business or our industry to be materially different from those expressed or implied by any forward-looking statements. Factors that could cause or contribute to such differences in results and outcomes include without limitation those discussed under Item 1A - Risk Factors in our Annual Report on Form 10-K for the fiscal year ended September 30, 2009. The cautionary statements should be read as being applicable to all forward-looking statements wherever they appear in this Quarterly Report and they should also be read in conjunction with the consolidated financial statements, including the related footnotes.

Neither management nor any other person assumes responsibility for the accuracy and completeness of the forward-looking statements. All forward-looking statements in this Quarterly Report are made as of the date hereof, based on information available to us as of the date hereof, and subsequent facts or circumstances may contradict, obviate, undermine, or otherwise fail to support or substantiate such statements. We caution you not to rely on these statements without also considering the risks and uncertainties associated with these statements and our business that are addressed in our Annual Report. Certain information included in this Quarterly Report may supersede or supplement forward-looking statements in our other Exchange Act reports filed with the Securities and Exchange Commission. We assume no obligation to update any forward-looking statement to conform such statements to actual results or to changes in our expectations, except as required by applicable law or regulation.

EMCORE Corporation
FORM 10-Q
For The Quarterly Period Ended December 31, 2009

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EMCORE CORPORATION
Condensed Consolidated Statements of Operations and Comprehensive Loss
For the three months ended December 31, 2009 and 2008
(in thousands, except loss per share)
(unaudited)

	For the Three Months Ended December 31,	
	2009	**2008**
Product revenue	$ 40,939	$ 51,554
Service revenue	1,462	2,502
Total revenue	42,401	54,056
Cost of product revenue	33,229	50,772
Cost of service revenue	1,168	1,695
Total cost of revenue	34,397	52,467
Gross profit	8,004	1,589
Operating expenses:		
Selling, general, and administrative	12,423	12,159
Research and development	7,513	8,110
Impairments	-	33,781
Total operating expenses	19,936	54,050
Operating loss	(11,932)	(52,461)
Other (income) expense:		
Interest income	(2)	(50)
Interest expense	116	195
Foreign exchange loss	232	472
Loss from financing derivative instrument	1,360	-
Impairment of investment	-	367
Total other expense	1,706	984
Net loss	$ (13,638)	$ (53,445)
Foreign exchange translation adjustment	79	108
Comprehensive loss	$ (13,559)	$ (53,337)
Per share data:		
Net loss per basic and diluted share	$ (0.17)	$ (0.69)
Weighted-average number of basic and diluted shares outstanding	81,113	77,816

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

EMCORE CORPORATION
Condensed Consolidated Balance Sheets
As of December 31, 2009 and September 30, 2009
(in thousands)
(unaudited)

	As of December 31, 2009	As of September 30, 2009
ASSETS		
Current assets:		
Cash and cash equivalents	$ 15,138	$ 14,028
Restricted cash	4	1,521
Available-for-sale securities	1,350	1,350
Accounts receivable, net of allowance of $6,640 and $7,125, respectively	40,726	39,417
Inventory, net	31,454	34,221
Prepaid expenses and other current assets	4,550	4,712
Total current assets	93,222	95,249
Property, plant and equipment, net	52,719	55,028
Goodwill	20,384	20,384
Other intangible assets, net	12,424	12,982
Long-term restricted cash	163	163
Other non-current assets, net	720	753
Total assets	$ 179,632	$ 184,559
LIABILITIES and SHAREHOLDERS' EQUITY		
Current liabilities:		
Borrowings from credit facility	$ 10,678	$ 10,332
Short-term debt	843	842
Accounts payable	28,632	24,931
Accrued expenses and other current liabilities	21,042	21,687
Total current liabilities	61,195	57,792
Warrant liability	1,132	-
Other long-term liabilities	103	104
Total liabilities	62,430	57,896
Commitments and contingencies		
Shareholders' equity:		
Preferred stock, $0.0001 par, 5,882 shares authorized; no shares outstanding	-	-
Common stock, no par value, 200,000 shares authorized; 81,900 shares issued and 81,741 shares outstanding as of December 31, 2009; 80,982 shares issued and 80,823 shares outstanding as of September 30, 2009	692,942	688,844
Accumulated deficit	(574,471)	(560,833)
Accumulated other comprehensive income	814	735
Treasury stock, at cost; 159 shares as of December 31, 2009 and September 30, 2009	(2,083)	(2,083)
Total shareholders' equity	117,202	126,663
Total liabilities and shareholders' equity	$ 179,632	$ 184,559

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

EMCORE CORPORATION
Condensed Consolidated Statements of Cash Flows
For the three months ended December 31, 2009 and 2008
(in thousands)
(unaudited)

	For the Three Months Ended December 31,	
	2009	**2008**
Cash flows from operating activities:		
Net loss	$ (13,638)	$ (53,445)
Adjustments to reconcile net loss to net cash used in operating activities:		
Impairments	-	33,781
Stock-based compensation expense	3,186	2,150
Depreciation and amortization expense	3,117	4,293
Provision for inventory	(378)	4,362
Provision for doubtful accounts	(434)	922
Provision for product warranty	340	-
Impairment of investment	-	366
Loss on disposal of equipment	-	97
Compensatory stock issuances	200	18
Loss from financing derivative instrument	1,360	-
Total non-cash adjustments	7,391	45,989
Changes in operating assets and liabilities:		
Accounts receivable	(1,004)	(1,938)
Inventory	3,143	(4,337)
Other assets	173	225
Accounts payable	3,682	(6,806)
Accrued expenses and other current liabilities	(987)	(832)
Total change in operating assets and liabilities	5,007	(13,688)
Net cash used in operating activities	(1,240)	(21,144)
Cash flows from investing activities:		
Purchase of plant and equipment	(87)	(597)
Investments in patents	(158)	-
Sale of available-for-sale securities	-	1,700
Release of restricted cash	1,517	27
Net cash provided by investing activities	$ 1,272	$ 1,130

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

EMCORE CORPORATION
Condensed Consolidated Statements of Cash Flows
For the three months ended December 31, 2009 and 2008
(in thousands)
(unaudited)

(Continued from previous page)

	For the Three Months Ended December 31,	
	2009	**2008**
Cash flows from financing activities:		
Proceeds from borrowings from credit facility	$ 58,227	$ 15,443
Payments on borrowings from credit facility	(57,881)	-
Proceeds from borrowings on short-term debt	3	910
Payments on borrowings on short-term debt	(2)	-
Proceeds from exercise of stock options	-	32
Proceeds from employee stock purchase plan	505	613
Payments on capital lease obligations	(2)	-
Net cash provided by financing activities	850	16,998
Effect of foreign currency	228	107
Net increase (decrease) in cash and cash equivalents	1,110	(2,909)
Cash and cash equivalents at beginning of period	14,028	18,227
Cash and cash equivalents at end of period	$ 15,138	$ 15,318
SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION		
Cash paid during the period for interest	$ 76	$ 132
Cash paid during the period for income taxes	$ -	$ -
NON-CASH INVESTING AND FINANCING ACTIVITIES		
Acquisition of equipment under capital lease	$ -	$ -
Issuance of common stock under financing derivative instrument	$ 228	$ -

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

EMCORE Corporation
Notes to Consolidated Financial Statements

NOTE 1. Basis of Presentation

The accompanying unaudited condensed consolidated financial statements include the accounts of EMCORE Corporation and its subsidiaries (the "Company" or "EMCORE"). All intercompany accounts and transactions have been eliminated in consolidation.

These statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP") for interim information, and with the instructions to Form 10-Q and Rule 10-01 of Regulation S-X of the Securities and Exchange Commission ("SEC"). Accordingly, they do not include all of the information and footnotes required by U.S. GAAP for annual financial statements. In the opinion of management, the interim financial statements reflect all normal adjustments that are necessary to provide a fair presentation of the financial results for the interim periods presented. Operating results for interim periods are not necessarily indicative of results that may be expected for an entire fiscal year. The condensed consolidated balance sheet as of September 30, 2009 has been derived from the audited consolidated financial statements as of such date. For a more complete understanding of the Company's financial position, operating results, risk factors and other matters, please refer to the Company's Annual Report on Form 10-K for the fiscal year ended September 30, 2009.

We have evaluated subsequent events from December 31, 2009 through February 9, 2010, the date that these financial statements were issued.

Use of Estimates. The preparation of the consolidated financial statements in conformity with U.S. GAAP requires management of the Company to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities, as of the date of the financial statements, and the reported amounts of revenue and expenses during the reported period. The accounting estimates that require our most significant, difficult, and subjective judgments include:

- valuation of inventory, goodwill, intangible assets, warrants, and stock-based compensation;
- assessment of recovery of long-lived assets;
- revenue recognition associated with the percentage of completion method; and,
- allowance for doubtful accounts and warranty accruals.

Management develops estimates based on historical experience and on various assumptions about the future that are believed to be reasonable based on the best information available. The Company's reported financial position or results of operations may be materially different under changed conditions or when using different estimates and assumptions, particularly with respect to significant accounting policies. In the event that estimates or assumptions prove to differ from actual results, adjustments are made in subsequent periods to reflect more current information.

Loss per Share. The Company's loss per share was calculated by dividing net loss applicable to common stock by the weighted average number of common stock shares outstanding for the period and it is presented in the accompanying consolidated statements of operations. For the three months ended December 31, 2009, and 2008, all stock options and warrants were excluded from the computation of diluted earnings per share since the Company incurred a net loss for these periods and any effect would have been anti-dilutive.

Liquidity and Capital Resources
As of December 31, 2009, cash, cash equivalents, available-for-sale securities and current restricted cash totaled approximately $16.5 million.

The Company incurred a net loss of $13.6 million for the three months ended December 31, 2009. The Company's operating results for future periods are subject to numerous uncertainties and it is uncertain if the Company will be able to reduce or eliminate its net losses for the foreseeable future. Although the Company experienced year-over-year revenue growth in most years, in fiscal 2009, the Company had not been able to sustain historical revenue growth rates due to material adverse changes in market and economic conditions.

In the event that management is not able to increase revenue and/or manage operating expenses in line with revenue forecasts, the Company may not be able to achieve profitability.

Historically, the Company has consumed cash from operations. During the three months ended December 31, 2009, the Company consumed cash from operations of approximately $1.2 million and, over the last three quarters, has only consumed $0.2 million in cash from operations due primarily to improved working capital management.

Management Actions and Plans

Historically, management has addressed liquidity requirements through a series of cost reduction initiatives, capital markets transactions, and the sale of assets. Management anticipates that the current recession in the United States and internationally may continue to impose formidable challenges for the Company's businesses in the near term.

Due to significant differences in operating strategy between the Company's Fiber Optics and Photovoltaics businesses, the Company's management and board of directors believes that they would provide greater value to shareholders if they were operated as two separate business entities.

In furtherance of this strategy, on February 3, 2010, the Company entered into a share purchase agreement to create a joint venture with Tangshan Caofeidian Investment Corporation ("TCIC"), a Chinese investment company located in the Caofeidian Industry Zone, Tangshan City, Hebei Province of China. The agreement provides for TCIC to purchase a sixty percent (60%) interest in the Company's Fiber Optics business (excluding its satellite communications and specialty photonics fiber optics product lines), which will be operated as a joint venture once the transaction is closed. The Fiber Optics businesses included in this transaction are the Company's telecom, enterprise, cable television (CATV), fiber-to-the-premises (FTTP), and video transport product lines. The Company will retain the satellite communications and specialty photonics fiber optics product lines as well as the satellite and terrestrial solar businesses. See Footnote 17 – Subsequent Event for additional information related to this new joint venture.

During fiscal 2009, management implemented a series of measures and continues to evaluate opportunities intended to align the Company's cost structure with its revenue forecasts. Such measures included several workforce reductions, temporary salary reductions, the elimination of executive and employee merit increases and bonuses for fiscal 2009, and the elimination or reduction of certain discretionary expenses. The Company has also significantly lowered its spending on capital expenditures and focused on improving the management of its working capital. During the last twelve months ended December 31, 2009, the Company monetized approximately $25.5 million of inventory, generated $16.9 million in cash from lowering its accounts receivable balances and achieved positive cash flow from operations during the quarters ended June 30, 2009 and September 30, 2009.

In fiscal 2010, the Company continues to remain focused on maximizing cash flow from operations while developing additional sources of liquidity.

On October 1, 2009, the Company entered into an equity line of credit arrangement with Commerce Court Small Cap Value Fund, Ltd. ("Commerce Court"). Upon issuance of a draw-down request by the Company, Commerce Court has committed to purchasing up to $25 million worth of shares of the Company's common stock over the 24-month term of the purchase agreement, provided that the number of shares the Company may sell under the facility is limited to no more than 15,971,169 shares of common stock or that would result in the beneficial ownership of more than 9.9% of the then issued and outstanding shares of the Company's common stock.

Conclusion

We believe that our existing balances of cash, cash equivalents, and available-for-sale securities, together with the cash expected to be generated from operations, amounts expected to be available under our revolving credit facility with Bank of America and the equity line of credit agreement with Commerce Court will provide us with sufficient financial resources to meet our cash requirements for operations, working capital, and capital expenditures for the next 12 months. However, in the event of unforeseen circumstances, or unfavorable market or economic developments, we may have to raise additional funds by any one or a combination of the following: issuing equity, debt or convertible debt, or selling certain product lines and/or portions of our business. There can be no guarantee that we will be able to raise additional funds on terms acceptable to us, or at all. A significant contraction in the capital markets, particularly in the technology sector, may make it difficult for us to raise additional capital if or when it is required, especially if we experience disappointing operating results. If adequate capital is not available to us as required, or is not available on favorable terms, our business, financial condition and results of operations may be adversely affected.

NOTE 2. Recent Accounting Pronouncements

ASC 105 – *Generally Accepted Accounting Principles*. On October 1, 2009, the Company adopted new authoritative guidance within ASC 105 which establishes the Financial Accounting Standards Board's ("FASB") Accounting Standards Codification ("ASC") as the sole source of authoritative accounting principles recognized by the FASB to be applied by all nongovernmental entities in the preparation of financial statements in conformity with GAAP. The adoption of this new guidance did not impact the Company's results of operations or financial condition, but it revised the reference of accounting pronouncements within this Quarterly Report.

ASC 350 – *Intangibles – Goodwill and Other.* On October 1, 2009, the Company adopted new authoritative guidance within ASC 350 which amends the factors an entity should consider in developing renewal or extension assumptions used in determining the useful life of recognized intangible assets and the period of expected cash flows used to measure the fair value of intangible assets under ASC 805, *Business Combinations*. The adoption of this new guidance did not have any impact on the Company's results of operations or financial condition.

ASC 470 – *Debt.* On October 1, 2009, the Company adopted new authoritative guidance within ASC 470 that requires the proceeds from the issuance of certain convertible debt instruments to be allocated between a liability component (issued at a discount) and an equity component. The resulting debt discount is amortized over the period the convertible debt is expected to be outstanding as additional non-cash interest expense. The change in accounting treatment is effective for the Company beginning in fiscal 2010, and it is required to be applied retrospectively to prior periods. Management is currently assessing the potential impact upon adoption of this new guidance and expects it will have an effect on the Company's fiscal 2008 statement of operations, but it should not have any effect on the fiscal 2008 ending equity account balances or the fiscal 2009 financial statements.

ASC 605 – *Revenue Recognition*. In October 2009, the FASB issued new authoritative guidance on revenue recognition related to arrangements with multiple deliverables that will become effective in fiscal 2011, with earlier adoption permitted. Under the new guidance, when vendor specific objective evidence or third party evidence for deliverables in an arrangement can not be determined, a best estimate of the selling price is required to separate deliverables and allocate arrangement consideration using the relative selling price method. The new guidance includes new disclosure requirements on how the application of the relative selling price method affects the timing and amount of revenue recognition. Management is currently assessing the potential impact that the adoption of this new guidance could have on the Company's financial statements.

ASC 805 – *Business Combinations.* On October 1, 2009, the Company adopted new authoritative guidance within ASC 805 which requires an acquirer to recognize the assets acquired, the liabilities assumed, including those arising from contractual contingencies, any contingent consideration, and any noncontrolling interest in the acquiree at the acquisition date, measured at their fair values as of that date, with limited exceptions specified in the statement. It also requires the acquirer in a business combination achieved in stages (sometimes referred to as a step acquisition) to recognize the identifiable assets and liabilities, as well as the noncontrolling interest in the acquiree, at the full amounts of their fair values (or other amounts determined in accordance with this accounting principle). In addition, the accounting principle's requirement to measure the noncontrolling interest in the acquiree at fair value will result in recognizing the goodwill attributable to the noncontrolling interest in addition to that attributable to the acquirer. ASC 805 also requires the acquirer to recognize changes in the amount of its deferred tax benefits that are recognizable because of a business combination either in income from continuing operations in the period of the combination or directly in contributed capital, depending on the circumstances. It also provides guidance on the impairment testing of acquired research and development intangible assets and assets that the acquirer intends not to use. ASC 805 applies prospectively to business combinations for which the acquisition date is on or after October 1, 2009, therefore, the adoption of ASC 805 did not have any impact on the Company's historical financial statements.

ASC 810 – *Consolidation.* – On October 1, 2009, the Company adopted new authoritative guidance within ASC 810 which establishes accounting and reporting standards for the noncontrolling interest in a subsidiary and for the deconsolidation of a subsidiary. It also clarifies that a noncontrolling interest in a subsidiary is an ownership interest in the consolidated entity that should be reported as equity in the consolidated financial statements. ASC 810 also changes the way the consolidated income statement is presented by requiring consolidated net income to be reported at amounts that include the amounts attributable to both the parent and the noncontrolling interest. It also requires disclosure, on the face of the consolidated statement of income, of the amounts of consolidated net income attributable to the parent and to the noncontrolling interest. ASC 810 requires that a parent recognize a gain or loss in net income when a subsidiary is deconsolidated and requires expanded disclosures in the consolidated financial statements that clearly identify and distinguish between the interests of the parent owners and the interests of the noncontrolling owners of a subsidiary. The adoption of this new guidance did not have any impact on the Company's results of operations or financial condition.

NOTE 3. Equity

Stock Options

The Company provides long-term incentives to eligible officers, directors, and employees in the form of stock options. Most of the stock options vest and become exercisable over four to five years and have a contractual life of ten years. The Company maintains two stock option plans: the 1995 Incentive and Non-Statutory Stock Option Plan ("1995 Plan") and the 2000 Stock Option Plan ("2000 Plan" and, together with the 1995 Plan, the "Option Plans"). The 1995 Plan authorizes the grant of stock options up to 2,744,118 shares of the Company's common stock. The 2000 Plan authorizes the grant of stock options up to 15,850,000 shares of the Company's common stock. As of December 31, 2009, no stock options were available for issuance under the 1995 Plan and 2,252,014 stock options were available for issuance under the 2000 Plan. Certain options under the Option Plans are intended to qualify as incentive stock options pursuant to Section 422A of the Internal Revenue Code. The Company issues new shares of common stock to satisfy the issuance of shares under the Option Plans.

The following table summarizes the activity under the Option Plans:

	Number of Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (in years)
Outstanding as of September 30, 2009	10,788,174	$ 4.85	
Granted	24,000	1.02	
Exercised	-	-	
Forfeited	(95,913)	3.37	
Cancelled	(762,494)	5.57	
Outstanding as of December 31, 2009	9,953,767	$ 4.78	7.78
Exercisable as of December 31, 2009	3,625,721	$ 5.92	5.92
Vested and expected to vest as of December 31, 2009	5,883,866	$ 5.05	7.10

As of December 31, 2009, there was approximately $5.5 million of total unrecognized compensation expense related to non-vested stock-based compensation arrangements granted under the Option Plans. This expense is expected to be recognized over an estimated weighted average life of 2.8 years.

Intrinsic value for stock options represents the “in-the-money” portion or the positive variance between a stock option’s exercise price and the underlying stock price. There were no stock options exercised during the three months ended December 31, 2009. The total intrinsic value related to stock options exercised during the three months ended December 31, 2008 totaled approximately $10,000. The intrinsic value related to fully vested and expected to vest stock options as of December 31, 2009 totaled approximately $11,000 and there was no intrinsic value related to exercisable stock options as of December 31, 2009.

	Number of Stock Options Outstanding			Options Exercisable	
Exercise Price of Stock Options	Number Outstanding	Weighted Average Remaining Contractual Life (years)	Weighted- Average Exercise Price	Number Exercisable	Weighted- Average Exercise Price
<$5.00	5,104,908	8.02	$1.90	1,496,845	$2.98
>=$5.00 to <$10.00	4,729,939	7.66	7.55	2,035,056	7.41
>$10.00	118,920	2.64	18.53	93,820	20.47
TOTAL	9,953,767	7.78	$4.78	3,625,721	$5.92

Stock-based compensation expense is measured at the stock option grant date, based on the fair value of the award, and is recorded to cost of sales; sales, general, & administrative; and research and development expense based on individual employee’s responsibility and function over the requisite service period. Management has made an estimate of expected forfeitures and is recognizing compensation expense only for those equity awards expected to vest. The effect of recording stock-based compensation expense was as follows:

(in thousands, except per share data)	For The Three Months Ended December 31,	
	2009	2008
Stock-based compensation expense by award type:		
Employee stock options	$ 3,006	$ 1,995
Employee stock purchase plan	180	155
Total stock-based compensation expense	$ 3,186	$ 2,150
Net effect on net loss per basic and diluted share	$ (0.04)	$ (0.02)

Surrender of Stock Options

On November 20, 2009, Mr. Markovich, the Company's Chief Financial Officer, voluntarily surrendered stock options exercisable into 475,000 shares of common stock. These stock options had an exercise price of $5.57 and were granted to Mr. Markovich on August 18, 2008. Mr. Markovich received no consideration in exchange for the surrender of these stock options. The surrender of his non-vested stock options resulted in an immediate non-cash charge of $1.3 million which was recorded in SG&A during the three months ended December 31, 2009. The expense was due to the acceleration of all unrecognized stock-based compensation expense associated with that specific stock option grant.

Valuation Assumptions

The fair value of each stock option grant is estimated on the date of grant using the Black-Scholes option valuation model and the straight-line attribution approach using the following weighted-average assumptions. The option-pricing model requires the input of highly subjective assumptions, including the option's expected life and the price volatility of the underlying stock. The weighted-average grant date fair value of stock options granted during the three months ended December 31, 2009 and 2008 was $1.02 and $2.95, respectively.

Black-Scholes Weighted-Average Assumptions

Stock Options	**For the Three Months Ended December 31,**	
	2009	**2008**
Expected dividend yield	-%	-%
Expected stock price volatility	96.4%	92.4%
Risk-free interest rate	2.5%	3.5%
Expected term (in years)	3.8	6.1
Estimated pre-vesting forfeitures	32.6%	25.1%

Expected Dividend Yield: The Black-Scholes valuation model calls for a single expected dividend yield as an input. The Company has not issued any dividends.

Expected Stock Price Volatility: The fair values of stock-based payments were valued using the Black-Scholes valuation method with a volatility factor based on the Company's historical stock price.

Risk-Free Interest Rate: The Company bases the risk-free interest rate used in the Black-Scholes valuation method on the implied yield that was currently available on U.S. Treasury zero-coupon notes with an equivalent remaining term. Where the expected term of stock-based awards do not correspond with the terms for which interest rates are quoted, the Company performed a straight-line interpolation to determine the rate from the available maturities.

Expected Term: Expected term represents the period that the Company's stock-based awards are expected to be outstanding and was determined based on historical experience of similar awards, giving consideration to the contractual terms of the stock-based awards, vesting schedules and expectations of future employee behavior as influenced by changes to the terms of its stock-based awards.

Estimated Pre-vesting Forfeitures: When estimating forfeitures, the Company considers voluntary termination behavior as well as workforce reduction programs.

Common Stock

The Company's Board of Directors has authorized a total of 200 million shares of common stock available for issuance.

Preferred Stock

The Company's Restated Certificate of Incorporation authorizes the Board of Directors to issue up to 5,882,352 shares of preferred stock upon such terms and conditions having such rights, privileges, and preferences as the Board of Directors may determine. As of December 31, 2009 and September 30, 2009, no shares of preferred stock were issued or outstanding.

Warrants

As of December 31, 2009, the Company had 3,000,003 warrants outstanding.

In October 2009, the Company entered into an equity line of credit arrangement and issued three warrants representing the right to purchase up to an aggregate of 1,600,000 shares of the Company's common stock. See Footnote 4 - Equity Facility, for additional information regarding this credit arrangement and warrants issued.

In February 2008, the Company also issued 1,400,003 warrants in conjunction with a private placement transaction. The warrants grant the holder the right to purchase one share of our common stock at a price of $15.06 per share. The warrants are immediately exercisable and remain exercisable until February 20, 2013. Beginning two years after their issuance, the warrants may be called by the Company for a price of $0.01 per underlying share if the closing price of its common stock has exceeded 150% of the exercise price for at least 20 trading days within a period of any 30 consecutive trading days and other certain conditions are met. In addition, in the event of certain fundamental transactions, principally the purchase of the Company's outstanding common stock for cash, the holders of the warrants may demand that the Company purchase the unexercised portions of their warrants for a price equal to the Black-Scholes Value of such unexercised portions as of the time of the fundamental transaction. Warrants issued to the investors were accounted for as an equity transaction with a value of $9.8 million recorded to common stock.

Employee Stock Purchase Plan

The Company maintains an Employee Stock Purchase Plan ("ESPP") that provides employees of the Company an opportunity to purchase common stock through payroll deductions. The ESPP is a 6-month duration plan with new participation periods beginning the first business day of January and July of each year. The purchase price is set at 85% of the average high and low market price of the Company's common stock on either the first or last day of the participation period, whichever is lower, and contributions are limited to the lower of 10% of an employee's compensation or $25,000. The Company issues new shares of common stock to satisfy the issuance of shares under this stock-based compensation plan.

The amounts of shares issued for the ESPP are as follows:

	Number of Common Stock Shares	Purchase Price per Share of Common Stock
Amount of shares reserved for the ESPP	4,500,000	
Number of shares issued for calendar years 2000 through 2007	(1,123,857)	$1.87 - $40.93
Number of shares issued for calendar year 2008	(592,589)	$0.88 - $ 5.62
Number of shares issued for calendar year 2009	(1,073,405)	$0.88 - $ 0.92
Remaining shares reserved for the ESPP	1,710,149	

Future Issuances

As of December 31, 2009, the Company had reserved a total of 16.9 million shares of its common stock for future issuances as follows:

	Number of Common Stock Shares Available
For exercise of outstanding common stock options	9,953,767
For future issuances to employees under the ESPP	1,710,149
For future common stock option awards	2,252,014
For future exercise of warrants	3,000,003
Total reserved	16,915,933

NOTE 4. Equity Facility

On October 1, 2009, the Company entered into a common stock purchase agreement (the "Purchase Agreement") with Commerce Court Small Cap Value Fund, Ltd. ("Commerce Court"). The Purchase Agreement provides that upon certain terms and conditions, and the issuance of a draw-down request by the Company, Commerce Court has committed to purchasing up to $25 million worth of shares of the Company's common stock over the 24-month term of the Purchase Agreement; provided, however, in no event may the Company sell more than 15,971,169 shares of common stock under the Purchase Agreement, which is equal to one share less than twenty percent of the Company's outstanding shares of common stock as of the closing date of the Purchase Agreement, less the number of shares of common stock the Company issued to Commerce Court on the closing date in partial payment of its commitment fee, or more shares that would result in the beneficial ownership or more than 9.9% of the then issued and outstanding shares of our common stock by Commerce Court.

As payment of a portion of Commerce Court's fees in connection with the Purchase Agreement, the Company agreed to issue to Commerce Court upon the execution of the Purchase Agreement, 185,185 shares of common stock and three warrants representing the right to purchase up to an aggregate of 1,600,000 shares of common stock, as follows:

- a warrant, pursuant to which Commerce Court may purchase up to 666,667 shares of common stock at an exercise price of $1.69, which is equal to 125% of the average of the volume weighted average price of common stock for the three trading days immediately preceding the execution date of the Purchase Agreement,

- a warrant, pursuant to which Commerce Court may purchase from up to 666,667 shares of common stock at an exercise price of $2.02, which is equal to 150% of the average of the volume weighted average price of common stock for the three trading days immediately preceding the execution date of the Purchase Agreement, and

- a warrant, pursuant to which Commerce Court may purchase up to 266,666 shares of common stock at an exercise price of $2.36, which is equal to 175% of the average of the volume weighted average price of common stock for the three trading days immediately preceding the execution date of the Purchase Agreement.

The warrants may be exercised at any time or from time to time between April 1, 2010 and April 1, 2015. The warrants may not be offered for sale, sold, transferred or assigned without our consent, in whole or in part, to any person other than an affiliate of Commerce Court. If after April 1, 2010, the Company's common stock trades at a price greater than 140% of the exercise price of any warrant for a period of 10 consecutive trading days and the Company meets certain equity conditions, then the Company has the right to effect a mandatory exercise of such warrant.
From time to time over the term of the Purchase Agreement, and at the Company's sole discretion, the Company may present Commerce Court with draw down notices to purchase common stock over a ten consecutive trading day period or such other period mutually agreed upon by the Company and Commerce Court (the "draw down period") with each draw down subject to limitations based on the price of the Company's common stock and a limit of the amount in the applicable fixed amount request, or 2.5% of the Company's market capitalization at the time of such draw down, whichever is less.

The Company has the right to present Commerce Court with up to 24 draw down notices during the term of the Purchase Agreement, with only one such draw down notice allowed per draw down period with a minimum of five trading days required between each draw down period.

Once presented with a draw down notice, Commerce Court is required to purchase a pro rata portion of the shares on each trading day during the trading period on which the daily volume weighted average price for the common stock exceeds a threshold price determined by the Company for such draw down. The per share purchase price for these shares will equal the daily volume weighted average price of the common stock on each date during the draw down period on which shares are purchased, less a discount of 5%. If the daily volume weighted average price of the common stock falls below the threshold price on any trading day during a draw down period, the Purchase Agreement provides that Commerce Court will not be required to purchase the pro-rata portion of shares of common stock allocated to that day. However, at its election, Commerce Court may buy the pro-rata portion of shares allocated to that day at the threshold price less the discount described above.

The Purchase Agreement also provides that, from time to time and at the Company's sole discretion, the Company may grant Commerce Court the right to exercise one or more options to purchase additional shares of common stock during each draw down period for an amount of shares specified by the Company based on the trading price of the common stock. Upon Commerce Court's exercise of such an option, the Company would sell to Commerce Court the shares of common stock subject to the option at a price equal to the greater of the daily volume weighted average price of the common stock on the day Commerce Court notifies the Company of its election to exercise its option or the threshold price for the option determined by the Company, less a discount calculated in the same manner as it is calculated in the draw down notice.

In addition to the issuance of shares of common stock to Commerce Court pursuant to the Purchase Agreement, a supplement to the Company's shelf registration statement filed with the SEC also covers the sale of those shares from time to time by Commerce Court to the public.

The Company paid $45,000 of Commerce Court's attorneys' fees and expenses incurred by Commerce Court in connection with the preparation, negotiation, execution and delivery of the Purchase Agreement and related transaction documentation. The Company has also agreed to pay up to $5,000 in certain fees and expenses incurred by Commerce Court in connection with any amendments, modifications or waivers of the Purchase Agreement, ongoing due diligence of our company and other transaction expenses associated with fixed requests made by the Company from time to time during the term of the Purchase Agreement, provided that the Company shall not be required to pay any reimbursement for any such expenses in any calendar quarter in which the Company provides a fixed request notice.

If the Company issues a draw down notice and fails to deliver the shares to Commerce Court on the applicable settlement date, and such failure continues for ten trading days, the Company has agreed to pay Commerce Court, at Commerce Court's option, liquidated damages in cash or restricted shares of common stock.

Upon each sale of common stock to Commerce Court under the Purchase Agreement, the Company has also agreed to pay Reedland Capital Partners, an Institutional Division of Financial West Group, a placement fee equal to 1% of the aggregate dollar amount of common stock purchased by Commerce Court.

Financial Impact

The Purchase Agreement meets all of the criteria of a financial derivative instrument in accordance with the accounting literature in ASC 815, *Derivatives and Hedging*. Derivative instruments should be measured initially at fair value; however, because the Purchase Agreement is based on the prevailing market price at a possible future transaction date, this variable-priced contract would not be expected to have a fair value other than zero. The warrants issued by the Company were classified as a liability since the warrants met the classification requirements for liability accounting in accordance with ASC 815.

Costs incurred to enter into this derivative instrument were expensed as incurred. During the three months ended December 31, 2009, the Company expensed the fair value of the common stock and warrants issued as a non-operating expense from a financing derivative instrument within the condensed consolidated statement of operations.

The fair value of the 185,185 shares of common stock issued was based on the closing price of $1.23 per share on October 1, 2009, or $0.2 million. The fair value of each warrant was estimated using the Black-Scholes option valuation model using the weighted-average assumptions set forth below. The option-pricing model requires the input of highly subjective assumptions, including the warrant's expected life and the price volatility of the underlying stock, as outlined below:

Black-Scholes Assumptions **As of October 1, 2009**	**Warrant 1**	**Warrant 2**	**Warrant 3**	**TOTAL**
Grant date	10/1/09	10/1/09	10/1/09	
Stock price	$1.23	$1.23	$1.23	
Exercise price	$1.69	$2.02	$2.36	
Expected term	5.5 years	5.5 years	5.5 years	
Dividend yield	0%	0%	0%	
Volatility	95%	95%	95%	
Risk-free interest rate	2.2%	2.2%	2.2%	
Black-Scholes value	$0.87	$0.84	$0.81	
Number of warrants issued	666,667	666,667	266,666	1,600,000
Value of warrants	**$580,000**	**$560,000**	**$216,000**	**$1,356,000**

On October 1, 2009, the Company recorded $1.4 million in non-operating expense related to the issuance of these warrants. The Company expects an impact to the consolidated statement of operations when it records an adjustment to fair value of the warrants at the end of each quarterly reporting period going forward.

As of December 31, 2009, the fair value of the warrants was estimated to be $1.1 million and the Company recorded a gain of $0.2 million on the change in fair value of the warrants since October 1, 2009. The fair value of each warrant was estimated using the following weighted-average assumptions:

Black-Scholes calculation **As of December 31, 2009**	**Warrant 1**	**Warrant 2**	**Warrant 3**	**TOTAL**
Grant date	10/1/09	10/1/09	10/1/09	
Stock price	$1.07	$1.07	$1.07	
Exercise price	$1.69	$2.02	$2.36	
Expected term	5.25 years	5.25 years	5.25 years	
Dividend yield	0%	0%	0%	
Volatility	95%	95%	95%	
Risk-free interest rate	2.7%	2.7%	2.7%	
Black-Scholes value	$0.73	$0.70	$0.67	
Number of warrants issued	666,667	666,667	266,666	1,600,000
Value of warrants	**$486,667**	**$466,667**	**$178,666**	**$1,132,000**

NOTE 5. Receivables

The components of accounts receivable consisted of the following:

(in thousands)	**As of December 31, 2009**	**As of September 30, 2009**
Accounts receivable	$ 42,168	$ 40,474
Accounts receivable – unbilled	5,198	6,068
Accounts receivable, gross	47,366	46,542
Allowance for doubtful accounts	(6,640)	(7,125)
Total accounts receivable, net	$ 40,726	$ 39,417

The Company records receivables from certain solar panel and solar power systems contracts using the percentage-of-completion method. The term of the contracts associated with this type of receivable usually exceed a period of one year. As of December 31, 2009, the Company had recorded $13.0 million of accounts receivable using the percentage of completion method. Of this amount, $8.5 million was invoiced and $4.5 million was unbilled as of December 31, 2009. Unbilled accounts receivable represents revenue recognized but not yet billed or accounts billed after the period ended. Billings on contracts using the percentage-of-completion method usually occurs upon completion of predetermined contract milestones or other contract terms, such as customer approval. The allowance for doubtful accounts specifically related to receivables recorded using the percentage-of-completion method totaled $2.5 million as of December 31, 2009. The allowance is based on the age of receivables and a specific identification of receivables considered at risk of collection.

All of the Company's accounts receivable as of December 31, 2009 is expected to be collected within the next twelve months.

The following table summarizes the changes in the allowance for doubtful accounts:

(in thousands)	**For the Three Months Ended December 31,**	
	2009	**2008**
Balance at beginning of period	$ 7,125	$ 2,377
Provision adjustment – (recovery) expense	(434)	922
Write-offs - deductions against receivables	(51)	-
Balance at end of period	$ 6,640	$ 3,299

NOTE 6. Inventory

Inventory is stated at the lower of cost or market, with cost being determined using the standard cost method that includes material, labor, and manufacturing overhead costs. The components of inventory consisted of the following:

(in thousands)

	As of December 31,2009	As of September 30, 2009
Raw materials	$ 28,237	$ 27,607
Work-in-process	7,057	6,496
Finished goods	7,374	9,998
Inventory, gross	42,668	44,101
Less: valuation allowance	(11,214)	(9,880)
Total inventory, net	$ 31,454	$ 34,221

The following table summarizes the changes in the valuation allowance accounts:

(in thousands)

	For the Three Months Ended December 31,	
	2009	2008
Balance at beginning of period	$ 9,880	$ 12,625
Provision adjustment – (recovery) expense	(378)	5,507
Adjustments against inventory or provisions	1,712	(780)
Balance at end of period	$ 11,214	$ 17,352

NOTE 7. Property, Plant, and Equipment

The components of property, plant, and equipment consisted of the following:

(in thousands)

	As of December 31, 2009	As of September 30, 2009
Land	$ 1,502	$ 1,502
Building and improvements	34,922	34,922
Equipment	98,711	98,693
Furniture and fixtures	3,065	3,065
Computer hardware and software	2,655	2,660
Leasehold improvements	1,055	1,094
Construction in progress	3,144	3,031
Property, plant and equipment, gross	145,054	144,967
Less: accumulated depreciation and amortization	(92,335)	(89,939)
Total property, plant and equipment, net	$ 52,719	$ 55,028

As of December 31, 2009 and September 30, 2009, the Company did not have any significant capital lease agreements.

Depreciation expense was $2.4 million and $3.1 million for the three months ended December 31, 2009 and 2008, respectively.

NOTE 8. Goodwill

As of September 30, 2009, the Company performed an impairment test on its goodwill based on revised operational and cash flow forecasts. The impairment testing indicated that no impairment existed and that fair value exceeded carrying value by approximately 40%. As of December 31, 2009, the Company performed an annual impairment test on its goodwill of $20.4 million related to its Photovoltaics reporting unit and the Company believes the carrying amount of the goodwill is not impaired. There were no events or change in circumstances that would more likely than not reduce the fair value of the Photovoltaics reporting unit below its carrying amount. However, if there is further erosion of the Company's market capitalization or the Photovoltaics reporting unit is unable to achieve its projected cash flows, management may be required to perform additional impairment tests of its remaining goodwill. The outcome of these additional tests may result in the Company recording goodwill impairment charges.

NOTE 9. Intangible Assets

The following table sets forth changes in the carrying value of intangible assets by reporting segment:

(in thousands)	As of December 31, 2009			As of September 30, 2009		
	Gross Assets	Accumulated Amortization	Net Assets	Gross Assets	Accumulated Amortization	Net Assets
Fiber Optics	$ 24,522	$ (12,993)	$ 11,529	$ 24,494	$ (12,341)	$ 12,153
Photovoltaics	1,589	(694)	895	1,459	(630)	829
Total	$ 26,111	$ (13,687)	$ 12,424	$ 25,953	$ (12,971)	$ 12,982

The Company believes the carrying amount of its long-lived assets and intangible assets as of December 31, 2009 are recoverable. However, if there is further erosion of the Company's market capitalization or the Company is unable to achieve its projected cash flows, management may be required to perform impairment tests of its remaining long-lived assets and intangible assets. The outcome of these tests may result in the Company recording impairment charges.

Amortization expense related to intangible assets is generally included in SG&A on the consolidated statements of operations. Amortization expense was $0.7 million and $1.1 million for the three months ended December 31, 2009 and 2008, respectively.

Based on the carrying amount of the intangible assets as of December 31, 2009, the estimated future amortization expense is as follows:

(in thousands)	Estimated Future Amortization Expense
Nine months ended September 30, 2010	$ 2,133
Fiscal year ended September 30, 2011	2,463
Fiscal year ended September 30, 2012	2,139
Fiscal year ended September 30, 2013	1,804
Fiscal year ended September 30, 2014	1,269
Thereafter	2,616
Total future amortization expense	$ 12,424

NOTE 10. Accrued Expenses and Other Current Liabilities

The components of accrued expenses and other current liabilities consisted of the following:

(in thousands)	As of December 31, 2009	As of September 30, 2009
Compensation-related	$ 4,521	$ 5,861
Warranty	4,417	4,287
Loss on firm commitments	-	3,821
Professional fees	2,046	1,839
Royalty	2,113	1,937
Self insurance	1,431	1,272
Deferred revenue and customer deposits	3,858	886
Income and other taxes	685	625
Accrued program loss	15	51
Restructuring accrual	342	395
Other	1,614	713
Total accrued expenses and other current liabilities	$ 21,042	$ 21,687

The following table summarizes the changes in the product warranty accrual accounts:

(in thousands)	For the Three Months Ended December 31,	
	2009	2008
Balance at beginning of period	$ 4,287	$ 4,640
Provision adjustment – expense (recovery)	340	(133)
Utilization of warranty accrual	(210)	(395)
Balance at end of period	$ 4,417	$ 4,112

NOTE 11. Restructuring Charges

In accordance with ASC 420, *Exit or Disposal Cost Obligations,* restructuring charges include costs associated with the integration of business acquisitions and overall cost-reduction efforts, all of which are generally included in SG&A on the consolidated statements of operations.

Restructuring charges consisted of the following:

(in thousands)	For the Three Months Ended December 31,	
	2009	2008
Employee severance-related expense	$ 8	$ 617
Other restructuring-related expense	-	-
Total restructuring charges	$ 8	$ 617

The following table sets forth changes in the severance and restructuring-related accrual accounts:

(in thousands)	Severance-related Accrual	Restructuring-related Accrual	Total
Balance as of September 30, 2009	$ 226	$ 395	$ 621
Additional accruals	8	-	8
Cash payments or otherwise settled	(223)	(53)	(276)
Balance as of December 31, 2009	$ 11	$ 342	$ 353

NOTE 12. Debt

Line of Credit

In September 2008, the Company closed a $25 million asset-backed revolving credit facility with Bank of America which can be used for working capital, letters of credit and other general corporate purposes. Subsequently, the credit facility was amended resulting in a reduction in the total loan availability to $14 million. The credit facility matures in September 2011 and is secured by virtually all of the Company's assets. The credit facility is subject to a borrowing base formula based on eligible accounts receivable and provides for prime-based borrowings.

As of December 31, 2009, the Company had a $10.7 million prime rate loan outstanding, with an interest rate of 8.25%, and approximately $2.9 million in outstanding standby letters of credit under this credit facility.

The facility is also subject to certain financial covenants. On February 8, 2010, the Company and Bank of America entered into a Sixth Amendment to the Company's revolving asset-backed credit facility, which (a) permits the Company to enter into foreign exchange hedging transactions pursuant to a separate facility with the bank, provided that available amounts under such facility shall be deducted from the maximum revolving loan limit under this facility; and (b) resets the EDITDA financial covenant for the first quarter of fiscal 2010 to place the Company in compliance with that covenant.

Short-term Debt

In December 2008, the Company borrowed $0.9 million from UBS Securities that is collateralized with $1.4 million of auction rate preferred securities. The average interest rate on the loan is approximately 1.4% and the term of the loan is dependent upon the timing of the settlement of the auction rate securities with UBS Securities which is expected to occur by June 2010 at 100% par value.

Letters of credit

As of December 31, 2009, the Company had 8 standby letters of credit issued and outstanding which totaled approximately $3.1 million, of which $2.9 million was issued against the Company's credit facility with Bank of America and the remaining $0.2 million in standby letters of credit are collateralized with other financial institutions and are listed on the Company's balance sheet as restricted cash.

NOTE 13. Commitments and Contingencies

The Company leases certain land, facilities, and equipment under non-cancelable operating leases. The leases typically provide for rental adjustments for increases in base rent (up to specific limits), property taxes, insurance and general property maintenance that would be recorded as rent expense. Net facility and equipment rent expense under such leases totaled approximately $0.7 million and $0.6 million for the three months ended December 31, 2009 and 2008, respectively.

Estimated future minimum rental payments under the Company's non-cancelable operating leases with an initial or remaining term of one year or more as of December 31, 2009 are as follows:

(in thousands)

	Estimated Future Minimum Lease Payments
Nine months ended September 30, 2010	$ 1,444
Fiscal year ended September 30, 2011	1,814
Fiscal year ended September 30, 2012	1,072
Fiscal year ended September 30, 2013	799
Fiscal year ended September 30, 2014	76
Thereafter	2,699
Total minimum lease payments	$ 7,904

Legal Proceedings

The Company is subject to various legal proceedings and claims that are discussed below. The Company is also subject to certain other legal proceedings and claims that have arisen in the ordinary course of business and which have not been fully adjudicated. The Company does not believe it has a potential liability related to current legal proceedings and claims that could individually, or in the aggregate, have a material adverse effect on its financial condition, liquidity or results of operations. However, the results of legal proceedings cannot be predicted with certainty. Should the Company fail to prevail in any legal matters or should several legal matters be resolved against the Company in the same reporting period, then the operating results of that particular reporting period could be materially adversely affected. In the past, the Company settled certain matters that did not individually, or in the aggregate, have a material impact on the Company's results of operations.

a) Intellectual Property Lawsuits

We protect our proprietary technology by applying for patents where appropriate and, in other cases, by preserving the technology, related know-how and information as trade secrets. The success and competitive position of our product lines are significantly impacted by our ability to obtain intellectual property protection for our R&D efforts.

We have, from time to time, exchanged correspondence with third parties regarding the assertion of patent or other intellectual property rights in connection with certain of our products and processes. Additionally, on September 11, 2006, we filed a lawsuit against Optium Corporation, currently part of Finisar Corporation (Optium) in the U.S. District Court for the Western District of Pennsylvania for patent infringement of certain patents associated with our Fiber Optics segment. In the suit, the Company and JDS Uniphase Corporation (JDSU) allege that Optium is infringing on U.S. patents 6,282,003 and 6,490,071 with its Prisma II 1550nm transmitters. On March 14, 2007, following denial of a motion to add additional claims to its existing lawsuit, the Company and JDSU filed a second patent suit in the same court against Optium alleging infringement of JDSU's patent 6,519,374 ("the '374 patent"). On March 15, 2007, Optium filed a declaratory judgment action against the Company and JDSU. Optium sought in this litigation a declaration that certain products of Optium do not infringe the '374 patent and that the patent is invalid, but the District Court dismissed the action on January 3, 2008 without addressing the merits. The '374 patent is assigned to JDSU and licensed to the Company.

On December 20, 2007, the Company was served with a complaint in another declaratory relief action which Optium had filed in the Federal District Court for the Western District of Pennsylvania. This action seeks to have U.S. patents 6,282,003 and 6,490,071 declared invalid or unenforceable because of certain conduct alleged to have occurred in connection with the grant of these patents. These allegations are substantially the same as those brought by Optium by motion in the Company's own case against Optium, which motion had been denied by the Court. On August 11, 2008, both actions pending in the Western District of Pennsylvania were consolidated before a single judge, and a trial date of October 19, 2009 was set. On February 18, 2009, the Company's motion for a summary judgment dismissing Optium's declaratory relief action was granted, and on March 11, 2009, the Company was notified that Optium intended to file an appeal of this order. In October 2009 the consolidated matters were tried before a jury, which found that all patents asserted against Optium were valid, that all claims asserted were infringed, and that such infringement by Optium was willful where willfulness was asserted. The jury awarded EMCORE and JDSU monetary damages totaling approximately $3.4 million.

b) Avago-related Litigation

On July 15, 2008, the Company was served with a complaint filed by Avago Technologies and what appear to be affiliates thereof in the United States District Court for the Northern District of California, San Jose Division (Avago Technologies U.S., Inc., *et al.*, Emcore Corporation, *et al.*, Case No.: C08-3248 JW). In this complaint, Avago asserts claims for breach of contract and breach of express warranty against Venture Corporation Limited (one of the Company's customers) and asserts a tort claim for negligent interference with prospective economic advantage against the Company.

On December 5, 2008, the Company was also served with a complaint by Avago Technologies filed in the United States District Court for the Northern District of California, San Jose Division alleging infringement of two patents by the Company's VCSEL products. (Avago Technologies Singapore *et al.*, Emcore Corporation, *et al.*, Case No.: C08-5394 EMC). This matter has been stayed pending resolution of the International Trade Commission matter described immediately below.

On March 5, 2009, the Company was notified that, based on a complaint filed by Avago alleging the same patent infringement that formed the basis of the complaint previously filed in the Northern District of California, the U.S. International Trade Commission had determined to begin an investigation titled "In the Matter of Certain Optoelectronic Devices, Components Thereof and Products Containing the Same", Inv. No. 337-TA-669. This matter was tried before an administrative law judge of the International Trade Commission from November 16-20, 2009, and final briefings have been completed but no decision has yet been rendered.

The Company intends to vigorously defend against the allegations of all of the Avago complaints.

c) Green and Gold related litigation

On December 23, 2008, Plaintiffs Maurice Prissert and Claude Prissert filed a purported stockholder class action (the "Prissert Class Action") pursuant to Federal Rule of Civil Procedure 23 allegedly on behalf of a class of Company shareholders against the Company and certain of its present and former directors and officers (the "Individual Defendants") in the United States District Court for the District of New Mexico captioned, *Maurice Prissert and Claude Prissert v. EMCORE Corporation, Adam Gushard, Hong Q. Hou, Reuben F. Richards, Jr., David Danzilio and Thomas Werthan*, Case No. 1:08cv1190 (D.N.M.). The Complaint alleges that Company and the Individual Defendants violated certain provisions of the federal securities laws, including Section 10(b) of the Securities Exchange Act of 1934, arising out of the Company's disclosure regarding its customer Green and Gold Energy ("GGE") and the associated backlog of GGE orders with the Company's Photovoltaics business segment. The Complaint in the Class Action seeks, among other things, an unspecified amount of compensatory damages and other costs and expenses associated with the maintenance of the Action.

On or about February 12, 2009, a second purported stockholder class action (*Mueller v. EMCORE Corporation et al.*, Case No. 1:09cv 133 (D.N.M.)) (the "Mueller Class Action") was filed in the United States District Court for the District of New Mexico against the same defendants named in the Prissert Class Action, based on substantially the same facts and circumstances, containing substantially the same allegations and seeking substantially the same relief. Plaintiffs in both class actions have moved to consolidate the matters into a single action, and several alleged EMCORE shareholders have moved to be appointed lead class plaintiff of the to-be consolidated action. Selection of a lead plaintiff in this matter is currently pending before the Court.

On January 23, 2009, Plaintiff James E. Stearns filed a purported stockholder derivative action (the "Stearns Derivative Action") on behalf of the Company against certain of its present and former directors and officers (the "Individual Defendants"), as well as the Company as nominal defendant in the Superior Court of New Jersey, Atlantic County, Chancery Division (*James E. Stearns, derivatively on behalf of EMCORE Corporation v. Thomas J. Russell, Robert Bogomolny, Charles Scott, John Gillen, Reuben F. Richards, Jr., Hong Q. Hou, Adam Gushard, David Danzilio and Thomas Werthan*, Case No. Atl-C-10-09). This action is based on essentially the same factual contentions as the Prissert Class Action, and alleges that the Individual Defendants engaged in improprieties and violations of law in connection with the reporting of the GGE backlog. The Derivative Action seeks several forms of relief, allegedly on behalf of the Company, including, among other things, damages, equitable relief, corporate governance reforms, an accounting of, rescission of, restitution of, and costs and disbursements of the lawsuit.

On March 11, 2009, Plaintiff Gary Thomas filed a second purported shareholder derivative action (the "Thomas Derivative Action"; together with the Stearns Derivative Action, the "Derivative Actions") in the U.S. District Court for the District of New Mexico against the Company and certain of the Individual Defendants (*Gary Thomas, derivatively on behalf of EMCORE Corporation v. Thomas J. Russell, Robert Bogomolny, Charles Scott, John Gillen, Reuben F. Richards, Jr., Hong Q. Hou, and EMCORE Corporation*, Case No. 1.09-cv-00236, (D.N.M.)). The Thomas Derivative Action makes the same allegations as the Stearns Derivative Action and seeks essentially the same relief.

The Stearns Derivative Action and the Thomas Derivative action have been consolidated before a single judge in Somerset County, New Jersey, and have been stayed pending the Prissert and Mueller Class Actions.

The Company intends to vigorously defend against the allegations of both the Class Actions and the Derivative Action.

d) Securities Matters

- SEC Communications. On or about August 15, 2008, the Company received a letter from the Denver office of the Enforcement Division of the Securities and Exchange Commission wherein it sought the Company's voluntary production of documents relating to, among other things, the Company's business relationship with Green and Gold Energy, Inc., its licensees, and the Photovoltaics segment backlog the Company reported to the public. Since that time, the Company has provided documents to the staff of the SEC and met with the staff on December 12, 2008 to address this matter. On June 10, 2009, the SEC staff requested that the Company voluntarily provide documentary backup for certain information presented at the December 2008 meeting, which was provided on July 17, 2009, and arrange for a telephone interview with one former employee, which has been completed. On August 24, 2009, in a telephone call with the Company's counsel, the staff posed certain questions relating to the material provided on July 17, 2009, which were answered via the production of additional information and documentation on October 9, 2009.

- NASDAQ Communication. On or about November 13, 2008, the Company received a letter from the NASDAQ Listings Qualifications group ("NASDAQ") concerning the Company's removal of $79 million in backlog attributable to GGE which the Company announced on August 8, 2008 and the remaining backlog exclusive of GGE. The Company advised NASDAQ that it would cooperate with its inquiry. To date, the Company has received three additional requests for information from NASDAQ (the latter 2 of which requested updates on the SEC matter). The Company has complied with each of NASDAQ's requests. In early November 2009 the NASDAQ orally requested to be advised of developments in the SEC matter.

As of December 31, 2009 and the filing date of this Quarterly Report on Form 10-Q, no amounts have been accrued for any litigation item discussed above since no estimate of loss can be made at this time.

See Footnote 17 – Subsequent Event for additional commitments and contingencies related to the Tangshan agreements announced on February 3, 2010.

NOTE 14. Income Taxes

During the three months ended December 31, 2009 and 2008, there were no material increases or decreases in unrecognized tax benefits and management does not anticipate any material increases or decreases in the amounts of unrecognized tax benefits over the next twelve months. As of December 31, 2009, the Company had approximately $0.2 million of interest and penalties accrued as tax liabilities on the balance sheet.

A reconciliation of the beginning and ending amount of unrecognized gross tax benefits is as follows:

(in thousands)

Balance as of September 30, 2009	$	374
Subtractions based on tax positions related to the current year		(17)
Subtractions for tax positions of prior years		(19)
Balance as of December 31, 2009	$	338

The Company files income tax returns in the U.S. federal, state, and local jurisdictions and, currently, no federal, state, and local income tax returns are under examination. The following tax years remain open to income tax examination for each of the more significant jurisdictions where the Company is subject to income taxes: after fiscal year 2006 for U.S. federal; after fiscal year 2005 for the state of California and after fiscal year 2006 for the state of New Mexico.

NOTE 15. Segment Data and Related Information

The Company has five operating segments: (1) EMCORE Digital Fiber Optics Products, (2) EMCORE Broadband Fiber Optics Products, and (3) EMCORE Hong Kong, which are aggregated as a separate reporting segment, Fiber Optics, and (4) EMCORE Photovoltaics and (5) EMCORE Solar Power, which are aggregated as a separate reporting segment, Photovoltaics. Fiber Optics revenue is derived primarily from sales of optical components and subsystems for CATV, FTTP, enterprise routers and switches, telecom grooming switches, core routers, high performance servers, supercomputers, and satellite communications data links. Photovoltaics revenue is derived primarily from the sales of solar power conversion products for the space and terrestrial markets, including solar cells, coverglass interconnected solar cells, satellite solar panels, concentrator solar cells and concentrating photovoltaic ("CPV") receiver assemblies and systems. The Company evaluates its reportable segments in accordance with ASC 280, *Segment Reporting.* The Company's Chief Executive Officer is the Chief Operating Decision Maker pursuant to ASC 280, and he allocates resources to segments based on their business prospects, competitive factors, net revenue, operating results and other non-GAAP financial ratios. Operating income or expense that is not specifically related to an operating segment is charged to a separate unallocated corporate division.

The following table sets forth the revenue and percentage of total revenue attributable to each of the Company's reporting segments.

Segment Revenue
(in thousands)

	For the Three Months Ended December 31,			
	2009		2008	
	Revenue	% of Revenue	Revenue	% of Revenue
Fiber Optics	$ 25,608	60%	$ 39,166	72%
Photovoltaics	16,793	40	14,890	28
Total revenue	$ 42,401	100%	$ 54,056	100%

The following table sets forth the Company's consolidated revenue by geographic region with revenue assigned to geographic regions based on our customers' billing address.

Geographic Revenue
(in thousands)

	For the Three Months Ended December 31,			
	2009		2008	
	Revenue	% of Revenue	Revenue	% of Revenue
United States	$ 34,361	81%	$ 31,715	58%
Asia	6,196	15	19,208	36
Europe	1,277	3	2,797	5
Other	567	1	336	1
Total revenue	$ 42,401	100%	$ 54,056	100%

The following table sets forth our significant market sectors, defined as product line sales that represented greater than 10% of total consolidated revenue, by reporting segment.

Significant Market Sectors
As a percentage of total consolidated revenue

	For the Three Months Ended December 31,	
	2009	2008
Fiber Optics – related:		
Cable Television Products	21%	14%
Parallel Optical Transceiver / Cable Products	10%	-
Enterprise Products	-	15%
Telecom Optical Products	-	14%
Photovoltaics – related:		
Satellite Solar Power Generation	38%	26%

The following table sets forth our significant customer, defined as customers that represented greater than 10% of total consolidated revenue, by reporting segment.

Significant Customers

As a percentage of total consolidated revenue	For the Three Months Ended December 31,	
	2009	2008
Fiber Optics – related customer:		
Cisco Systems, Inc.	14%	17%
Photovoltaics – related customer:		
Loral Space & Communications	15%	14%

The following table sets forth operating losses attributable to each of the Company's reporting segments and Corporate division.

Statement of Operations Data
(in thousands)

	For the Three Months Ended December 31,	
	2009	2008
Operating loss:		
Fiber Optics segment	$ (8,407)	$ (48,423)
Photovoltaics segment	(3,525)	(4,035)
Corporate division	-	(3)
Operating loss	$ (11,932)	$ (52,461)

The following table sets forth the depreciation and amortization attributable to each of the Company's reporting segments and Corporate division.

Segment Depreciation and Amortization
(in thousands)

	For the Three Months Ended December 31,	
	2009	2008
Fiber Optics segment	$ 1,764	$ 2,852
Photovoltaics segment	1,353	1,441
Total depreciation and amortization	$ 3,117	$ 4,293

Long-lived assets consist primarily of property, plant, and equipment and also goodwill and intangible assets. The following table sets forth long-lived assets for each of the Company's reporting segments and Corporate division.

Long-lived Assets
(in thousands)

	As of December 31, 2009	As of September 30, 2009
Fiber Optics segment	$ 35,676	$ 37,399
Photovoltaics segment	49,027	50,169
Corporate division	824	826
Total long-lived assets	$ 85,527	$ 88,394

NOTE 16. Fair Value Accounting

ASC 820, *Fair Value Measurements and Disclosures,* establishes a valuation hierarchy for disclosure of the inputs to valuation used to measure fair value. Valuation techniques used to measure fair value under ASC 820 must maximize the use of observable inputs and minimize the use of unobservable inputs. The standard describes a fair value hierarchy based on three levels of inputs, of which the first two are considered observable and the last unobservable, that may be used to measure fair value which are the following:

- Level 1 inputs are unadjusted quoted prices in active markets for identical assets or liabilities.
- Level 2 inputs are quoted prices for similar assets and liabilities in active markets or inputs that are observable for the asset or liability, either directly or indirectly through market corroboration, for substantially the full term of the financial instrument.
- Level 3 inputs are unobservable inputs based on our own assumptions used to measure assets and liabilities at fair value. A financial asset or liability's classification within the hierarchy is determined based on the lowest level input that is significant to the fair value measurement.

The following table provides the Company's financial assets and liabilities, consisting of the following types of instruments, measured at fair value on a recurring basis:

(in thousands)	As of December 31, 2009			
	Quoted Prices in Active Markets for Identical Assets [Level 1]	**Significant Other Observable Remaining Inputs** [Level 2]	**Significant Unobservable Inputs** [Level 3]	**Total**
Assets				
Money market fund deposits	$ 15,138	$ -	$ -	$ 15,138
Restricted fund deposits	167	-	-	167
Asset-backed auction rate securities	-	1,350	-	1,350
Total assets measured at fair value	$ 15,305	$ 1,350	$ -	$ 16,655
Liabilities				
Warrants	$ -	$ 1,132	$ -	$ 1,132

The following table provides the Company's financial assets and liabilities, measured and recorded at fair value on a recurring basis, as presented on our Condensed Consolidated Balance Sheet:

(in thousands)	As of December 31, 2009			
	Quoted Prices in Active Markets for Identical Assets [Level 1]	**Significant Other Observable Remaining Inputs** [Level 2]	**Significant Unobservable Inputs** [Level 3]	**Total**
Assets				
Cash and cash equivalents	$ 15,138	$ -	$ -	$ 15,138
Restricted cash	4	-	-	4
Available-for-sale securities, non current	-	1,350	-	1,350
Long-term restricted cash	163	-	-	163
Total assets measured at fair value	$ 15,305	$ 1,350	$ -	$ 16,655
Liabilities				
Warrant liability	$ -	$ 1,132	$ -	$ 1,132

The Company classifies investments within Level 1 if quoted prices are available in active markets. Level 1 assets include instruments valued based on quoted market prices in active markets which generally could include money market funds, corporate publicly traded equity securities on major exchanges and U.S. Treasury notes with quoted prices on active markets.

The Company classifies items in Level 2 if the investments are valued using observable inputs to quoted market prices, benchmark yields, reported trades, broker/dealer quotes or alternative pricing sources with reasonable levels of price transparency. These investments could include: government agencies, corporate bonds, commercial paper, and auction rate securities.

The Company did not hold financial assets and liabilities which were valued using unobservable inputs as of December 31, 2009.

The carrying amounts of accounts receivable, short-term debt including borrowings under the Company's credit facility, accounts payable, accrued expenses and other current liabilities approximate fair value because of the short maturity of these instruments.

In February 2008, the FASB issued authoritative guidance, which delayed the effective date of ASC 820 for all non-financial assets and non-financial liabilities that are not re-measured at fair value on a recurring basis (at least annually). The guidance was effective for the Company beginning October 1, 2009 and it did not have an impact on our consolidated financial position, results of operations or cash flows in the three months ended December 31, 2009.

NOTE 17. Subsequent Event

On February 3, 2010, the Company entered into a share purchase agreement to create a joint venture with Tangshan Caofeidian Investment Corporation ("TCIC"), a Chinese investment company located in the Caofeidian Industry Zone, Tangshan City, Hebei Province of China.

The agreement provides for TCIC to purchase a sixty percent (60%) interest in the Company's Fiber Optics business (excluding its satellite communications and specialty photonics fiber optics product lines), which will be operated as a joint venture once the transaction is closed. The Fiber Optics businesses included in this transaction are the Company's telecom, enterprise, cable television (CATV), fiber-to-the-premises (FTTP), and video transport product lines. The Company will retain the satellite communications and specialty photonics fiber optics product lines as well as the satellite and terrestrial solar businesses.

The new joint venture entity will be named EMCORE Fiber Optics, Limited ("EFO"), and will be a newly formed corporation organized in Hong Kong. The agreement provides for TCIC to pay the Company $27.75 million in cash, subject to adjustment based on the net asset value of the business as of the closing date, and also to provide $27 million of additional debt financing to EFO subsequent to the closing, with $18 million to be funded within 90 days of closing and $9 million to be funded within 90 days of the first anniversary of the closing. The Company will be providing 50% of its equity interest in EFO as collateral for this indebtedness. In addition, the agreement provides for the Company to provide $3 million of additional debt financing to EFO after the closing, with $2 million to be funded within 5 business days of the closing and $1 million to be funded within 90 days of the first anniversary of the closing.

The agreement is subject to the approval of both the Company's board of directors and the board of directors of TCIC, and the closing of the transaction is subject to material conditions, including regulatory and governmental approvals in the U.S. and China. If US regulatory approvals are not obtained, the Company will be obligated to pay a termination fee of $2,775,000 to TCIC.

The parties also executed a Shareholders Agreement to provide for operation of EFO following closing. The terms of the Shareholders Agreement provide that TCIC shall have the right to elect three of EFO's five directors of EFO, as well as to designate the Chairman of the Board and the Chief Financial Officer. The Company will have the right to elect the remaining two directors and to nominate the Chief Executive Officer. The Company also has the right to approve certain key corporate matters (including modifications of EFO's governing documents, changes in equity and corporate structure, mergers, acquisitions and dispositions, the incurring of indebtedness, and the annual business plan and budget) through supermajority voting requirements on the Board (subject to certain deadlock provisions). The Shareholders' Agreement also imposes certain restrictions on the parties' abilities to transfer their interest in EFO.

It is expected that the Company's Executive Chairman and Chairman of the Board, Mr. Reuben F. Richards, Jr. will resign his position as the Company's Executive Chairman effective as of the closing of the transaction to assume the role of CEO for EFO. In addition, the agreement provides for certain other Company senior executives and the employees currently working for the transferred product lines to be offered positions with EFO. The agreement further contemplates that the Company's President and CEO, Dr. Hong Q. Hou, will also serve as a director of EFO, providing strategic and operational oversight to the joint venture.

Tangshan Caofeidian Investment Corporation has nominated Dr. Yi Li as Chairman of the Board for EFO and TCIC will name a CFO to EFO subsequent to the closing.

Over the next several years, the joint venture is expected to focus on developing a high volume, low cost manufacturing infrastructure and a local customer support organization to better serve the expanding customer base in China and worldwide. TCIC has committed to providing additional funding support for the JV's future strategic growth through acquisitions.

In conjunction with the establishment of the joint venture, the Company and TCIC also entered into a supplemental agreement pursuant to which the Company agreed to establish its China terrestrial concentrator photovoltaics (CPV) manufacturing and operations base in the Caofeidian Industry Zone. The agreement includes a commitment by TCIC to provide the Company with the equivalent of $3.3 million in RMB denominated loans, tax and rent incentives and assistance in developing the Company’s solar power business in China.

ITEM 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

Business Overview

EMCORE Corporation (the "Company", "we", "our", or "EMCORE") is a provider of compound semiconductor-based components and subsystems for the fiber optics and solar power markets. We were established in 1984 as a New Jersey corporation and have two reporting segments: Fiber Optics and Photovoltaics. Our Fiber Optics segment offers optical components, subsystems and systems that enable the transmission of video, voice and data over high-capacity fiber optic cables for high-speed data and telecommunications, cable television ("CATV") and fiber-to-the-premises ("FTTP") networks. Our Photovoltaics segment provides solar products for satellite and terrestrial applications. For satellite applications, we offer high-efficiency compound semiconductor-based multi-junction solar cells, covered interconnected cells ("CICs") and fully integrated solar panels. For terrestrial applications, we offer concentrating photovoltaic ("CPV") power systems for commercial and utility scale solar applications as well as high-efficiency multi-junction solar cells and integrated CPV components for use in other solar power concentrator systems. Our headquarters and principal executive offices are located at 10420 Research Road, SE, Albuquerque, New Mexico, 87123, and our main telephone number is (505) 332-5000. For specific information about our Company, our products or the markets we serve, please visit our website at http://www.emcore.com.

Management Summary

Due to significant differences in operating strategy between the Company's Fiber Optics and Photovoltaics businesses, the Company's management and board of directors believes that they would provide greater value to shareholders if they were operated as two separate business entities.

In furtherance of this strategy, on February 3, 2010, the Company entered into a share purchase agreement to create a joint venture with Tangshan Caofeidian Investment Corporation ("TCIC"), a Chinese investment company located in the Caofeidian Industry Zone, Tangshan City, Hebei Province of China. The agreement provides for TCIC to purchase a sixty percent (60%) interest in the Company's Fiber Optics business (excluding its satellite communications and specialty photonics fiber optics product lines), which will be operated as a joint venture once the transaction is closed. The Fiber Optics businesses included in this transaction are the Company's telecom, enterprise, cable television (CATV), fiber-to-the-premises (FTTP), and video transport product lines. The Company will retain the satellite communications and specialty photonics fiber optics product lines as well as the satellite and terrestrial solar businesses. In the Notes to the Condensed Consolidated Financial Statements, see Footnote 17 – Subsequent Event for additional information related to this new joint venture.

During fiscal 2009, management implemented a series of measures and continues to evaluate opportunities intended to align the Company's cost structure with its revenue forecasts. Such measures included several workforce reductions, temporary salary reductions, the elimination of executive and employee merit increases and bonuses for fiscal 2009, and the elimination or reduction of certain discretionary expenses. The Company has also significantly lowered its spending on capital expenditures and focused on improving the management of its working capital. During the last twelve months ended December 31, 2009, the Company monetized approximately $25.5 million of inventory, generated $16.9 million in cash from lowering its accounts receivable balances and achieved positive cash flow from operations during the quarters ended June 30, 2009 and September 30, 2009.

In fiscal 2010, the Company continues to remain focused on maximizing cash flow from operations while developing additional sources of liquidity.

Quarter Highlights

On October 1, 2009, the Company entered into an equity line of credit arrangement with Commerce Court Small Cap Value Fund, Ltd. ("Commerce Court"). Upon issuance of a draw-down request by the Company, Commerce Court has committed to purchasing up to $25 million worth of shares of the Company's common stock over the 24-month term of the purchase agreement, provided that the number of shares the Company may sell under the facility is limited to no more than 15,971,169 shares of common stock or that would result in the beneficial ownership of more than 9.9% of the then issued and outstanding shares of the Company's common stock.

On November 12, 2009, the Company announced that it was awarded a contract by Dutch Space of Leiden, The Netherlands to manufacture, test, and deliver solar panels to power the Cygnus™ spacecraft being developed by Orbital Sciences Corporation (NYSE: ORB) for NASA's Commercial Resupply Service (CRS) project. With all options exercised the total value of the contract would be in excess of $15 million. Under the CRS project, Orbital will carry out eight pressurized space cargo missions beginning in early 2011 and running through 2015 to provide a U.S.-produced and-operated automated cargo delivery service to the International Space Station. An initial demonstration flight will be carried out as part of NASA's Commercial Orbital Transportation Services (COTS) project, which provided NASA incentives for developing the commercial launch services industry. The solar panels to be delivered to Dutch Space will use EMCORE's ZTJ solar cells. With a sunlight-to-electricity conversion efficiency of 30%, the ZTJ solar cell is one of the highest performance space qualified multi-junction solar cell available in the world today. Production of the solar panels will take place at the Company's state-of-the-art manufacturing facilities located in Albuquerque, New Mexico.

On December 23, 2009, the Company announced that Sherman McCorkle was elected to join its Board of Directors as a Class B independent director. Sherman McCorkle is a native New Mexican and has been deeply involved in the New Mexico business community for most of his career. He is President and Chief Executive Officer of Technology Ventures Corporation (TVC), an Albuquerque-based organization that assists start up companies in developing and commercializing technologies from research universities and the national laboratories. Prior to joining TVC as President & CEO in 1993, Mr. McCorkle served as CEO & President of Sunwest Credit Services Corporation Commencing in 1988. In 1977, he co-founded and was Charter Director of Plus Systems Incorporated, the original platform that enabled national and international electronic banking and ATM systems. In addition, Mr. McCorkle is a co-founder and Charter Director of New Mexico Bank and Trust and First Community Bank.

Order Backlog

As of December 31, 2009, the Company had a consolidated order backlog of approximately $61.2 million, a $1.4 million, or 2%, decrease from a $62.6 million order backlog reported as of the end of the preceding quarter. On a segment basis, the quarter-end Photovoltaics order backlog totaled $42.3 million, a $5.4 million, or 11%, decrease from $47.7 million reported as of the end of the preceding quarter with the decrease due primarily to the rescheduling of a portion of a major customer's backlog beyond the twelve month backlog reporting horizon. The quarter-end Fiber Optics order backlog totaled $18.9 million, a $3.9 million, or 26% increase from $14.9 million reported as of the end of the preceding quarter. Order backlog is defined as purchase orders or supply agreements accepted by the Company with expected product delivery and / or services to be performed within the next twelve months.

From time to time, our customers may request that we delay shipment of certain orders and our backlog could also be adversely affected if customers unexpectedly cancel purchase orders that we've previously accepted. A majority of our fiber optics products typically ship within the same quarter as when the purchase order is received; therefore, our backlog at any particular date is not necessarily indicative of actual revenue or the level of orders for any succeeding period.

Critical Accounting Policies

The preparation of the consolidated financial statements in conformity with accounting principles generally accepted in the United States of America ("U.S. GAAP") requires management of the Company to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities, as of the date of the financial statements, and the reported amounts of revenue and expenses during the reported period.

The accounting estimates that require our most significant, difficult, and subjective judgments include:

- the valuation of inventory, goodwill, intangible assets, and stock based compensation;
- assessment of recovery of long-lived assets;
- revenue recognition associated with the percentage of completion method; and
- the allowance for doubtful accounts and warranty accruals.

Management develops estimates based on historical experience and on various assumptions about the future that are believed to be reasonable based on the best information available. The Company's reported financial position or results of operations may be materially different under changed conditions or when using different estimates and assumptions, particularly with respect to significant accounting policies. In the event that estimates or assumptions prove to differ from actual results, adjustments are made in subsequent periods to reflect more current information.

A listing and description of the Company's critical accounting policies includes:

Accounts Receivable. The Company regularly evaluates the collectibility of its accounts receivable and accordingly maintains allowances for doubtful accounts for estimated losses resulting from the inability of our customers to meet their financial obligations to us. The allowance is based on the age of receivables and a specific identification of receivables considered at risk of collection. The Company classifies charges associated with the allowance for doubtful accounts as SG&A expense. If the financial condition of our customers were to deteriorate, impacting their ability to pay us, additional allowances may be required.

Inventory. Inventory is stated at the lower of cost or market, with cost being determined using the standard cost method. The Company reserves against inventory once it has been determined that conditions exist that may not allow the inventory to be sold for its intended purpose or the inventory is determined to be excess or obsolete based on the Company's forecasted future revenue. The charge related to inventory reserves is recorded as a cost of revenue. The majority of the inventory write-downs are related to estimated allowances for inventory whose carrying value is in excess of net realizable value and on excess raw material components resulting from finished product obsolescence. In most cases where the Company sells previously written down inventory, it is typically sold as a component part of a finished product. The finished product is sold at market price at the time resulting in higher average gross margin on such revenue. The Company does not track the selling price of individual raw material components that have been previously written down or written off, since such raw material components usually are only a portion of the resultant finished products and related sales price. The Company evaluates inventory levels at least quarterly against sales forecasts on a significant part-by-part basis, in addition to determining its overall inventory risk. We have incurred, and may in the future incur charges to write-down our inventory.

Goodwill. Goodwill represents the excess of the purchase price of an acquired business over the fair value of the identifiable assets acquired and liabilities assumed. As required by ASC 350, *Intangibles - Goodwill and Other,* the Company evaluates its goodwill for impairment on an annual basis, or whenever events or changes in circumstances indicate that the carrying value of a reporting unit may exceed its fair value. Management has elected December 31st as the annual assessment date. Circumstances that could trigger an interim impairment test include but are not limited to: a significant adverse change in the market value of the Company's common stock, the business climate or legal factors; an adverse action or assessment by a regulator; unanticipated competition; loss of key personnel; the likelihood that a reporting unit or significant portion of a reporting unit will be sold or otherwise disposed; results of testing for recoverability of a significant asset group within a reporting unit; and recognition of a goodwill impairment loss in the financial statements of a subsidiary that is a component of a reporting unit.

In performing goodwill impairment testing, the Company determines the fair value of each reporting unit using a weighted combination of a market-based approach and a discounted cash flow ("DCF") approach. The market-based approach relies on values based on market multiples derived from comparable public companies. In applying the DCF approach, management forecasts cash flows over the remaining useful life of its primary asset using assumptions of current economic conditions and future expectations of earnings. This analysis requires the exercise of significant judgment, including judgments about appropriate discount rates based on the assessment of risks inherent in the amount and timing of projected future cash flows. The derived discount rate may fluctuate from period to period as it is based on external market conditions. All of these assumptions are critical to the estimate and can change from period to period. Updates to these assumptions in future periods, particularly changes in discount rates, could result in different results of goodwill impairment tests.

Valuation of Long-lived Assets. Long-lived assets consist primarily of property, plant, and equipment and intangible assets. Because most of the Company's long-lived assets are subject to amortization, the Company reviews these assets for impairment in accordance with the provisions of ASC 360, *Property, Plant, and Equipment.* As part of internal control procedures, the Company reviews long-lived assets for impairment whenever events or changes in circumstances indicate that its carrying amount may not be recoverable. Our impairment testing of long-lived assets consists of determining whether the carrying amount of the long-lived asset (asset group) is recoverable, in other words, whether the sum of the future undiscounted cash flows expected to result from the use and eventual disposition of the asset (asset group) exceeds its carrying amount. The determination of the existence of impairment involves judgments that are subjective in nature and may require the use of estimates in forecasting future results and cash flows related to an asset or group of assets. In making this determination, the Company uses certain assumptions, including estimates of future cash flows expected to be generated by these assets, which are based on additional assumptions such as asset utilization, the length of service that assets will be used in our operations, and estimated salvage values.

Product Warranty Reserves. The Company provides its customers with limited rights of return for non-conforming shipments and warranty claims for certain products. In accordance with ASC 450, *Contingencies,* the Company makes estimates of product warranty expense using historical experience rates as a percentage of revenue and accrues estimated warranty expense as a cost of revenue. We estimate the costs of our warranty obligations based on our historical experience of known product failure rates, use of materials to repair or replace defective products and service delivery costs incurred in correcting product issues. In addition, from time to time, specific warranty accruals may be made if unforeseen technical problems arise. Should our actual experience relative to these factors differ from our estimates, we may be required to record additional warranty reserves. Alternatively, if we provide more reserves than we need, we may reverse a portion of such provisions in future periods.

Revenue Recognition. Revenue is recognized upon shipment, provided persuasive evidence of a contract exists, (such as when a purchase order or contract is received from a customer), the price is fixed, the product meets its specifications, title and ownership have transferred to the customer, and there is reasonable assurance of collection of the sales proceeds. In those few instances where a given sale involves post shipment obligations, formal customer acceptance documents, or subjective rights of return, revenue is not recognized until all post-shipment conditions have been satisfied and there is reasonable assurance of collection of the sales proceeds. The majority of our products have shipping terms that are free on board ("FOB") or free carrier alongside ("FCA") shipping point, which means that the Company fulfills its delivery obligation when the goods are handed over to the freight carrier at our shipping dock. This means the buyer bears all costs and risks of loss or damage to the goods from that point. In certain cases, the Company ships its products cost insurance and freight ("CIF"). Under this arrangement, revenue is recognized under FCA shipping point terms, but the Company pays (and bills the customer) for the cost of shipping and insurance to the customer's designated location. The Company accounts for shipping and related transportation costs by recording the charges that are invoiced to customers as revenue, with the corresponding cost recorded as cost of revenue. In those instances where inventory is maintained at a consigned location, revenue is recognized only when our customer pulls product for its use and title and ownership have transferred to the customer. Revenue from time and material contracts is recognized at the contractual rates as labor hours and direct expenses are incurred. The Company also generates service revenue from hardware repairs and calibrations that is recognized as revenue upon completion of the service. Any cost of warranties and remaining obligations that are inconsequential or perfunctory are accrued when the corresponding revenue is recognized.

- *Distributors* - The Company uses a number of distributors around the world and recognizes revenue upon shipment of product to these distributors. Title and risk of loss pass to the distributors upon shipment, and our distributors are contractually obligated to pay the Company on standard commercial terms, just like our other direct customers. The Company does not sell to its distributors on consignment and, except in the event of product discontinuance, does not give distributors a right of return.

- *Solar Panel and Solar Power Systems Contracts* - The Company records revenues from certain solar panel and solar power systems contracts using the percentage-of-completion method. Revenue is recognized in proportion to actual costs incurred compared to total anticipated costs expected to be incurred for each contract. Such contracts require estimates to determine the appropriate cost and revenue recognition. The Company uses all available information in determining dependable estimates of the extent of progress towards completion, contract revenues, and contract costs. Estimates are revised as additional information becomes available. If estimates of costs to complete long-term contracts indicate a loss, a provision is made for the total loss anticipated.

- *Government R&D Contracts* - R&D contract revenue represents reimbursement by various U.S. government entities, or their contractors, to aid in the development of new technology. The applicable contracts generally provide that the Company may elect to retain ownership of inventions made in performing the work, subject to a non-exclusive license retained by the U.S. government to practice the inventions for governmental purposes. The R&D contract funding may be based on a cost-plus, cost reimbursement, or a firm fixed price arrangement. The amount of funding under each R&D contract is determined based on cost estimates that include both direct and indirect costs. Cost-plus funding is determined based on actual costs plus a set margin. As we incur costs under cost reimbursement type contracts, we record revenue. Contract costs include material, labor, special tooling and test equipment, subcontracting costs, as well as an allocation of indirect costs. An R&D contract is considered complete when all significant costs have been incurred, milestones have been reached, and any reporting obligations to the customer have been met. Government contract revenue is primarily recognized as service revenue.

  The Company also has certain cost-sharing R&D arrangements. Under such arrangements in which the actual costs of performance are split between the U.S. government and the Company on a best efforts basis, no revenue is recorded and the Company's R&D expense is reduced for the amount of the cost-sharing receipts.

  The U.S. government may terminate any of our government contracts at their convenience as well as for default based on our failure to meet specified performance measurements. If any of our government contracts were to be terminated for convenience, we generally would be entitled to receive payment for work completed and allowable termination or cancellation costs. If any of our government contracts were to be terminated for default, generally the U.S. government would pay only for the work that has been accepted and can require us to pay the difference between the original contract price and the cost to re-procure the contract items, net of the work accepted from the original contract. The U.S. government can also hold us liable for damages resulting from the default.

Stock-Based Compensation. The Company uses the Black-Scholes option-pricing model and the straight-line attribution approach to determine the fair-value of stock-based awards in accordance with ASC 718, *Compensation.* The option-pricing model requires the input of highly subjective assumptions, including the option's expected life and the price volatility of the underlying stock. The Company's expected term represents the period that stock-based awards are expected to be outstanding and is determined based on historical experience of similar awards, giving consideration to the contractual terms of the stock-based awards, vesting schedules and expectations of future employee behavior as influenced by changes to the terms of its stock-based awards. The expected stock price volatility is based on the Company's historical stock prices.

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The above listing is not intended to be a comprehensive list of all of our accounting policies. In many cases, the accounting treatment of a particular transaction is specifically dictated by U.S. GAAP. There are also areas in which management's judgment in selecting any available alternative would not produce a materially different result. For a complete discussion of our accounting policies, recently adopted accounting pronouncements, and other required U.S. GAAP disclosures, we refer you to the accompanying footnotes to the Company's consolidated financial statements in our Annual Report on Form 10-K for the fiscal year ended September 30, 2009.

Results of Operations

The following table sets forth the Company's consolidated statements of operations data expressed as a percentage of total revenue.

STATEMENT OF OPERATIONS DATA

	For the Three Months Ended December 31,	
	2009	**2008**
Revenue	100.0%	100.0%
Cost of revenue	81.1	97.1
Gross profit	18.9	2.9
Operating expenses:		
Selling, general, and administrative	29.3	22.5
Research and development	17.7	15.0
Impairments	-	62.5
Total operating expenses	47.0	100.0
Operating loss	(28.1)	(97.1)
Other (income) expense:		
Interest income	-	(0.1)
Interest expense	0.3	0.4
Foreign exchange loss	0.5	0.9
Loss from financing derivative instrument	3.2	-
Impairment of investment	-	0.6
Total other expense	4.0	1.8
Net loss	(32.2)%	(98.9)%

Comparison of the Three Months Ended December 31, 2009 and 2008

Revenue:
Revenue for the three months ended December 31, 2009 was $42.4 million, a decrease of $11.6 million, or 22%, from $54.0 million reported in the same period last year.

On a segment basis, revenue for the Fiber Optics segment was $25.6 million, a decrease of $13.6 million, or 35%, from $39.2 million reported in the same period last year. The decrease in Fiber Optics revenue was primarily due to a significant drop in demand from our customers due to the very unfavorable macroeconomic environment as well as continued pressure on selling prices as we compete to maintain or increase our market share positions. For the three months ended December 31, 2009, the Fiber Optics segment represented 60% of the Company's consolidated revenue compared to 72% in the same period last year.

Revenue for the Photovoltaics segment was $16.8 million, an increase of $1.9 million, or 13%, from $14.9 million reported in the same period last year. In the first quarter of fiscal 2010, the Photovoltaics segment experienced a 30% increase in revenue from satellite solar power products offset by a decrease in revenue from terrestrial concentrated photovoltaic (CPV) products. For the three months ended December 31, 2009, the Photovoltaics segment represented 40% of the Company's consolidated revenue compared to 28% in the same period last year.

Gross Profit:
For the three months ended December 31, 2009, the consolidated gross profit was $8.0 million, an increase of $6.4 million from $1.6 million in gross profit reported in the same period last year. For the three months ended December 31, 2009, the consolidated gross margin was 18.9% compared to a 2.9% gross margin reported in the same period last year. This represents the Company's best gross profit performance since the quarter ended June 30, 2008.

Fiber Optics gross margin for the three months ended December 31, 2009 was 16.7%, an increase from a negative 1.1% gross margin reported in the same period last year. The improvement in Fiber Optics gross margin was due primarily to higher gross margins in the Company's CATV product lines, as well as, lower inventory excess and obsolescence charges when compared to the prior year. As indicated in our prior year filings, the Company recorded $5.3 million of inventory and product warranty expense which adversely affected gross margin.

Photovoltaics gross margin for the three months ended December 31, 2009 was 22.1%, an increase from 13.6% gross margin reported in the same period last year. The significant increase in Photovoltaics gross margin was primarily due to increased sales of higher margin satellite solar power products along with improved manufacturing yields on certain satellite solar panel contracts.

Operating Expenses:
Sales, general, and administrative expenses for the three months ended December 31, 2009 totaled $12.4 million, a $0.3 million increase from $12.1 million reported in the same period last year. During the quarter, the Company incurred $1.3 million of non-cash stock-based compensation expense from the forfeiture of stock options. Also, the Company incurred legal expense of approximately $4.2 million related to patent litigation and other corporate legal charges. Last year, SG&A included $0.8 million of additional provision for bad debt in the Photovoltaics segment, primarily related to receivables from the sale of terrestrial solar power products, $0.6 million related to severance and restructuring charges, and $0.6 million of patent litigation and other corporate-related legal expense. As a percentage of revenue, SG&A expenses were 29.3%, an increase from 22.5% in the same period last year.

Research and development expenses for the three months ended December 31, 2009 totaled $7.5 million, a decrease of $0.6 million, or 7%, from $8.1 million reported in the same period last year. As a percentage of revenue, R&D expenses were 17.7%, an increase from 15.0% in the same period last year.

Impairments:
As disclosed last year, the Company performed its annual goodwill impairment test as of December 31, 2008 and, based on that analysis, determined that goodwill related to its Fiber Optics segment was fully impaired. As a result, the Company recorded a non-cash impairment charge of $31.8 million in the first quarter of fiscal 2009 and the Company's balance sheet no longer reflects any goodwill associated with its Fiber Optics segment. During the first fiscal quarter of 2009, the Company also recorded a $1.9 million non-cash impairment charge related to certain intangible assets acquired from Intel Corporation that were subsequently abandoned.

Consolidated operating expenses for the three months ended December 31, 2009 totaled $19.9 million, a decrease of $34.1 million from $54.0 million reported in the same period last year, with the variance primarily due to the impairment charge discussed above.

Operating loss:
For the three months ended December 31, 2009, the consolidated operating loss was $11.9 million, a decrease of $40.5 million from an operating loss of $52.4 million reported in the same period last year, with the variance primarily due to the impairment charge discussed above. This represents the Company's best operating performance since the quarter ended June 30, 2008.

Loss from financing derivative instrument.
On October 1, 2009, the Company entered into an equity line of credit arrangement that met all the criteria of a financial derivative instrument in accordance with the accounting literature in ASC 815, *Derivatives and Hedging*. Costs incurred to enter into this derivative instrument were expensed as incurred. During the three months ended December 31, 2009, the Company expensed the fair value of the common stock and warrants issued of approximately $1.4 million as a non-operating expense from a financing derivative instrument. In the Notes to the Condensed Consolidated Financial Statements, see Footnote 4 for a description of the terms and details related to the financial impact of the equity facility.

Impairment of investment.
In April 2008, the Company invested approximately $1.5 million in Lightron Corporation, a Korean company that is publicly traded on the Korean Stock Market. The Company initially accounted for this investment as an available-for-sale security. Due to the decline in the market value of this investment and the expectation of non-recovery of this investment beyond its current market value, the Company recorded a $0.5 million "other than temporary" impairment loss on this investment as of September 30, 2008 and another $0.4 million "other than temporary" impairment loss on this investment as of December 31, 2008. During the quarter ended March 31, 2009, the Company sold its interest in Lightron Corporation, via several transactions, for a total of $0.5 million in cash. The Company recorded a gain on the sale of this investment of approximately $21,000, after consideration of impairment charges recorded in previous periods, and the Company also recorded a foreign exchange loss of $0.1million due to the conversion from Korean Won to U.S. dollars.

Foreign exchange.
The Company recognizes gains and losses on foreign currency exchange primarily due to the Company's operations in Spain, the Netherlands and China.

Net Loss:
For the three months ended December 31, 2009, the consolidated net loss was $13.6 million, a decrease of $39.8 million from $53.4 million reported in the same period last year, with the variance primarily due to the impairment charge discussed above. The net loss per share for the three months ended December 31, 2009 was $0.17, a decrease of $0.52 per share, from a net loss of $0.69 per share reported in the same period last year.

Liquidity and Capital Resources

As of December 31, 2009, cash, cash equivalents, available-for-sale securities and current restricted cash totaled approximately $16.5 million.

The Company incurred a net loss of $13.6 million for the three months ended December 31, 2009. The Company's operating results for future periods are subject to numerous uncertainties and it is uncertain if the Company will be able to reduce or eliminate its net losses for the foreseeable future. Although the Company experienced year-over-year revenue growth in most years, in fiscal 2009, the Company had not been able to sustain historical revenue growth rates due to material adverse changes in market and economic conditions. If management is not able to increase revenue and/or manage operating expenses in line with revenue forecasts, the Company may not be able to achieve profitability.

Historically, the Company has consumed cash from operations. During the three months ended December 31, 2009, the Company consumed cash from operations of approximately $1.2 million and, over the last three quarters, has only consumed $0.2 million in cash from operations due primarily to improved working capital management.

We believe that our existing balances of cash, cash equivalents, and available-for-sale securities, together with the cash expected to be generated from operations, amounts expected to be available under our revolving credit facility with Bank of America and the equity line of credit agreement with Commerce Court will provide us with sufficient financial resources to meet our cash requirements for operations, working capital, and capital expenditures for the next 12 months.

In the event of unforeseen circumstances, or unfavorable market or economic developments, we may have to raise additional funds by any one or a combination of the following: issuing equity, debt or convertible debt, or selling certain product lines and/or portions of our business. There can be no guarantee that we will be able to raise additional funds on terms acceptable to us, or at all. A significant contraction in the capital markets, particularly in the technology sector, may make it difficult for us to raise additional capital if or when it is required, especially if we experience disappointing operating results. If adequate capital is not available to us as required, or is not available on favorable terms, our business, financial condition and results of operations may be adversely affected.

Cash Flow

Cash Used for Operations

For the three months ended December 31, 2009, net cash used by operating activities totaled approximately $1.2 million, which represents a decrease of $19.9 million from $21.1 million in cash used by operating activities for the three months ended December 31, 2008.

For the three months ended December 31, 2009, the $1.2 million cash usage was primarily due to the Company's net loss of $13.6 million offset by a net decrease in certain components of working capital. The net decrease in certain components of working capital was primarily due to a $3.7 million increase in accounts payable, a $3.1 million decrease in inventory, and a $0.2 million decrease in other assets offset by a $1.0 million increase in accounts receivable and a decrease of $1.0 million in accrued expenses and other liabilities. Significant non-cash adjustments used to reconcile net loss to net cash used in operating activities included $3.2 million related to stock-based compensation expense, $3.1 million related to depreciation and amortization expense, and $1.4 million related to a loss from a financing derivative instrument.

For the three months ended December 31, 2008, the $21.1 million cash usage was primarily due to the Company's net loss of $53.4 million and a net increase in certain components of working capital of approximately $13.7 million. The net increase in certain components of working capital was primarily due to a $6.8 million decrease in accounts payable, a $4.3 million increase in inventory, a $1.9 million increase in accounts receivable, and a $0.8 million decrease in accrued expenses and other current liabilities. Significant non-cash adjustments used to reconcile net loss to net cash used in operating activities included $33.8 million in impairment of goodwill within the Fiber Optics segment, $4.4 million related to an increase in inventory provisions, $4.3 million related to depreciation and amortization expense, $2.1 related to stock-based compensation expense, and $0.9 million related to an increase in the provision for doubtful accounts.

Net Cash Provided by Investing Activities

For the three months ended December 31, 2009, net cash provided by investing activities totaled $1.3 million, which represents an increase of $0.2 million from $1.1 million in cash provided by investing activities for the three months ended December 31, 2008.

For the three months ended December 31, 2009, the $1.3 million in net cash provided by investing activities was primarily due to from the release of restricted cash of $1.5 million offset by $0.2 million in capital expenditures and patent investments.

For the three months ended December 31, 2008, the $1.1 million in net cash provided by investing activities was primarily due to $1.7 million received from the sale of available-for-sale securities offset by $0.6 million in capital expenditures.

Net Cash Provided by Financing Activities

For the three months ended December 31, 2009, net cash provided by financing activities totaled $0.9 million, which represents a decrease of $16.1 million from $17.0 million in cash provided by financing activities for the three months ended December 31, 2008.

For the three months ended December 31, 2009, the $0.9 million in net cash provided by financing activities consisted of $0.3 million in net borrowings under the Company's credit facility with Bank of America and $0.5 million in proceeds from the Company's employee stock purchase plan.

For the three months ended December 31, 2008, the $17.0 million in net cash provided by financing activities consisted of $15.4 million in net borrowings under the Company's credit facility with Bank of America, $0.9 million in net borrowing with UBS, and $0.6 million in proceeds from the Company's employee stock purchase plan.

Contractual Obligations and Commitments

The Company's contractual obligations and commitments over the next five years are summarized in the table below:

(in thousands)	For the Fiscal Years Ended September 30,				
	Total	**2010**	**2011 to 2012**	**2013 to 2014**	**2015 and later**
Operating lease obligations	$ 7,904	$ 1,444	$ 2,886	$ 875	$ 2,699
Line of credit	10,678	10,678	-	-	-
Short-term debt	843	843	-	-	-
Purchase obligations	23,480	23,420	60	-	-
Total contractual obligations and commitments	$ 42,905	$ 36,385	$ 2,946	$ 875	$ 2,699

Interest expense is not included in the contractual obligations and commitments table above since it is insignificant to the Company's financial statements.

Operating leases

Operating leases include non-cancelable terms and exclude renewal option periods, property taxes, insurance and maintenance expenses on leased properties.

Line of Credit

In September 2008, the Company closed a $25 million asset-backed revolving credit facility with Bank of America which can be used for working capital, letters of credit and other general corporate purposes. Subsequently, the credit facility was amended resulting in a reduction in the total loan availability to $14 million. The credit facility matures in September 2011 and is secured by virtually all of the Company's assets. The credit facility is subject to a borrowing base formula based on eligible accounts receivable and provides for prime-based borrowings.

As of December 31, 2009, the Company had a $10.7 million prime rate loan outstanding, with an interest rate of 8.25%, and approximately $2.9 million in outstanding standby letters of credit under this credit facility.

The facility is also subject to certain financial covenants. On February 8, 2010, the Company and Bank of America entered into a Sixth Amendment to the Company's revolving asset-backed credit facility, which (a) permits the Company to enter into foreign exchange hedging transactions pursuant to a separate facility with the bank, provided that available amounts under such facility shall be deducted from the maximum revolving loan limit under this facility; and (b) resets the EDITDA financial covenant for the first quarter of fiscal 2010 to place the Company in compliance with that covenant.

Short-term Debt

In December 2008, the Company borrowed $0.9 million from UBS Securities that is collateralized with $1.4 million of auction rate preferred securities. The average interest rate on the loan is approximately 1.4% and the term of the loan is dependent upon the timing of the settlement of the auction rate securities with UBS Securities which is expected to occur by June 2010 at 100% par value.

Letters of credit

As of December 31, 2009, the Company had 8 standby letters of credit issued and outstanding which totaled approximately $3.1 million, of which $2.9 million was issued against the Company's credit facility with Bank of America and the remaining $0.2 million in standby letters of credit are collateralized with other financial institutions and are listed on the Company's balance sheet as restricted cash.

Other

In February 2010, the Company's 2000 Stock Option Plan is scheduled to expire. Management is currently developing a new 10-year equity compensation plan, which may include both stock options and other forms of equity compensation.

Segment Data and Related Information

In the Notes to the Condensed Consolidated Financial Statements, see Footnote 15 for disclosures related to business segment revenue, geographic revenue, significant customers, and operating loss by business segment.

Recent Accounting Pronouncements

In the Notes to the Condensed Consolidated Financial Statements, see Footnote 2 for disclosures related to recent accounting pronouncements.

ITEM 3. Quantitative and Qualitative Disclosures about Market Risk

We are exposed to financial market risks, including changes in currency exchange rates and interest rates. We do not use derivative financial instruments for speculative purposes.

Currency Exchange Rates. The United States dollar is the functional currency for the Company's consolidated financials. The functional currency of the Company's Spanish subsidiary is the Euro and for the China subsidiary it is the Yuan Renminbi. The financial statements of these entities are translated to United States dollars using period end rates for assets and liabilities, and the weighted average rate for the period for all revenue and expenses. During the normal course of business, the Company is exposed to market risks associated with fluctuations in foreign currency exchange rates, primarily the Euro. To reduce the impact of these risks on the Company's earnings and to increase the predictability of cash flows, the Company uses natural offsets in receipts and disbursements within the applicable currency as the primary means of reducing the risk. Some of our foreign suppliers may adjust their prices (in $US) from time to time to reflect currency exchange fluctuations, and such price changes could impact our future financial condition or results of operations. The Company does not currently hedge its foreign currency exposure and does not believe that fluctuations of currency exchange rates will have a material impact to the Company's financial statements.

Credit Market Conditions

Recently, the U.S. and global capital markets have been experiencing turbulent conditions, particularly in the credit markets, as evidenced by tightening of lending standards, reduced availability of credit, and reductions in certain asset values. This could impact the Company's ability to obtain additional funding through financing or asset sales.

ITEM 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

The Company maintains disclosure controls and procedures designed to provide reasonable assurance that information required to be disclosed in reports filed under the Securities Exchange Act of 1934 (the "Act") is recorded, processed, summarized and reported within the specified time periods and accumulated and communicated to management, including its Chief Executive Officer (Principal Executive Officer) and Chief Financial Officer (Principal Accounting Officer), as appropriate, to allow timely decisions regarding required disclosure.

Management, under the supervision and with the participation of its Chief Executive Officer (Principal Executive Officer) and Chief Financial Officer (Principal Accounting Officer), evaluated the effectiveness of the Company's disclosure controls and procedures (as defined in Rules 13a-15(e) or 15d-15(e) promulgated under the Act), as of the end of the period covered by this report. Based on that evaluation, management concluded that, as of that date, the Company's disclosure controls and procedures were effective at the reasonable assurance level.

Attached as exhibits to this Quarterly Report on Form 10-Q are certifications of the Company's Chief Executive Officer (Principal Executive Officer) and Chief Financial Officer (Principal Financial Officer), which are required in accordance with Rule 13a-14 of the Act. This Disclosure Controls and Procedures section includes information concerning management's evaluation of disclosure controls and procedures referred to in those certifications and, as such, should be read in conjunction with the certifications of the Company's Chief Executive Officer (Principal Executive Officer) and Chief Financial Officer (Principal Financial Officer).

Changes in Internal Control over Financial Reporting

There were no changes in the Company's internal control over financial reporting during the three months ended December 31, 2009 that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

Limitations on the Effectiveness of Controls

Our management, including our Chief Executive Officer and Chief Financial Officer, does not expect that our disclosure controls or our internal controls will prevent or detect all errors and all fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control system's objectives will be met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within the Company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty, and that breakdowns can occur because of simple error or mistake. Controls can also be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the controls. The design of any system of controls is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Over time, controls may become inadequate because of changes in conditions or deterioration in the degree of compliance with associated policies or procedures. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected.

PART II. OTHER INFORMATION
ITEM 1. Legal Proceedings

The Company is subject to various legal proceedings and claims that are discussed below. The Company is also subject to certain other legal proceedings and claims that have arisen in the ordinary course of business and which have not been fully adjudicated. The Company does not believe it has a potential liability related to current legal proceedings and claims that could individually, or in the aggregate, have a material adverse effect on its financial condition, liquidity or results of operations. However, the results of legal proceedings cannot be predicted with certainty. Should the Company fail to prevail in any legal matters or should several legal matters be resolved against the Company in the same reporting period, then the operating results of that particular reporting period could be materially adversely affected. In the past, the Company settled certain matters that did not individually, or in the aggregate, have a material impact on the Company's results of operations.

a) Intellectual Property Lawsuits

We protect our proprietary technology by applying for patents where appropriate and, in other cases, by preserving the technology, related know-how and information as trade secrets. The success and competitive position of our product lines are significantly impacted by our ability to obtain intellectual property protection for our R&D efforts.

We have, from time to time, exchanged correspondence with third parties regarding the assertion of patent or other intellectual property rights in connection with certain of our products and processes. Additionally, on September 11, 2006, we filed a lawsuit against Optium Corporation, currently part of Finisar Corporation (Optium) in the U.S. District Court for the Western District of Pennsylvania for patent infringement of certain patents associated with our Fiber Optics segment. In the suit, the Company and JDS Uniphase Corporation (JDSU) allege that Optium is infringing on U.S. patents 6,282,003 and 6,490,071 with its Prisma II 1550nm transmitters. On March 14, 2007, following denial of a motion to add additional claims to its existing lawsuit, the Company and JDSU filed a second patent suit in the same court against Optium alleging infringement of JDSU's patent 6,519,374 ("the '374 patent"). On March 15, 2007, Optium filed a declaratory judgment action against the Company and JDSU. Optium sought in this litigation a declaration that certain products of Optium do not infringe the '374 patent and that the patent is invalid, but the District Court dismissed the action on January 3, 2008 without addressing the merits. The '374 patent is assigned to JDSU and licensed to the Company.

On December 20, 2007, the Company was served with a complaint in another declaratory relief action which Optium had filed in the Federal District Court for the Western District of Pennsylvania. This action seeks to have U.S. patents 6,282,003 and 6,490,071 declared invalid or unenforceable because of certain conduct alleged to have occurred in connection with the grant of these patents. These allegations are substantially the same as those brought by Optium by motion in the Company's own case against Optium, which motion had been denied by the Court. On August 11, 2008, both actions pending in the Western District of Pennsylvania were consolidated before a single judge, and a trial date of October 19, 2009 was set. On February 18, 2009, the Company's motion for a summary judgment dismissing Optium's declaratory relief action was granted, and on March 11, 2009, the Company was notified that Optium intended to file an appeal of this order. In October 2009 the consolidated matters were tried before a jury, which found that all patents asserted against Optium were valid, that all claims asserted were infringed, and that such infringement by Optium was willful where willfulness was asserted. The jury awarded EMCORE and JDSU monetary damages totaling approximately $3.4 million.

b) Avago-related Litigation

On July 15, 2008, the Company was served with a complaint filed by Avago Technologies and what appear to be affiliates thereof in the United States District Court for the Northern District of California, San Jose Division (Avago Technologies U.S., Inc., *et al.*, Emcore Corporation, *et al.*, Case No.: C08-3248 JW). In this complaint, Avago asserts claims for breach of contract and breach of express warranty against Venture Corporation Limited (one of the Company's customers) and asserts a tort claim for negligent interference with prospective economic advantage against the Company.

On December 5, 2008, the Company was also served with a complaint by Avago Technologies filed in the United States District Court for the Northern District of California, San Jose Division alleging infringement of two patents by the Company's VCSEL products. (Avago Technologies Singapore *et al.*, Emcore Corporation, *et al.*, Case No.: C08-5394 EMC). This matter has been stayed pending resolution of the International Trade Commission matter described immediately below.

On March 5, 2009, the Company was notified that, based on a complaint filed by Avago alleging the same patent infringement that formed the basis of the complaint previously filed in the Northern District of California, the U.S. International Trade Commission had determined to begin an investigation titled "In the Matter of Certain Optoelectronic Devices, Components Thereof and Products Containing the Same", Inv. No. 337-TA-669. This matter was tried before an administrative law judge of the International Trade Commission from November 16-20, 2009, and final briefings have been completed but no decision has yet been rendered.

The Company intends to vigorously defend against the allegations of all of the Avago complaints.

c) Green and Gold related litigation

On December 23, 2008, Plaintiffs Maurice Prissert and Claude Prissert filed a purported stockholder class action (the "Prissert Class Action") pursuant to Federal Rule of Civil Procedure 23 allegedly on behalf of a class of Company shareholders against the Company and certain of its present and former directors and officers (the "Individual Defendants") in the United States District Court for the District of New Mexico captioned, *Maurice Prissert and Claude Prissert v. EMCORE Corporation, Adam Gushard, Hong Q. Hou, Reuben F. Richards, Jr., David Danzilio and Thomas Werthan*, Case No. 1:08cv1190 (D.N.M.). The Complaint alleges that Company and the Individual Defendants violated certain provisions of the federal securities laws, including Section 10(b) of the Securities Exchange Act of 1934, arising out of the Company's disclosure regarding its customer Green and Gold Energy ("GGE") and the associated backlog of GGE orders with the Company's Photovoltaics business segment. The Complaint in the Class Action seeks, among other things, an unspecified amount of compensatory damages and other costs and expenses associated with the maintenance of the Action.

On or about February 12, 2009, a second purported stockholder class action (*Mueller v. EMCORE Corporation et al.*, Case No. 1:09cv 133 (D.N.M.)) (the "Mueller Class Action") was filed in the United States District Court for the District of New Mexico against the same defendants named in the Prissert Class Action, based on substantially the same facts and circumstances, containing substantially the same allegations and seeking substantially the same relief. Plaintiffs in both class actions have moved to consolidate the matters into a single action, and several alleged EMCORE shareholders have moved to be appointed lead class plaintiff of the to-be consolidated action. Selection of a lead plaintiff in this matter is currently pending before the Court.

On January 23, 2009, Plaintiff James E. Stearns filed a purported stockholder derivative action (the "Stearns Derivative Action") on behalf of the Company against certain of its present and former directors and officers (the "Individual Defendants"), as well as the Company as nominal defendant in the Superior Court of New Jersey, Atlantic County, Chancery Division (*James E. Stearns, derivatively on behalf of EMCORE Corporation v. Thomas J. Russell, Robert Bogomolny, Charles Scott, John Gillen, Reuben F. Richards, Jr., Hong Q. Hou, Adam Gushard, David Danzilio and Thomas Werthan*, Case No. Atl-C-10-09). This action is based on essentially the same factual contentions as the Prissert Class Action, and alleges that the Individual Defendants engaged in improprieties and violations of law in connection with the reporting of the GGE backlog. The Derivative Action seeks several forms of relief, allegedly on behalf of the Company, including, among other things, damages, equitable relief, corporate governance reforms, an accounting of, rescission of, restitution of, and costs and disbursements of the lawsuit.

On March 11, 2009, Plaintiff Gary Thomas filed a second purported shareholder derivative action (the "Thomas Derivative Action"; together with the Stearns Derivative Action, the "Derivative Actions") in the U.S. District Court for the District of New Mexico against the Company and certain of the Individual Defendants (*Gary Thomas, derivatively on behalf of EMCORE Corporation v. Thomas J. Russell, Robert Bogomolny, Charles Scott, John Gillen, Reuben F. Richards, Jr., Hong Q. Hou, and EMCORE Corporation*, Case No. 1.09-cv-00236, (D.N.M.)). The Thomas Derivative Action makes the same allegations as the Stearns Derivative Action and seeks essentially the same relief.

The Stearns Derivative Action and the Thomas Derivative action have been consolidated before a single judge in Somerset County, New Jersey, and have been stayed pending the Prissert and Mueller Class Actions.

The Company intends to vigorously defend against the allegations of both the Class Actions and the Derivative Action.

d) Securities Matters

- SEC Communications. On or about August 15, 2008, the Company received a letter from the Denver office of the Enforcement Division of the Securities and Exchange Commission wherein it sought the Company's voluntary production of documents relating to, among other things, the Company's business relationship with Green and Gold Energy, Inc., its licensees, and the Photovoltaics segment backlog the Company reported to the public. Since that time, the Company has provided documents to the staff of the SEC and met with the staff on December 12, 2008 to address this matter. On June 10, 2009, the SEC staff requested that the Company voluntarily provide documentary backup for certain information presented at the December 2008 meeting, which was provided on July 17, 2009, and arrange for a telephone interview with one former employee, which has been completed. On August 24, 2009, in a telephone call with the Company's counsel, the staff posed certain questions relating to the material provided on July 17, 2009, which were answered via the production of additional information and documentation on October 9, 2009.

- NASDAQ Communication. On or about November 13, 2008, the Company received a letter from the NASDAQ Listings Qualifications group ("NASDAQ") concerning the Company's removal of $79 million in backlog attributable to GGE which the Company announced on August 8, 2008 and the remaining backlog exclusive of GGE. The Company advised NASDAQ that it would cooperate with its inquiry. To date, the Company has received three additional requests for information from NASDAQ (the latter 2 of which requested updates on the SEC matter). The Company has complied with each of NASDAQ's requests. In early November 2009 the NASDAQ orally requested to be advised of developments in the SEC matter.

As of December 31, 2009 and the filing date of this Quarterly Report on Form 10-Q, no amounts have been accrued for any litigation item discussed above since no estimate of loss can be made at this time.

ITEM 1A. Risk Factors

In addition to the other information set forth in this report, you should carefully consider the risk factors discussed in Part I, Item 1A. "Risk Factors" in our Annual Report on Form 10-K for the year ended September 30, 2009, which could materially affect our business, financial condition or future results. The risks described in our Annual Report on Form 10-K are not the only risks facing our Company. Additional risks and uncertainties not currently known to us also may materially adversely affect our business, financial condition and/or operating results.

Our agreement for the sale of a majority of our fiber optics assets and the creation of a joint venture in China is subject to the satisfaction of material conditions. A failure of the transaction to close would likely have material adverse effect on the Company.

Our agreement with TCIC for the sale of a majority interest in our telecom, enterprise, CATV, FTTP and video transport product lines is subject to the approval of our and TCIC's boards of directors, which means that, until these approvals are obtained, the agreement would not be enforceable by either party against the other. In addition, the closing of the transaction is subject to the satisfaction of material conditions, including regulatory and government approvals in the U.S. and China. In the event these conditions are not satisfied, we may be unable to consummate the transaction, and, if U.S. regulatory approvals are not obtained, the Company will be liable for the payment of a $2,775,000 termination fee to TCIC.

The Company has also agreed to relocate its China CPV manufacturing and operations base to the Caofeidian Industry Zone. It is uncertain whether this operation can be successfully relocated, and failure to successfully do so may have an adverse impact on these operations as well as other aspects of the Company's CPV business, which may be dependent on these operations.

A failure to close the joint venture transaction for any reason may have a material adverse effect on the Company. Our relationships or credibility with customers could suffer if transition arrangements for the joint venture transactions are planned but not implemented due to a failure to close. In addition, we would not realize the expected benefits under the terms of the joint venture arrangement, and, because we are restricted by the stock purchase agreement from conducting the business of the joint venture assets in ways other than the ordinary course during the pendency of the closing, we would not have had the opportunity to pursue other strategic transactions involving those assets.

If the joint venture transaction is consummated, the successful implementation of the joint venture will be subject to additional risks and uncertainties that may have an adverse material effect on the joint venture's performance. If the joint venture is not successful, the Company may suffer losses under its obligation to provide debt financing to the joint venture.

If the transaction is closed, the implementation of the joint venture transaction will also be subject to additional risks and uncertainties. The assets included in the transaction will need to be transitioned to the joint venture, and in some cases will be relocated geographically to the Caofeidian Industry Zone in China, which may lead to unexpected cost and could result in business interruptions or other adverse consequences to the business. A failure by the joint venture to retain key employees may also have an adverse material effect on the business and performance of the joint venture. Because we will share ownership and management of the joint venture, the management of these risks will not be entirely within our control.

In addition, the Company has agreed to make $3.0 million in additional debt financing available to the joint venture following the closing, and to pledge 50% of its interest in the joint venture as collateral for the $27.0 million in working capital loans to the joint venture to be arranged by TCIC The Company will likely suffer losses of these amounts if the joint venture is unable to repay its debts.

ITEM 2. Unregistered Sales of Equity Securities and Use of Proceeds

(a) Not Applicable
(b) Not Applicable
(c) Not Applicable

ITEM 3. Defaults upon Senior Securities

Not Applicable

ITEM 4. Submission of Matters to a Vote of Security Holders

No matters were submitted to a vote of security holders during the three months ended December 31, 2009.

ITEM 5. Other Information

Tangshan Agreements

On February 3, 2010, the Company entered into a share purchase agreement to create a joint venture with Tangshan Caofeidian Investment Corporation ("TCIC"), a Chinese investment company located in the Caofeidian Industry Zone, Tangshan City, Hebei Province of China.

The agreement provides for TCIC to purchase a sixty percent (60%) interest in the Company's Fiber Optics business (excluding its satellite communications and specialty photonics fiber optics product lines), which will be operated as a joint venture once the transaction is closed. The Fiber Optics businesses included in this transaction are the Company's telecom, enterprise, cable television (CATV), fiber-to-the-premises (FTTP), and video transport product lines. The Company will retain the satellite communications and specialty photonics fiber optics product lines as well as the satellite and terrestrial solar businesses.

The new joint venture entity will be named EMCORE Fiber Optics, Limited ("EFO"), and will be a newly formed corporation organized in Hong Kong. The agreement provides for TCIC to pay the Company $27.75 million in cash, subject to adjustment based on the net asset value of the business as of the closing date, and also to provide $27 million of additional debt financing to EFO subsequent to the closing, with $18 million to be funded within 90 days of closing and $9 million to be funded within 90 days of the first anniversary of the closing. The Company will be providing 50% of its equity interest in EFO as collateral for this indebtedness. In addition, the agreement provides for the Company to provide $3 million of additional debt financing to EFO after the closing, with $2 million to be funded within 5 business days of the closing and $1 million to be funded within 90 days of the first anniversary of the closing.

The agreement is subject to the approval of both the Company's board of directors and the board of directors of TCIC, and the closing of the transaction is subject to material conditions, including regulatory and governmental approvals in the U.S. and China. If US regulatory approvals are not obtained, the Company will be obligated to pay a termination fee of $2,775,000 to TCIC.

The parties also executed a Shareholders Agreement to provide for operation of EFO following closing. The terms of the Shareholders Agreement provide that TCIC shall have the right to elect three of EFO's five directors of EFO, as well as to designate the Chairman of the Board and the Chief Financial Officer. The Company will have the right to elect the remaining two directors and to nominate the Chief Executive Officer. The Company also has the right to approve certain key corporate matters (including modifications of EFO's governing documents, changes in equity and corporate structure, mergers, acquisitions and dispositions, the incurring of indebtedness, and the annual business plan and budget) through supermajority voting requirements on the Board (subject to certain deadlock provisions). The Shareholders' Agreement also imposes certain restrictions on the parties' abilities to transfer their interest in EFO.

It is expected that the Company's Executive Chairman and Chairman of the Board, Mr. Reuben F. Richards, Jr. will resign his position as the Company's Executive Chairman effective as of the closing of the transaction to assume the role of CEO for EFO. In addition, the agreement provides for certain other Company senior executives and the employees currently working for the transferred product lines to be offered positions with EFO. The agreement further contemplates that the Company's President and CEO, Dr. Hong Q. Hou, will also serve as a director of EFO, providing strategic and operational oversight to the joint venture.

Tangshan Caofeidian Investment Corporation has nominated Dr. Yi Li as Chairman of the Board for EFO and TCIC will name a CFO to EFO subsequent to the closing.

Over the next several years, the joint venture is expected to focus on developing a high volume, low cost manufacturing infrastructure and a local customer support organization to better serve the expanding customer base in China and worldwide. TCIC has committed to providing additional funding support for the JV's future strategic growth through acquisitions.

In conjunction with the establishment of the joint venture, the Company and TCIC also entered into a supplemental agreement pursuant to which the Company agreed to establish its China terrestrial concentrator photovoltaics (CPV) manufacturing and operations base in the Caofeidian Industry Zone. The agreement includes a commitment by TCIC to provide the Company with the equivalent of $3.3 million in RMB denominated loans, tax and rent incentives and assistance in developing the Company's solar power business in China.

Line of Credit

On February 8, 2010, the Company and Bank of America entered into a Sixth Amendment to the Company's revolving asset-backed credit facility, which (a) permits the Company to enter into foreign exchange hedging transactions pursuant to a separate facility with the bank, provided that available amounts under such facility shall be deducted from the maximum revolving loan limit under this facility; and (b) resets the EDITDA financial covenant for the first quarter of fiscal 2010 to place the Company in compliance with that covenant.

ITEM 6. Exhibits

Exhibit Number	Description
10.1*	Share Purchase Agreement, dated February 3, 2010, by and among Tangshan Caofeidian Investment Corporation and EMCORE Corporation.
10.2*	Shareholders Agreement, dated February 3, 2010, by and among Tangshan Caofeidian Investment Corporation and EMCORE Corporation.
10.3*	Supplemental Agreement, dated February 3, 2010, by and among Tangshan Caofeidian Investment Corporation and EMCORE Corporation.
10.4*	Sixth Amendment to the Loan and Security Agreement with Bank of America, N.A., dated February 8, 2010.
31.1*	Certificate of Chief Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002, dated February 9, 2010.
31.2*	Certificate of Chief Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002, dated February 9, 2010.
32.1*	Certificate of Chief Executive Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, dated February 9, 2010.
32.2*	Certificate of Chief Financial Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, dated February 9, 2010.

* *Filed herewith*

SIGNATURES

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

EMCORE CORPORATION

Date: **February 9, 2010**

By: **/s/ Hong Q. Hou**
Hong Q. Hou, Ph.D.

Chief Executive Officer
(Principal Executive Officer)

Date: **February 9, 2010**

By: **/s/ John M, Markovich**
John M. Markovich

Chief Financial Officer
(Principal Financial and Accounting Officer)

EXHIBIT 10.1

SHARE PURCHASE AGREEMENT

BY AND BETWEEN

EMCORE CORPORATION

and

TANGSHAN CAOFEIDIAN INVESTMENT CO., LTD.

3rd February, 2010

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SHARE PURCHASE AGREEMENT

This **Share Purchase Agreement** ("Agreement") is made as of the 3rd day of February, 2010, by and between **EMCORE Corporation**, a New Jersey corporation with its principal executive office at 10420 Research Road, SE Albuquerque, NM 87123 U.S.A. ("Seller"), and **Tangshan Caofeidian Investment Co., Ltd.**, a limited liability company incorporated under the laws of the PRC, with its legal address at: Kilometer Zero, Caofeidian Industrial Zone, Tanghai County, Tangshan City, Hebei Province 063200, PRC ("Buyer"). For purposes of this Agreement, the terms set forth in Exhibit 1 shall have the meanings specified or referred to therein.

RECITALS

A. Seller and its Subsidiaries (collectively, the "Emcore Companies" and each individually, an "Emcore Company") are engaged in the business of designing, manufacturing and selling (i) telecom, enterprise, cable tv, fiber-to-the-premises, video transport, satellite communication and specialty photonics optical components, sub-systems and systems that enable the transmission of video, voice and data over high-capacity fiber optic cables in various fiber-optic transmission networks (the "Fiber Business") and (ii) solar products for satellite and terrestrial applications (the "Solar Business").

B. Buyer is interested in acquiring control of, and entering into a joint venture with Seller to operate a business (the "Business") consisting of all aspects of the Fiber Business other than the design, manufacture and sale of satellite communication and specialty photonics products. The Solar Business and the satellite communication and specialty photonics products portion of the Fiber Business (the "Retained Fiber Business" and, together with the Solar Business, the "Retained Business") would continue to be owned and operated solely by Seller.

C. In order to enter into a joint venture with Buyer with respect to the Business, Buyer and Seller intend that the Emcore Companies enter into a restructuring (the "Restructuring") consisting of the transfer of substantially all of the assets, liabilities, obligations, agreements, employees and operations of the Business, other than cash and cash equivalents, as a going concern to Seller's wholly-owned Hong Kong subsidiary, to be incorporated and established before Closing as part of the Restructuring (the "Company"), or to another Acquired Company. The basic step plan of the Restructuring as agreed between the parties is set forth in Schedule C, and a detailed step plan substantially consistent with the basic step plan shall be agreed between the Parties as soon as practicable after signing of this Agreement which shall be attached to this Agreement and replace the existing basic step plan (the "Restructuring Plan").

D. Following the Restructuring, Buyer desires to purchase, and Seller desires to sell, **6,000,000** shares (the "Shares") of capital stock of the Company representing 60% of the total outstanding shares to be issued by the Company to Seller prior to Closing, on the terms and conditions set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual representations, warranties and agreements contained herein, the parties hereto agree as follows:

ARTICLE I

PURCHASE AND SALE OF SHARES

1.1 Purchase and Sale

. Subject to the terms and conditions set forth in this Agreement, at the Closing, Seller will sell, transfer and deliver to Buyer, and Buyer will purchase from Seller, the Shares, which shall constitute 60% of the total outstanding shares of capital stock of the Company, free and clear of all Encumbrances, in exchange for payment of the Purchase Price by Buyer.

1.2 Purchase Price

. The amount payable to Seller for the purchase and sale of the Shares shall be **$27,750,000**, subject to adjustment by reference to the Final Net Asset Value Amount pursuant to Section 1.4 (such adjusted amount being the "Final Purchase Price").

1.3 Initial Net Asset Value Adjustment and Payment of the Estimated Purchase Price.

(a) On or before a date not less than three (3) Business Days prior to the Closing Date, Seller shall cause the Company to prepare and deliver to Buyer an estimated consolidated net asset value statement for the Company, in the form of Exhibit 2, as of 12:01 a.m. (Albuquerque time) on the Closing Date (the "Estimated Net Asset Value Statement") setting forth a good faith estimate of the Company Net Asset Value as of the Closing (the "Estimated Net Asset Value Amount"), certified by Seller's Chief Financial Officer as being (x) prepared in accordance with GAAP using the same accounting methods, policies, practices and procedures (other than footnotes), with consistent classifications and estimation methodologies (with the exception that the June 30, 2009 balance sheet includes $723,000 in cash and $12,530,000 in real property that are not assets of the Business and are not included in any subsequent balance sheets of the Business) , as were used in the preparation of the pro forma unaudited financial statements of the Business as of and for the nine months ending June 30, 2009 and as of and for the six months ending December 31, 2009 as provided by Seller to Buyer prior to the date of this Agreement,(y) based on all information known to such Chief Financial Officer at such time and such other information then reasonably available to the Company, Seller or such Chief Financial Officer and (z) prepared after due inquiry of all personnel responsible for the preparation of financial information of the Company in the Ordinary Course of Business.

(b) Based on the Estimated Net Asset Value Statement, if the Estimated Net Asset Value Amount is:

(i) equal to or greater than 110% of the Target Net Asset Value Amount, the "Estimated Purchase Price" shall equal (x) $27,750,000 plus (y) 60% of the amount (and only such amount) of the Estimated Net Asset Value Amount that exceeds 110% of the Target Net Asset Value Amount (the "Estimated Upward Adjustment Amount") ; or

(ii) equal to or less than 90% of the Target Net Asset Value Amount, the "Estimated Purchase Price" shall equal (x) $27,750,000 minus (y) 60% of the amount (and only such amount) of the Estimated Net Asset Value Amount that is less than 90% of the Target Net Asset Value Amount (the "Estimated Downward Adjustment Amount");

(iii) between 110% of the Target Net Asset Value Amount and 90% of the Target Net Asset Value Amount, the "Estimated Purchase Price" shall equal $27,750,000.

(c) On the Closing Date, Buyer shall pay 90% of the Estimated Purchase Price to a bank account designated, no later than three (3) Business Days prior to the Closing Date, by Seller. The remaining 10% of the Estimated Purchase Price (the "Holdback Amount") shall be retained by Buyer as a holdback which amount shall be applied in

accordance with the terms of this Agreement.

1.4 Post-Closing Adjustment of the Estimated Purchase Price.

(a) Within the 45-day period immediately following the Closing Date, Buyer shall prepare and deliver to Seller (i) a consolidated net asset value statement of the Company, in the form of Exhibit 2, as of 12:01 a.m. (Albuquerque time) on the Closing Date (the "Closing Net Asset Value Statement") setting forth Buyer's calculation of the Company Net Asset Value as of the Closing (the "Closing Net Asset Value Amount"). Unless disputed by Seller in accordance with Section 1.4(c), the Closing Net Asset Value Amount shown on the Closing Net Asset Value Statement shall be the final and binding Closing Net Asset Value Amount (the "Final Net Asset Value Amount"). The Closing Net Asset Value Statement will be certified by the Company's Chief Financial Officer as being prepared in accordance with GAAP using the same accounting methods, policies, practices and procedures (other than footnotes), with consistent classifications and estimation methodologie (with the exception that the June 30, 2009 balance sheet includes $723,000 in cash and $12,530,000 in real property that are not assets of the Business and are not included in any subsequent balance sheets of the Business) s , as were used in the preparation of the pro forma unaudited financial statements of the Business as of and for the nine months ending June 30, 2009 and as of and for the six months ended December 31, 2009 as provided by Seller to Buyer prior to the date of this Agreement, and will not include any changes in assets or liabilities as a result of purchase accounting adjustments arising from or resulting as a consequence of the transactions contemplated hereby. The Closing Net Asset Value Amount will be calculated in a manner consistent with the calculation of the Estimated Net Asset Value Amount in Section 1.3(a) above.

(b) From the Closing Date until the date the Final Net Asset Value Amount is agreed or determined in accordance with Section 1.4(e), in order to allow Buyer to satisfy its obligations under Section 1.4(a), (i) Seller shall provide, or cause to be provided, to Buyer and its officers, employees and authorized agents and representatives, including any accountants, counsel or financial advisor retained by Buyer, reasonable access to the books, records and working papers of Seller and its Affiliates, including taking electronic copies, to the extent that they are reasonably required for the preparation of the Closing Net Asset Value Statement or Buyer's analysis of any Dispute Notice and (ii) the individual employees of Seller or its Affiliates who prepared or were responsible for the preparation of the Estimated Net Asset Value Statement shall be made available to respond to the reasonable inquiries of Buyer and its officers, employees and authorized agents and representatives and shall otherwise cooperate with, and provide reasonable assistance to, Buyer in connection with the preparation of the Closing Net Asset Value Statement.

(c) Seller shall deliver to Buyer within sixty (60) days after receiving the Closing Net Asset Value Statement (the "Dispute Deadline Date") either a notice indicating that Seller accepts the Closing Net Asset Value Amount set forth on the Closing Net Asset Value Statement (an "Acceptance Notice") or a notice indicating that Seller disputes the Closing Net Asset Value Amount set forth on the Closing Net Asset Value Statement (a "Dispute Notice"). The Dispute Notice shall set forth those items or amounts with which Seller disagrees in the Closing Net Asset Value Statement, together with a reasonably detailed description of the reasons for its objections to each such item or amount, and a calculation of the Company Net Asset Value as of the Closing Date based on such objections. If Seller delivers to Buyer an Acceptance Notice, or Seller does not deliver a Dispute Notice, on or before the Dispute Deadline Date, then, effective as of the earlier of the date of delivery of such Acceptance Notice or the Dispute Deadline Date, the Closing Net Asset Value Amount shown on the Closing Net Asset Value Statement shall be deemed to be the Final Net Asset Value Amount. If Seller timely delivers a Dispute Notice, only those matters specified in such Dispute Notice shall be deemed to be in dispute with respect to the Closing Net Asset Value Amount, and all other matters shall be final and binding upon Buyer and Seller.

(d) The disputed matters set forth on the Dispute Notice shall be resolved as follows:

(i) Buyer and Seller shall negotiate in good faith to resolve any disagreement set forth in the Dispute Notice within thirty (30) days after the date on which Buyer receives the Dispute Notice. If the parties resolve such dispute, then the Company Net Asset Value as of the Closing agreed to by the parties shall be deemed to be the Final Net Asset Value Amount;

(ii) if the parties do not reach a final resolution within thirty (30) days after Buyer receives the Dispute Notice, unless the parties mutually agree to continue their efforts to resolve such differences, within thirty (30) days following the expiration of such 30-day period (or any extended period), then the parties shall engage an accounting firm with international repute to be mutually agreed (the "Neutral Accountants") in the manner provided below to resolve, as expert not arbitrator, any unresolved disputes matters ("Unresolved Objections"). Each of the parties shall make available to the Neutral Accountants all work papers and all other information and material in their possession relating to the matters in the Dispute Notice. Each party shall be permitted to present supporting materials to the Neutral Accountants (which supporting materials shall also be concurrently provided to the other party) within ten (10) Business Days of the submission of the Unresolved Objections to the Neutral Accountants. Within five (5) Business Days of receipt of supporting materials, the receiving party may present responsive materials to the Neutral Accountants (which responsive materials shall also be concurrently provided to the other party). Each party may make an oral presentation to the Neutral Accountants (in which case, such presenting party shall notify the other party of such presentation, and the other party shall have the right to be present at such presentation) within twenty (20) Business Days of the submission of the Unresolved Objections to the Neutral Accountants. In determining any Unresolved Objections, the Neutral Accountants shall only consider the materials and oral presentations of the parties and those items and amounts set forth in the Dispute Notice, and shall not conduct any independent review. The Neutral Accountants shall make their final determination of any Unresolved Objections within sixty (60) days of submission to them of such Unresolved Objections, which shall be conclusive and binding upon the parties and shall be used to determine the Final Net Asset Value Amount. The Seller and Buyer agree that the procedure set forth in this Section 1.4(d)(ii) with respect to Unresolved Objections for resolving disputes with respect to the Closing Net Asset Value Statement and Closing Net Asset Value Amount shall be the sole and exclusive method for resolving any such disputes provided that this Section 1.4(d)(ii) shall not prohibit Seller or Buyer from instituting Proceedings to enforce the ruling of the Neutral Accountants;

(iii) nothing herein shall be construed to authorize or permit the Neutral Accountants (i) to determine any questions or matters whatsoever under or in connection with this Agreement except as expressly set forth herein, or (ii) to apply any accounting methods, treatments, principles or procedures with respect to disputes under this Section 1.4 other than as described in this Section 1.4. If any Unresolved Objection is submitted to the Neutral Accountants pursuant to this Section 1.4, the Final Net Asset Value Amount shall not be finally determined until the Neutral Accountants have issued their final determination under Section 1.4(d)(ii); and

(iv) the fees and expenses of the Neutral Accountants shall be shared equally by Seller and Buyer.

(e) The Final Net Asset Value Amount shall be final and binding on Buyer and Seller upon the earliest of (i) the delivery by Seller of an Acceptance Notice or the failure of the Seller to deliver a Dispute Notice by the Dispute Deadline Date pursuant to Section 1.4(c), (ii) the resolution of all disputes by Seller and Buyer pursuant to Section 1.4(d)(i) and (iii) resolution of all disputes by the Neutral Accountants pursuant to Section 1.4(d)(ii). The difference between the Estimated Net Asset Value Amount and the Final Net Asset Value Amount shall be the "Final Net Asset Value Adjustment Amount."

(f) If the Final Net Asset Value Amount is:

(i) equal to or greater than 110% of the Target Net Asset Value Amount, the "Final Purchase Price" shall equal (x) $27,750,000 plus (y) 60% of the amount (and only such amount) of the Final Net Asset Value Amount that exceeds 110% of the Target Net Asset Value Amount (the "Final Upward Adjustment Amount"); or

(ii) equal to or less than 90% of the Target Net Asset Value Amount, the "Final Purchase Price" shall equal (x) $27,750,000 minus (y) 60% of the amount (and only such amount) of the Final Net Asset Value Amount that is less than 90% of the Target Net Asset Value Amount (the "Final Downward Adjustment Amount");

(iii) between 110% of the Target Asset Value Amount and 90% of the Target Net Asset Value Amount, the "Final Purchase Price" shall equal $27,750,000.

In the case of (i) and (ii) above, within five (5) Business Days after determination of the Final Net Asset Value Amount:

(i) if there is determined to be a Final Upward Adjustment Amount:

(A) if the Final Upward Adjustment Amount is greater than the Estimated Upward Adjustment Amount, Buyer shall pay to Seller an amount equal to 90% of the difference between the Final Upward Adjustment Amount and the Estimated Upward Adjustment Amount and the remaining 10% of such difference shall be held in retention by Buyer and become part of the Holdback Amount to be handled in accordance with the terms of this Agreement;

(B) if the Final Upward Adjustment Amount is less than the Estimated Upward Adjustment Amount, Seller shall pay to Buyer an amount equal to 90% of the difference between the Final Upward Adjustment Amount and the Estimated Upward Adjustment Amount;

(ii) if there is determined to be a Final Downward Adjustment Amount:

(A) if the Final Downward Adjustment Amount is greater than the Estimated Downward Adjustment Amount, Seller shall pay to Buyer an amount equal to 90% of the difference between the Final Downward Adjustment Amount and the Estimated Downward Adjustment Amount;

(B) if the Final Downward Adjustment Amount is less than the Estimated Downward Adjustment Amount, Buyer shall pay to Seller an amount equal to 90% of the difference between the Final Downward Adjustment Amount and the Estimated Downward Adjustment Amount and the remaining 10% of such difference shall be held in retention by Buyer and become part of the Holdback Amount to be handled in accordance with the terms of this Agreement.

All amounts payable by either Buyer or Seller in accordance with the above shall be made within five (5) Business Days after determination of the Final Net Asset Value Amount in immediately available funds to a bank account specified by Seller or Buyer, as the case may be, at least three (3) Business Days prior to such payment In the event Seller fails to pay all or part of any amount payable by Seller to Buyer within the five (5) Business Day period as provided above, Buyer shall be entitled to forever retain for its benefit from the Holdback Amount the amount Seller fails to so pay.

1.5 Closing

. Subject to the terms and conditions of this Agreement, the purchase and sale of the Shares provided for in this Agreement (the "Closing") will take place, unless this Agreement has previously been terminated pursuant to Section 9.1 hereof, at the offices of Freshfields Bruckhaus Deringer LLP, Beijing at 10:00 a.m. (Beijing time) on a mutually agreed date within five (5) Business Days after the satisfaction or (to the extent permitted by applicable law and this Agreement) waiver of the conditions set forth in Articles VII and VIII (other than those conditions that by their nature are to be satisfied at the Closing, and subject to the satisfaction or waiver of such conditions), or at such other time and place as the parties may mutually agree upon in writing. The effective time of the Closing shall be 23:59 (Beijing time) on the Closing Date.

1.6 Closing Obligations.

At the Closing:

(a) Seller will cause to be delivered to Buyer:

(i) share certificate(s) representing the Shares, duly issued in the name of Buyer;

(ii) duly executed and undated stock transfer forms and bought/sold notes in respect of the Shares;

(iii) a certified copy of the updated members' register of the Company showing Buyer as the holder of the Shares;

(iv) a receipt for 90% of the Estimated Purchase Price;

(v) a transition services agreement substantially in the form of Exhibit 3 (the "Transition Services Agreement"), executed by Seller and Company;

(vi) a supply agreement substantially in the form of Exhibit 4 (the "Supply Agreement"), executed by Seller and Company;

(vii) a counterpart to a shareholders' agreement substantially in the form of Exhibit 5 (the "Shareholders' Agreement"), executed by Seller;

(viii) the sublease agreements substantially in the form of Exhibit 6 (the "Sublease Agreements"), executed by Seller, US Subsidiary and Company;

(ix) a copy of the relevant legal documentation implementing the Restructuring, as set forth in the Restructuring Plan (the "Restructuring Documents"), executed by Seller, Company and the other Acquired Companies, as applicable;

(x) the license agreements substantially in the form of Exhibit **7** (the "License Agreements"), executed by Seller and Company;

(xi) written resignations as officers and directors (but not as employees, if applicable) duly executed by each officer and director of the Company not remaining in such position following the Closing pursuant to the terms of the Shareholders' Agreement, in form and substance reasonably acceptable to Buyer;

(xii) certificates dated as of the Closing Date from Seller and/or the Company, as applicable, duly executed by such Person's Secretary, certifying (A) that attached thereto is a true, correct and complete copy of the Organizational Documents of the Company as in effect on the date of such certification, (B) that attached thereto is a true, correct and complete copy of all resolutions duly and validly adopted by the board of directors of the Company approving any Ancillary Agreements to which it is a party and that all such resolutions are still in full force and effect, and (C) that attached thereto is a true, correct and complete copy of the resolutions duly adopted by the board of directors of Seller, authorizing the entry into this Agreement, and each of the Ancillary Agreements to which it is a party, by Seller and the performance by Seller of the terms hereof and thereof;

(xiii) legal opinion from Seller's New Jersey attorney Dillon, Bitar & Luther addressed to Seller confirming that approval from the stockholders of Seller is not required in respect of the execution, delivery and performance of this Agreement and the Ancillary Agreements and the transactions contemplated hereby and thereby;

(xiv) all original agreements, documents, books, records and files, including records and files stored on computer disks or tapes or any other storage medium, if any, of the Business and in the possession of any Emcore Company to the extent not then in the possession of an Acquired Company, except that if such materials also relate to the Retained Business or if the Emcore Companies are otherwise required to retain the original of such materials, then copies thereof. Notwithstanding the foregoing, to the extent required by any Legal Requirements, Seller may require Buyer to designate a United States citizen as the recipient of any of the foregoing, and such recipient, as a condition to receiving such items, shall agree to any restrictions on further disclosures as may be required by such Legal Requirements;

(xv) the certificates required by Sections 7.1 and 7.2(a), dated as of the Closing Date;

(xvi) a copy of the export license approvals issued by the U.S. Department of Commerce in respect of the Export Controlled Technologies without conditions that are unusual or unduly onerous;

(xvii) a copy of the approval document issued by CFIUS in respect of the transaction contemplated under this Agreement without conditions that are unusual or unduly onerous; and

(xviii) the Emcore Loan Agreement (the "Emcore Loan Agreement"), executed by Seller and Company on terms substantially consistent with the terms set forth in Exhibit 8.

(b) Buyer will cause to be delivered to Seller :

(i) 90% of the Estimated Purchase Price by wire transfer of immediately available funds, in accordance with wire instructions delivered by Seller to Buyer at least three (3) Business Days prior to the Closing Date;

(ii) a counterpart to the Shareholders' Agreement executed by Buyer;

(iii) a certificate dated as of the Closing Date from Buyer, duly executed by Buyer's Chairman of board of directors, certifying that attached thereto is a true, correct and complete copy of all resolutions duly and validly adopted by the board of directors of Buyer authorizing the execution, delivery and performance of this Agreement and the Buyer's Closing Documents and the transactions contemplated hereby and thereby, and that all such resolutions are still in full force and effect;

(iv) the form of Caofeidian Loan Agreement as agreed between Buyer and Seller on terms substantially consistent with the terms set forth in Exhibit 8 (the "CFD Loan Agreement") initialed by Buyer;

(v) the certificates required by Sections 8.1 and 8.2(a), dated as of the Closing Date; and

(vi) a copy of each of the PRC Approvals.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF SELLER

Except as set forth in the attached Seller's Schedule (as it may be revised pursuant to Section 6.13, the "Seller's Schedule") (which lists exceptions and disclosures numbered to correspond to the applicable representations and warranties set forth in this Article II to which such exception or disclosure refers, and which shall only be deemed to refer to another Article or Section of this Agreement if an explicit cross-reference appears or if the applicability of such matter to another Article or Section is reasonably apparent), Seller represents and warrants to Buyer as follows:

2.1 Organization and Good Standing.

(a) Seller is duly organized, validly existing, and in good standing under the laws of its jurisdiction of organization.

(b) Section 2.1 of the Seller's Schedule contains, as of the date of this Agreement, a complete and accurate list for each Acquired Company of its name and its jurisdiction of organization, and other jurisdictions in which it is authorized to do business, as of the date of this Agreement. Each Acquired Company is duly organized, validly existing, and in good standing under the laws of its jurisdiction of organization and each Acquired Company is duly qualified to do business as a foreign corporation in every jurisdiction in which the nature of its business or the location of its properties requires such qualification. Each Acquired Company has the requisite corporate power (or other organizational powers required) and authority to conduct its business as it is now being conducted and to own, lease or use the properties and assets that it purports to own, lease or use.

(c) Seller has made available to Buyer copies of the Organizational Documents of each Acquired Company, as currently in effect.

2.2 Authority; No Conflict.

(a) This Agreement constitutes the legal, valid, and binding obligation of Seller, enforceable against Seller in accordance with its terms, subject, as to enforcement, to applicable bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereinafter in effect affecting creditors' rights generally and general principles of equity. Upon the execution and delivery by Seller of each Ancillary Agreement to be executed or delivered by Seller at the Closing, each such Ancillary Agreement will constitute the legal, valid and binding obligation of Seller enforceable against Seller in accordance with its terms, subject, as to enforcement, to applicable bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereinafter in effect affecting creditors' rights generally and general principles of equity. Seller has all the necessary corporate power and authority to execute and deliver this Agreement and the Ancillary Agreements and to perform its obligations hereunder and thereunder and the transactions contemplated hereby and thereby have been duly authorized by all requisite action on the part of Seller.

(b) Neither the execution and delivery of this Agreement, nor any of the Ancillary Agreements, by Seller nor the consummation or performance of any of the transactions contemplated herein, or therein, by Seller or any Acquired Company will, directly or indirectly (with or without notice or lapse of time):

(i) conflict with, or result in a violation of, (A) any provision of the Organizational Documents of Seller or any Acquired Company, or (B) any resolution adopted by the board of directors or the stockholders of Seller or any Acquired Company;

(ii) materially conflict with, or result in a material violation of, any Legal Requirement or any Order to which Seller or any Acquired Company may be subject or give any Governmental Body the right to challenge any of the transactions contemplated by this Agreement or any of the Ancillary Agreements or to exercise any remedy, obtain any relief under or revoke or otherwise modify any rights held under any such Legal Requirement;

(iii) conflict with, or result in a material violation of, any of the terms or requirements of, or give any Governmental Body the right to revoke, withdraw, suspend, cancel, terminate, or modify, any Governmental Authorization that is held by any Acquired Company or that otherwise relates to the Business, or any of the assets owned, leased or used by any Acquired Company;

(iv) conflict with, constitute a default under or breach of, or give rise to a right of termination, cancellation, prepayment or acceleration of an obligation of, or to a loss of any benefits by any Emcore Company under, any Material Contract; or

(v) except as contemplated by this Agreement or the Ancillary Agreements, result in the creation or imposition of any Encumbrance upon the assets or equity of any Acquired Company.

(c) Neither Seller nor any Acquired Company is required to give any notice to or obtain any Consent from any Person in connection with the execution and delivery of this Agreement or any of the Ancillary Agreements or the consummation or performance of any of the transactions contemplated herein or therein.

(d) Notwithstanding the foregoing, the representations and warranties in Sections 2.2(b) and (c) above do not extend to (i) changes to or new Organizational Documents, resolutions, Legal Requirements, Orders, terms or requirements of any Governmental Body, Governmental Authorization, Material Contract or Encumbrance or other requirements that are adopted, approved, issued, entered into or otherwise to take effect after the Closing or (ii) any Legal Requirements, Orders, Governmental Authorization, terms or requirements of or by any Buyer Governmental Body.

2.3 Capitalization

. Details of the authorized and outstanding equity securities of each Acquired Company, as of the date of this Agreement, are set forth in Section 2.3 of the Seller's Schedule. Seller is, and on the Closing Date will be, the record and beneficial owner and holder of all of the Shares free and clear of all Encumbrances. Upon the transfer and delivery of the Shares to Buyer in accordance with this Agreement and payment therefor, Buyer will become the record and beneficial owner and holder of the Shares free and clear of all Encumbrances. On the Closing Date, all of the outstanding equity securities and other securities of each Acquired Company, other than the Company, will be owned of record and beneficially by one or more of the Acquired Companies, free and clear of all Encumbrances. All of the outstanding equity securities of each Acquired Company have been duly authorized and validly issued and are fully paid and nonassessable and were not issued in violation of any Legal Requirement, right of first refusal, purchase option, call option, subscription right, pre-emptive right or any similar right. No Acquired Company owns any equity securities or other securities of any Person (other than Acquired Companies) or any direct or indirect equity or ownership interest in any other business. Except as set forth in this Agreement or as may be set forth in the Ancillary Agreements, there are no Contracts relating to the issuance, sale or transfer or any securities of any Acquired Company, including (but not limited to) any outstanding subscriptions, warrants, options, purchase rights, convertible securities, calls, agreements, arrangements or commitments of any character relating to, or entitling any Person to purchase or otherwise acquire, the Shares or other securities or equity interests of the Acquired Companies. There are no outstanding or authorized equity appreciation, phantom stock, profit participation or similar rights with respect to the Acquired Companies. Except as may be set forth in the Ancillary Agreements, there are no voting trusts, stockholder agreements, proxies or other agreements or understanding in effect with respect to the voting or transfer of any of the Shares or other securities or equity interests of the Acquired Companies. There are no bonds, debentures, notes or other forms of indebtedness of any Acquired Company having the right to vote (or that are convertible into, or exchangeable for Shares or any other securities or equity interests of the Acquired Companies having the right to vote) on any matters on which holders of Shares or other securities or equity interests of the Acquired Companies may vote or whose holders' consent is required in connection with this Agreement or any of the Ancillary Agreements.

2.4 Financial Statements.

(a) Seller has provided to Buyer (i) a pro forma consolidated balance sheet of the Business as of June 30, 2009 (the "June Pro Forma Balance Sheet") and the related pro forma consolidated statements of income and cash flows of the Business for the nine months ended June 30, 2009 (together with the June Pro Forma Balance Sheet the "June Pro Forma Financial Statements"), and (ii) a pro forma consolidated balance sheet of the Business as of December 31, 2009 (the "December Pro Forma Balance Sheet"), and the related pro forma consolidated statements of income and cash flows for the six months ended December 31, 2009 (together with the December Pro Forma Balance Sheet, the "December Pro Forma Financial Statements"). The June Pro Forma Financial Statements and the December Pro Forma Financial Statements are referred to collectively as the "Pro Forma Financial Statements."

(b) The Pro Forma Financial Statements have been derived from the books and records of Seller and have not been separately audited. The Pro Forma Financial Statements (i) properly include adjustments for instances where adjustments were material in respect of the Business but were not material for Seller's financial statements, (ii) were prepared in accordance with the books of account and other financial records of Seller and can be legitimately reconciled with the books and records of Seller, and (iii) present fairly and accurately in all material respects the financial condition of the Business, the results of operations of the Business and the cash flows of the Business as of the date indicated or for the period indicated, as applicable; *provided,* that the Pro Forma Financial Statements (i) do not contain financial statement footnotes necessary to comply with GAAP, (ii) reflect to the extent possible the assets, liabilities, revenues and expenses that would have resulted if the Business had operated as an unaffiliated independent company, (iii) include estimations for allocation of various assets, liabilities, revenues, costs and expenses on a reasonable basis and (iv) have not been audited by any independent certified public accountants or auditors.

(c) Seller's system of internal controls over the Business' financial reporting is sufficient, in all material respects, to provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP.

2.5 Books and Records.

The accounting books and records, minute books and stock record books of the Acquired Companies, and the accounting books and records of any other Emcore Companies in so far as they relate to the Business, copies of which have been made available to Buyer, are true, complete and correct in all material respects. The minute books of the Acquired Companies contain materially accurate and complete records of all meetings held of, and corporate action taken by, the equity holders, the boards of directors, and committees of the boards of directors of the Acquired Companies, and comprise all corporate records and minutes required to be kept by the Acquired Companies. At the Closing, all such books and records will be in the possession of the Acquired Companies.

2.6 Title to Properties; Encumbrances.

(a) The Acquired Companies do not own any real property. Section 2.6 of the Seller's Schedule contains a list, as of the date of this Agreement, of all real estate leasehold interests owned by any Emcore Company and used in the Business ("Leased Real Properties"). As of the date of this Agreement, all leases or subleases of the Emcore Companies used in the Business are, and as of the Closing all leases or subleases of the Emcore Companies will be, in full force and effect, valid and effective in accordance with their respective terms and enforceable against the respective lessors thereto, subject, as to enforcement, to applicable bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect affecting creditors' rights generally and general principles of equity, and there is not, under any of such lease or sublease, any existing default or event of default (or event which with notice or lapse of time, or both, would constitute a default) by the Emcore Companies or, to the Knowledge of Seller, by the other party to such lease or sublease. There are no subleases, licenses, concessions, or other agreements, written or oral, granting any Person, other than another Emcore Company, the right of use or occupancy of all or any portion of any Leased Real Properties. All leases and subleases of Leased Real Properties are currently in material compliance with all Legal Requirements and the Leased Real Properties currently conform in all material respects with all covenants, conditions, restrictions, reservations, land use, zoning, health, fire, water and building codes and any applicable Legal Requirements. Copies of such leases and subleases have been delivered, or made available, to Buyer.

(b) As of the date of this Agreement, the Emcore Companies own, and, except for cash and cash equivalents, as of the Closing the Acquired Companies will own, all the properties and assets (whether real, personal, or mixed and whether tangible or intangible, including but not limited to such assets as listed in the Fixed Assets List) of the Business reflected as owned in the books and records of the Emcore Companies, including all of the properties and assets reflected in the December Pro Forma Balance Sheet (except for assets held under capitalized leases and personal property sold since the Pro Forma Balance Sheet Date in the Ordinary Course of Business), and all of the properties and assets of the Business purchased or otherwise acquired by the Emcore Companies since the Pro Forma Balance Sheet Date (except for personal property acquired and sold since the Pro Forma Balance Sheet Date in the Ordinary Course of Business). All properties and assets reflected in the December Pro Forma Balance Sheet are free and clear of all Encumbrances except for (i) those relating to Taxes not yet delinquent, (ii) those that do not materially detract from the value of the property subject thereto or interfere in any material respect with the Emcore Companies' ability to conduct the Business as currently conducted or to occupy and utilize such properties for their intended purposes and (iii) those listed in Section 2.6 of the Seller's Schedule ("Permitted Encumbrances").

2.7 Sufficiency of Assets

. All assets (including, without limitation, Leased Real Properties, buildings, plants, leasehold improvements, structures, facilities, equipment, mechanical assets, computer systems, offices, other items of tangible property and software owned, leased or used, including but not limited to such assets as listed in the Fixed Assets List) used in the Business are (as applicable) structurally sound, in good operating condition and repair, free from material defect (subject to normal wear and tear given the use and age of such assets), have been maintained in all material respects in accordance with generally accepted industry practice, are useable in the Ordinary Course of Business and conform in all material respects to Legal Requirements and Permits relating to their construction, use and operation. The rights, properties and tangible and intangible assets of the Acquired Companies (including but not limited to such assets as listed in the Fixed Assets List) and the facilities and services to which the Acquired Companies have or will have a contractual right, and the rights of Buyer and its respective Affiliates (including the Acquired Companies) pursuant to this Agreement and the Ancillary Agreements will, include all rights, properties, assets, facilities and services that are necessary for Buyer and their Affiliates (including the Acquired Companies) to carry on the Business immediately after the Closing in the places and substantially in the manner as conducted as at the date of this Agreement and as the Business was carried on in the twelve (12) months prior to the date of this Agreement.

2.8 Accounts Receivable

. All accounts receivable of the Emcore Companies arising from the Business that are reflected on the December Pro Forma Balance Sheet (collectively, the "Accounts Receivable") represent valid obligations arising from sales actually made or services actually performed in the Ordinary Course of Business. There is no contest, claim or right of set-off, other than returns in the Ordinary Course of Business, under any Contract with any obligor of an Accounts Receivable relating to the amount or validity of such Accounts Receivable. The Accounts Receivable have been recorded in accordance with GAAP and in a manner consistent with historical practice. Seller has made available to Buyer a complete and accurate list of all Accounts Receivable as of the Pro Forma Balance Sheet Date, which list sets forth the aging of such Accounts Receivable.

2.9 Inventory

. All Inventory with respect to the Business, whether reflected on the December Pro Forma Balance Sheet or subsequently acquired, consists, and as of the Closing Date all Inventory of the Acquired Companies will consist, of a quality and quantity usable and salable in the Ordinary Course of Business, except for excess and obsolete items and items of below-standard quality, all of which have been written off or written down (through general reserves or otherwise) to net realizable value in the December Pro Forma Balance Sheet or on the accounting records of the Acquired Companies as of the Closing Date, as the case may be. All Inventory of the Acquired Companies is properly reflected on the books and records of the Acquired Companies, and to the extent not written off, is recorded at the lesser of cost and fair market value, on a standard cost basis, as of the Closing Date on a consistent basis in accordance with GAAP. The quantities of each item of Inventory (whether raw materials, work in process, or finished goods) are sufficient for the normal operation of the Business in accordance with past practice.

2.10 No Undisclosed Liabilities.

(a) The Acquired Companies have no liabilities or obligations of any nature (whether known or unknown and whether absolute, accrued, contingent or otherwise) required to be reflected as liabilities on the financial statements in accordance with GAAP except for (i) liabilities or obligations reflected or reserved against in the December Pro Forma Financial Statements and (ii) current liabilities incurred in the Ordinary Course of Business since the Pro Forma Balance Sheet Date and not in violation of this Agreement. Since the Pro Forma Balance Sheet Date, none of the Acquired Companies has experienced any loss or liability contingencies (as such term is used in Accounting Standards Codification 450 issued by the Financial Accounting Standards Board).

2.11 Taxes.

(a) All Tax Returns required to be filed by or on behalf of the Acquired Companies, either separately or as a member of a group of corporations, on or before the date hereof are true, correct and complete. All such Tax Returns were duly and timely filed (taking into account any extension of time to file granted or obtained) and all Taxes (including, Taxes withheld from employees' salaries and all other withholding Taxes and obligations and deposits required to be made by or with respect to the Acquired Companies) due have been timely paid, or to the extent not due and payable as of the date hereof, adequate provision for the payment thereof has been made. The charges, accruals, and reserves with respect to Taxes on the books, records and financial statements of the Acquired Companies, in the aggregate, are adequate (determined in accordance with GAAP) and are at least equal to the Acquired Companies' liability for Taxes for all fiscal periods through the Closing Date.

(b) No audit or other examination of any Tax Return of any of the Acquired Companies or any Tax group of which an Acquired Company is a member is presently in progress, nor have any of the Acquired Companies or any Tax group of which an Acquired Company is a member been notified of any request for such an audit or other examination.

(c) None of the Shares or the assets of the Business is subject to any lien relating to or attributable to Taxes. To the Knowledge of Seller, no claim has been asserted relating to or attributable to Taxes, which, if adversely determined, would result in any lien on the Shares or the assets of the Business.

(d) Neither Seller nor any of the Acquired Companies have received any notice of a proposed assessment of Taxes with respect to the Business or an Acquired Company, or executed any waiver of any statute of limitations on or extending the period for, the assessment or collection of any Tax with respect to the Business which is still in effect.

(e) There are no actions, suits, proceedings or claims now pending by or against any of the Emcore Companies in respect of any Taxes or assessments with respect to the Business.

(f) No claim has been made by an authority in a jurisdiction where an Acquired Company does not file Tax Returns that the Acquired Company is or may be subject to taxation by that jurisdiction.

(g) None of the Acquired Companies is party to, bound by, or has any obligations under any tax sharing or allocation agreements, tax indemnification agreement or similar contract or arrangement, whether written or unwritten.

(h) None of the Acquired Companies has been a member of an affiliated group of corporations within the meaning of Section 1504 of the Code (or any similar provision of state, local or foreign law), other than an affiliated group of which Seller is the common parent.

(i) None of the Acquired Companies has an interest in or is subject to any joint venture, partnership, or other arrangement or contract which is treated as a partnership for U.S. federal income Tax purposes. None of the Acquired Companies is a successor to any other Person by way of merger, reorganization or similar transaction.

(j) No Acquired Company is a party to an arrangement under which it has paid or could be required to pay any excess parachute payment or any other amount that might not be fully deductible under Sections 162(m) or 280G of the Code (or similar provisions of an analogous state, local or foreign law).

(k) No Acquired Company and no other member of a Tax group to which an Acquired Company is a member has engaged or agreed to engage in a reportable transaction within the meaning of Section 6707A of the Code that could affect its Tax liability for any taxable period as to which the period for audit and assessment has not expired.

(l) The Seller is not a foreign person within the meaning of Section 1445 of the Code.

2.12 Employee Benefits.

(a) Section 2.12 of the Seller's Schedule contains a list, as of the date of this Agreement, of all plans, agreements, arrangements or commitments (whether provided by insurance, self-insurance or otherwise) that are (i) employment, consulting or deferred compensation agreements, (ii) executive compensation, incentive, equity compensation, bonus, employee pension, profit-sharing, savings, retirement, stock option, stock purchase, or severance pay plans, (iii) welfare, life insurance, health, dental, vision, cafeteria benefit, dependent care, post-retirement benefit, worker's compensation, unemployment benefit, disability or accident plans, (iv) holiday, vacation, leave of absence, or other bonus practice, (v) fringe benefits, expense reimbursement, automobile or other transportation allowance or (vi) any other employee benefit plans, agreements, arrangements or commitments, including, without limitation, any "employee benefit plan," as defined in Section 3(3) of ERISA, (collectively, "Plans") currently sponsored, maintained, or contributed to by the Emcore Companies or any of their ERISA Affiliates with respect to current or former employees or consultants of the Business. Section 2.12 of the Seller's Schedule also contains a list, as of the date of this Agreement, of all Plans sponsored, maintained, or contributed to by any Acquired Company, or with respect to which any Acquired Company has or may have any Liability, other than pursuant to the Transition Services Agreement, (collectively (together with the Plans to be established pursuant to Section 4.2), the "Acquired Company Plans").

(b) No Acquired Company Plan was in effect prior to the Restructuring. No Acquired Company Plan has received assets or Liabilities from any Plan. No Acquired Company Plan nor any trust created thereunder, now holds or has heretofore held as assets any stock or securities issued by Seller, any ERISA Affiliate or any Acquired Company. No Acquired Company Plan provides benefits that are materially different from those provided to current employees of the Business under any Plan.

(c) None of Seller, any Acquired Company nor any of their respective ERISA Affiliates has ever sponsored, maintained, contributed to or been required to contribute to (i) an "employee pension benefit plan" (within the meaning of Section 3(2) of ERISA) that is subject to Title IV of ERISA or Section 412 of the Code, (ii) a "multiemployer plan" within the meaning of Sections 3(37) or 4001(a)(3) of ERISA), (iii) any "multiple employer welfare arrangement" (within the meaning of Section 3(40) of ERISA), or (iv) a multiple employer plan for which the Company would reasonably be expected to incur liability under Sections 4063 or 4064 of ERISA.

(d) Seller has made available to Buyer true, complete and correct copies of all documents and summary plan descriptions of the Acquired Company Plans or summary descriptions of any such Acquired Company Plan not otherwise in writing. Seller has made available to Buyer true, complete and correct copies of the most recent determination letters and opinion letters and the Forms 5500 filed in the most recent three plan years with respect to each Section 401(k) Acquired Company Plan, including all schedules thereto and financial statements with attached opinions of independent accountants. Seller has made available to Buyer summaries of material modifications and material communications distributed within the last year to the participants of each Section 401(K) Acquired Company Plan. Seller has made available to Buyer all communications received from, or sent to, the Internal Revenue Service, Pension Benefit Guaranty Corporation, the United States Department of Labor or any other Governmental Body within the last three years and any Forms 5330 required to be filed, whether related to an Acquired Company Plan or otherwise. The Seller, the Acquired Companies and their respective ERISA Affiliates, as applicable, have maintained all employee data necessary to administer each Acquired Company Plan, including all data required to be maintained under Sections 107 and 209 of ERISA, and such data are true, complete and correct and are maintained in usable form.

(e) Each of the Acquired Companies has performed all obligations required to be performed by it under, is not in default under or in violation of, and, to the Knowledge of Seller, no default or violation by any other party has occurred with respect to, any of the Acquired Company Plans. No breach of fiduciary duty has occurred, nor have the Acquired Companies or any "fiduciary" (as such term is defined in Section 3(21) of ERISA) with respect to the Acquired Company Plans has engaged in any conduct, that would result in the assessment of any excise Tax, Liability or penalty under the Code, including, without limitation Code Sections 4971 through 4980G, or under Title I of ERISA, including, without limitation, ERISA Sections 502(i) and 502(l).

(f) None of the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby will (i) result in any current or former employee, director or consultant of the Acquired Companies becoming entitled to any deferred compensation, bonus or severance pay, materially increase or otherwise enhance any benefits otherwise payable by the Acquired Companies, (ii) result in the acceleration of time of payment or vesting, or an increase in the amount of any compensation due to any current or former employee, director or consultant of the Acquired Companies, (iii) result in forgiveness in whole or in part of any outstanding loans made by the Acquired Companies to any of their current or former employees, directors or consultants or (iv) result in a payment by an Acquired Company that would be considered an "excess parachute payment" or any other amount that might not be fully deductible under Section 280G of the Code or subject to the excise Tax under Section 4999 of the Code (or similar provisions of state, local or foreign law).

(g) All contributions and other payments required to be made by any of the Acquired Companies to or under any Acquired Company Plan (or to any Person pursuant to the terms thereof) have been made when due, or, if not yet due, the amount of such payment or contribution obligation has been reflected on the books, records and financial statements of the Acquired Companies. In addition, with respect to each Acquired Company Plan intended to include an arrangement described in Section 401(k) of the Code, the Acquired Companies have at all times made timely deposits of employee salary deferral contributions and participant loan repayments, as determined pursuant to regulations issued by the United States Department of Labor.

(h) Each of the Acquired Company Plans intended to be "qualified" within the meaning of Section 401(a) of the Code has either (i) received a favorable determination letter issued by the IRS as to its qualified status or (ii) has been established under a standardized master and prototype or volume submitter plan for which a favorable advisory letter or opinion letter issued by the IRS has been obtained by the plan sponsor and is valid as to the adopting employer, and each trust established in connection with any Acquired Company Plan which is intended to be exempt from federal income taxation under Section 501(a) of the Code is so exempt, and, to the Knowledge of Seller, no events have occurred since the issuance of such letter that would be reasonably expected to adversely affect the tax-qualified status of such Acquired Company Plan or the exempt status of such trust.

(i) Each Acquired Company Plan has at all times been maintained, administered, and operated in compliance with its terms, and all applicable Legal Requirements, including, without limitation, ERISA and the Code. The Acquired Companies are in compliance with all applicable Legal Requirements, including, without limitation, ERISA and the Code. With respect to the Acquired Company Plans, all Tax, annual reporting and other governmental filings required by ERISA and the Code have been timely filed with the appropriate Governmental Body (which were true, correct and complete as of the date filed) and all notices and disclosures have been timely provided to Acquired Company Plan participants. All fees, interest, penalties and assessments that are payable by or for the Acquired Companies have been timely reported, fully paid and discharged.

(j) None of the Acquired Company Plans that are "welfare plans" within the meaning of Section 3(1) of ERISA provides for any post-employment or retiree benefits, including but not limited to medical, disability or life insurance, other than continuation coverage required to be provided under Section 4980B of the Code, Part 6 of Title I of ERISA, or applicable state law. No Acquired Company Plan is, or is funded through, a voluntary employee benefit association under Section 501(a)(9) of the Code. The

Acquired Companies are in compliance with (i) the requirements of the applicable health care continuation and notice provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, and the regulations promulgated thereunder and any similar state law, and (ii) the applicable requirements of the Health Insurance Portability and Accountability Act of 1996, as amended, and the regulations promulgated thereunder.

(k) Other than benefit claims under the Acquired Company Plans in the Ordinary Course of Business, there are no actions, suits, investigations, audits, proceedings or litigation of any kind pending against, involving or, to the Knowledge of Seller, Threatened against, any Acquired Company Plan, the Acquired Companies by an Acquired Company Plan participant (or beneficiary thereof) or by any Governmental Body with respect to an Acquired Company Plan.

(l) Each "nonqualified deferred compensation plan" (as defined in section 409A(d)(1) of the Code) with respect to which any Acquired Company is a "service recipient" (within the meaning of section 409A of the Code) has been operated since January 1, 2005, in compliance with the applicable provisions of section 409A of the Code and the treasury regulations and other official guidance issued thereunder (or similar provision of state law) (collectively, "Section 409A"), and has been since January 1, 2009, in documentary compliance with the applicable provisions of Section 409A; and none of the Acquired Companies has been required to report any Taxes due as a result of a failure to comply with Section 409A. None of the Acquired Companies has any indemnity obligation for any Taxes or interest imposed or accelerated under Section 409A.

(m) With respect to each employee benefit plan, program, or other arrangement providing compensation or benefits to any employee or former employee of any of the Acquired Companies (or any dependent thereof) which is subject to the laws of any jurisdiction outside of the United States (the "Foreign Plans"): (i) such Foreign Plan has been maintained in all material respects in accordance with all applicable requirements and all Legal Requirements, (ii) if intended to qualify for special tax treatment, such Foreign Plan meets all requirements for such treatment, (iii) if intended or required to be funded and/or book-reserved, such Foreign Plan is fully funded and/or book reserved, as appropriate, based upon reasonable actuarial assumptions, and (iv) no material Liability exists or reasonably could be imposed upon the assets of any of the Acquired Companies by reason of such Foreign Plan.

2.13 Compliance with Legal Requirements; Governmental Authorizations.

(a) Since January 1, 2008, the Emcore Companies have conducted and currently are conducting the Business in compliance in all material respects with all Legal Requirements applicable to the Business.

(b) None of the Emcore Companies has received, at any time since January 1, 2008, any notice from any Governmental Body regarding any actual, alleged, possible, or potential violation of, or failure to comply with, any Legal Requirement applicable to an Acquired Company or the Business.

(c) Section 2.13(c) of the Seller's Schedule sets forth, as of the date of this Agreement, all material certificates, franchises, licenses, permits, orders, authorizations, registrations, declarations, filings, approvals and clearances of any Governmental Body (collectively, the "Company Permits") issued or granted to the Emcore Companies to carry on the Business. None of such Company Permits will be subject to suspension, modification, revocation or non-renewal as a result of the execution and delivery of this Agreement or the Ancillary Agreements or the consummation of the transactions contemplated hereby and thereby. The Company Permits disclosed in Section 2.13(c) of the Seller's Schedule constitute all Company Permits required of each Acquired Company to enable the Acquired Companies to own, lease, operate or otherwise hold their properties and assets and in order to carry on the Business as it is being conducted as of the date of this Agreement and as it was carried on in the twelve (12) months prior to the date of this Agreement.

2.14 Legal Proceedings; Orders.

(a) There is no pending Proceeding:

(i) that has been commenced by or against any Acquired Company or that relates to any of the assets owned, leased or used by any Emcore Company and relating to the Business; or

(ii) that challenges, or that may have the effect of preventing, delaying, making illegal, or otherwise interfering with, any of the transactions contemplated herein or in any of the Ancillary Agreements, and, to the Knowledge of Seller, no such Proceeding has been Threatened.

(b) There is no Order to which any Emcore Company is party or subject to or in default of or to which any of the assets owned, leased or used by any Emcore Company is subject that would be material to the Business or, taken as a whole, the Acquired Companies or would affect the legality, validity or enforceability of this Agreement, any Ancillary Agreement or the consummation of the transactions contemplated hereby or thereby, and, to the Knowledge of Seller, no employee of any Acquired Company is subject to any Order that prohibits such employee from engaging in or continuing any conduct, activity, or practice relating to the Business.

2.15 Absence of Certain Changes and Events

. Since the Pro Forma Balance Sheet Date, except as contemplated by this Agreement (including the Restructuring Plan) or the Ancillary Agreements, (i) the Emcore Companies have conducted the Business only in the Ordinary Course of Business and (ii) there has not been any Company Material Adverse Effect.

(a) the Seller has not, and none of the Acquired Companies have (i) issued, sold, pledged, granted, transferred or otherwise disposed of (or authorized the issuance, sale, pledge, grant transfer or other disposition) or (ii) created, permitted, allowed or suffered to exist any Encumbrance in respect of, any notes, bonds or other debt securities of an Acquired Company, any equity securities of an Acquired Company or any other securities exchangeable for, convertible into or exercisable for any equity securities (or derivative securities thereof) of an Acquired Company;

(b) none of the Acquired Companies has acquired (including by merger, consolidation or acquisition of stock or assets) any interest in any corporation, partnership, other business organization or Person or any division thereof;

(c) none of the Acquired Companies has incurred or assumed any liabilities, obligations or indebtedness for borrowed money (including any amounts owed to Seller or any other Emcore Companies), except in the Ordinary Course of Business or guaranteed any such liabilities, obligations or indebtedness, or issued any other debt securities;

(d) none of the Emcore Companies has sold (other than sales of Inventory in the Ordinary Course of Business), transferred, leased, licensed or otherwise disposed of any material asset or any real or material personal property of the Business or mortgaged, pledged or imposed any Encumbrance on any material asset or any real or material personal property of the Business, tangible or intangible, including the sale, transfer, lease, license or other disposition of any of the Intellectual Property Assets (other than in the Ordinary Course of Business);

(e) none of the Emcore Companies has cancelled, paid, discharged, compromised, waived, or released any debt, liability, claim or obligation (whether absolute, accrued, asserted or unasserted, contingent or otherwise) of the Business, except for debts, liabilities, claims or obligations cancelled, paid, discharged, compromised, waived or released with creditors, customers, contractors or subcontractors of the Business in the Ordinary Course of Business;

(f) none of the Emcore Companies has suffered any damage to or destruction or loss of any material asset or property of the Business;

(g) none of the Emcore Companies has intentionally waived, cancelled or released any material right, claim or amount receivable of the Business except for rights waived in the Ordinary Course of Business;

(h) none of the Emcore Companies has made any material change in its accounting principles, methods, practices, procedures or policies, including revenue recognition procedures, with respect to the Business;

(i) none of the Emcore Companies has made any capital expenditures with respect to the Business that are, in the aggregate, in excess of $250,000;

(j) none of the Acquired Companies has assumed, guaranteed or endorsed, or otherwise as an accommodation become responsible for, any obligations or liabilities of any Person, or otherwise made any loans or advances in connection with the Business;

(k) none of the Emcore Companies has entered into, terminated, or received notice of termination of, any Contract or transaction with respect to the Business involving a total remaining commitment by or to any Emcore Company of at least $250,000, other than in the Ordinary Course of Business;

(l) none of the Acquired Companies or any Tax group of which any such Acquired Company is a member has made any material Tax election or settlement or compromise of any material Tax Liability or refund by or affecting any Acquired Company or change in any annual Tax accounting period or method of Tax accounting, filing of any material amendment to a Tax Return, entry into any closing agreement relating to any material Tax, surrender of any right to claim a material Tax refund, or consent to any extension or waiver of the statute of limitations period applicable to any material Tax claim or assessment;

(m) none of the Emcore Companies has accelerated, terminated, modified or cancelled any Contract (or series of related Contracts) of the Business to which any of the Emcore Companies is a party or by which any of them is bound outside the Ordinary Course of Business;

(n) none of the Acquired Companies has made any capital investment in, any loan to, or any acquisition of the securities or assets of, any other Person (or series of related capital investments, loans, and acquisitions) either involving more than $250,000 or outside the Ordinary Course of Business;

(o) none of the Emcore Companies has granted any license or sublicense of any rights under or with respect to any Intellectual Property Assets outside the Ordinary Course of Business;

(p) none of the Acquired Companies has amended or otherwise modified the Organizational Documents of any Acquired Company;

(q) none of the Acquired Companies has declared, set aside or paid any dividend or distribution payable in cash, stock, property or otherwise to any stockholder or member of the Acquired Companies with respect to its equity or debt securities;

(r) none of the Acquired Companies has reclassified, combined, split, subdivided or otherwise amended the terms of, or purchased, redeemed or otherwise acquired, directly or indirectly, any of its equity or debt securities (or securities convertible into, or exercisable or exchangeable for equity or debt securities) or issued or redeemed any warrants, options or other rights of any kind to acquire its equity securities;

(s) none of the Acquired Companies has made any loan to, or entered into any other transaction with, any of its directors, officers, and employees outside the Ordinary Course of Business;

(t) none of the Emcore Companies has entered into, modified, amended, terminated, permitted the lapse of or renewed any lease or reciprocal easement agreement, operating agreement or other material agreement relating to, real property of the Business;

(u) with respect to the Business, none of the Emcore Companies has entered into, adopted, extended, renewed or amended any collective bargaining agreement or other Contract with any labor organization, union or association, except in each case as required by Legal Requirements;

(v) with respect to the Business, other than in the Ordinary Course of Business, none of the Emcore Companies has (i) granted or announced any increase in or acceleration of the compensation, bonus or benefits, or otherwise increased the compensation, bonus or benefits payable, or to become payable, to any employee, director, officer, manager, or consultant of, any Emcore Company, (ii) granted any rights to retention, severance or termination pay to, or entered into any new (or amended any existing) employment, consulting, retention, severance or other Contract with, any such employee, director, officer, agent or consultant, in each case except as may be required by Legal Requirements or (iii) adopted or established any new employee benefit plans for employees, or taken any action to accelerate the vesting, payment or funding of compensation or benefits under any Plan, to the extent not already provided in any such Plan; and

(w) none of the Emcore Companies has entered into any Contract to do any of the foregoing.

2.16 Contracts; No Defaults.

(a) The following Contracts shall be deemed to be "Material Contracts": any Contract with respect to the Business to which any Emcore Company is a party or by which any Emcore Company is bound that:

(i) involves performance of services or delivery of goods or materials by one or more Emcore Company of an amount or value in excess of $250,000 in the aggregate;

(ii) involves performance of services for or delivery of goods or materials to one or more Emcore Company of an amount or value in excess of $250,000 in the aggregate;

(iii) was not entered into in the Ordinary Course of Business and that involves expenditures or receipts of one or more Emcore Companies in excess of $250,000 in the aggregate;

(iv) is a lease, rental or occupancy agreement, license, installment and conditional sale agreement, or other Contract affecting the ownership of, leasing of, title to, use of, or any leasehold or other interest in, any real or personal property (except personal property leases and installment and conditional sales agreements having a value per item or aggregate payments of less than $50,000 annually and with terms of less than one year);

(v) is a licensing agreement or other Contract with respect to patents, trademarks, copyrights or other intellectual property, other than (A) standard non-disclosure agreements with employees and consultants and (B) non-exclusive licenses to or with any Person entered into in the Ordinary Course of Business;

(vi) is a joint venture, partnership or similar arrangement, however named, involving a sharing of profits, losses, costs or liabilities by any Emcore Company with any other Person or any Contract relating to holding, voting or transferring any capital stock or other equity interest by any Acquired Company (including any stockholders' agreement);

(vii) contains covenants, including non-solicitation provisions, that purport to restrict the business activity of any Acquired Company or limits the freedom of any Acquired Company to engage in any line of business or to compete with any Person;

(viii) requires any Emcore Company to incur in excess of $250,000 in the aggregate for capital expenditures;

(ix) is a sales agency, marketing or distribution agreement of the Emcore Companies, involving an amount in excess of $250,000 or provides for payments to or by any Person based on sales, purchases or profits, other than direct payments for goods;

(x) is a power of attorney that is currently effective and outstanding;

(xi) is an agreement by any Acquired Company to purchase any capital stock or other debt or equity securities of any Person;

(xii) is an agreement (or group of related agreements) under which any Acquired Company has created, incurred or guaranteed any indebtedness, liabilities or obligations, or issued any note, bond, debenture or similar instrument, for borrowed money, or any capitalized lease obligation or under which it has imposed an Encumbrance on any of its assets, tangible or intangible;

(xiii) is a bonus, profit sharing, incentive, deferred compensation, severance or change in control (exclusive of generally applicable severance policy) or other material plan or arrangement for the benefit of any of the Acquired Companies' managers, directors, officers or employees;

(xiv) is a collective bargaining agreement, or other Contract with any labor organization, union or other similar association;

(xv) is an employment agreement with an Emcore Company providing for payments to any Person in excess of $100,000 annually;

(xvi) is a Contract between or among any Acquired Company on the one hand, and any Seller Affiliate (other than an Acquired Company) or any current or former officer, director (or nominee for director) or employee of any Seller Affiliate (other than an Acquired Company) on the other hand;

(xvii) is an agreement under which the consequences of a default or termination would have a material adverse effect on the Business;

(xviii) is a hedging or factoring Contract related to currency exchange, interest rates, commodity prices or similar Contract; or

(xix) is a material amendment, supplement or modification (whether oral or written) of any of the foregoing.

(b) Each Material Contract is in full force and effect and is valid, binding and enforceable by the applicable Emcore Company in accordance with its terms.

(c) Each Emcore Company is in material compliance with all applicable terms and requirements of each Material Contract under which such Emcore Company has any obligation or liability or by which such Emcore Company or any of the assets owned, leased or used by such Emcore Company is bound.

(d) To the Knowledge of Seller, each other Person that has any obligation or liability under any Material Contract under which an Emcore Company has any rights is in material compliance with all applicable terms and requirements of such Material Contract.

(e) No Emcore Company has given to or received from any other Person any notice regarding any actual, alleged, possible, or potential material violation or breach of, or material default under, any Material Contract or any intention to terminate any Material Contract.

(f) Section 2.16 of the Seller's Schedule contains a list, as of the date of this Agreement, of all Material Contracts, including the parties to such Material Contracts. Seller has made available to Buyer true, complete and correct copies (or in the case of oral agreements, a reasonably complete summary) of all Material Contracts as of the date of this Agreement, together with any amendments or waivers thereto.

2.17 Insurance

. Section 2.17 of the Seller's Disclosure sets forth a true, complete and correct list, as of the date of this Agreement, of (a) all material fire and casualty, general liability, life and workers' compensation, business interruption, product liability, and sprinkler and water damage insurance policies maintained by, or on behalf of, the Emcore Companies that relate to the Business, and (b) if policies have been issued to, but not received by, or on behalf of each of the Emcore Companies, binders relating to such policies (the "Insurance Policies"). Seller has provided Buyer with a list, as of the date of this Agreement, of each outstanding claim under the Insurance Policies for an amount in excess of $50,000. As of the date of this Agreement, all of such Insurance Policies are legal, valid, binding and enforceable and in full force and effect and none of the Emcore Companies is in breach or default with respect to its obligations under such Insurance Policies (including with respect to payment of premiums). To the Knowledge of Seller, there are no circumstances that exist that would relieve the insurer of any obligation to provide coverage under any of the Insurance Policies and no notice of cancellation has been received with respect to any Insurance Policy which has not been replaced on substantially similar terms prior to the date of such cancellation. The Insurance Policies comprise all such insurance policies in respect of the Business as the Emcore Companies are required to maintain by Legal Requirements. All Insurance Policies are with insurance companies reasonably believed by Seller to be financially sound and reputable. The activities and operations of the Emcore Companies relating to the Business have been conducted in a manner so as to conform in all material respects to all applicable provisions of such Insurance Policies.

2.18 Environmental Matters.

(a) The conduct of the Business is not in violation of any Environmental Law and any past violations with respect to the Business have been resolved without any ongoing or pending costs or obligations.

(b) The Emcore Companies have obtained, and are in compliance with all, Environmental Permits required for the Business and any past non-compliance related to the Business has been resolved without any ongoing or pending costs or obligations.

(c) There has been no Release of any Hazardous Materials arising from or related to the Business that require any Remedial Action pursuant to Environmental Law.

(d) No Emcore Company is conducting or funding any Remedial Action that arises from or in any way is related to the Business.

(e) No Emcore Company has received any written notice from any Governmental Body or other Person of a Proceeding, nor to the Knowledge of Seller is any Proceeding Threatened or pending against any Emcore Company, that relates to, or arises from:

(i) the Business being in violation, or alleged violation, of any Environmental Law; or

(ii) any Liability, or alleged Liability under, any Environmental Law.

(f) The Emcore Companies' operations at the Leased Real Properties in Alhambra, California and at real property formerly leased or otherwise occupied in Alhambra, California have not involved the use, storage, Release, or generation of material or waste containing or comprised of chemicals that are (i) the contaminants of concern at the San Gabriel Valley Area 3 Superfund Site (United States Environmental Protection Agency ID No. CAD980818579, the "Superfund Site"), including, but not limited to, Perchloroethene ("PCE"), Trichloroethene ("TCE"), cis 1,2-Dichloroethene and other PCE and TCE degradation products, 1,1-Dichloroethene, carbon tetrachloride, 1,2,3-Trichloropropane, other chlorinated volatile organic compounds, 1,4-Dioxane, Perchlorate, and Nitrate, or (ii) the subject of any outstanding, pending or Threatened Orders or Proceedings by any Governmental Body or other Person relating to Remedial Action.

2.19 Employees.

(a) Section 2.19 of the Seller's Schedule contains a true, complete and correct list, as of the date of this Agreement, of the names of each employee and independent contractor of the Business who is paid in excess of $25,000 annually, together with each such person's date of hire, position or function, exempt or non-exempt, furloughed or leave status, annual current rate of compensation, and any entitlement to bonus, commission, severance or other additional compensation. To the Knowledge of Seller, no employee of the Emcore Companies is a party to, or is otherwise bound by, any agreement or arrangement, including any confidentiality, noncompetition, or proprietary rights agreement, between such employee and any other Person that in any way adversely affects or will adversely affect (i) the performance of his or her duties as an employee of the Acquired Companies or (ii) the ability of any Acquired Company to conduct the Business.

(b) There is no material dispute with respect to the Business pending or, to the Knowledge of Seller, Threatened between any Emcore Company and any of its current or former officers, directors, supervisory personnel or any employee or group of employees.

2.20 Labor Relations; Compliance

No Acquired Company has been or is a party to any collective bargaining agreement. There is not presently pending or existing, and to the Knowledge of Seller there is not Threatened, with respect to any Acquired Company or the Business (i) any strike, slowdown, picketing, or work stoppage, (ii) any Proceeding against or affecting any Emcore Company relating to the alleged violation of any Legal Requirement pertaining to labor relations or employment matters, including any charge or complaint filed by an employee or union with the National Labor Relations Board, the Equal Employment Opportunity Commission, the Department of Labor, or any comparable Governmental Body, organizational activity, or other labor or employment dispute against or affecting any of the Emcore Companies or their premises, (iii) any application for certification of a collective bargaining agent or (iv) any internal Seller investigations or Governmental Body investigations relating to any alleged violation of any Legal Requirements by Emcore Companies pertaining to labor relations or employment matters. To the Knowledge of Seller, no event has occurred or circumstance exists that could provide the basis for any work stoppage or other labor dispute with respect to the Business. With respect to the Business, there is no lock-out of any employees by any Emcore Company and no such action is contemplated by any Emcore Company. The Emcore Companies, with respect to the Business, have complied and are in compliance in all material respects with their own employment policies and all Legal Requirements relating to labor relations and employment matters, including but not limited to, employment status (temporary, leased, independent contractor or otherwise), equal employment opportunity, nondiscrimination, immigration, wages, hours, benefits, leave, collective bargaining, withholding and payment of employment taxes, including social security and similar taxes, occupational safety and health, affirmative action, workers' compensation, disability insurance, unemployment insurance, plant closings, mass layoffs and other terminations. No Emcore Company is, with respect to the Business, subject to any Order for the payment of any material compensation, damages, taxes, fines, penalties, or other amounts, however designated, or any other Order, for the alleged failure to comply with any of the foregoing Legal Requirements. With respect to labor relations and employment matters of the Business, each Emcore Company is in compliance with all directives and requests of any Governmental Body, whether in the form of an Order or otherwise.

2.21 Intellectual Property.

(a) Intellectual Property Assets. The term "Intellectual Property Assets" means:

(i) all fictitious business names, trade names, logos, designs, emblems and product names, registered and unregistered trademarks, service marks, domain names, internet addresses, and applications therefor as may exist anywhere in the world together with the associated goodwill, owned by or licensed to any Emcore Company and used in the Business (collectively, "Marks");

(ii) all patents and patent applications as may exist anywhere in the world, owned by or licensed to any Emcore Company and used in the Business (collectively, "Patents");

(iii) all copyrights, including mask works, whether or not registered in both published works and unpublished works as may exist anywhere in the world, owned by or licensed to any Emcore Company and used in the Business (collectively, "Copyrights"); and

(iv) all know-how, trade secrets, confidential information, customer lists, software, technical information, data, plans, drawings, and blue prints as may exist anywhere in the world, owned by or licensed to any Emcore Company and used in the Business (collectively, "Trade Secrets").

(b) Agreements.

Section 2.21(b) of the Seller's Schedule contains a true, complete and correct list, as of the date of this Agreement, of all Material Contracts relating to the Intellectual Property Assets to which any Emcore Company is a party or by which any Emcore Company is bound, except for any license implied by the sale of a product, outbound licenses to any Intellectual Property Assets pursuant to any Emcore Company's standard form(s) of outbound license agreements, copies of which have been provided to Buyer, and licenses for commonly available software programs with a value of less than $50,000 or open source software programs under which an Emcore Company is the licensee. There are no outstanding and, to the Knowledge of Seller, no Threatened claims of material breach by any Emcore Company with respect to any Material Contract set forth on Section 2.21(b) of the Seller's Schedule.

(c) Patents.

(i) Section 2.21(c) of the Seller's Schedule contains a true, complete and correct list, as of the date of this Agreement, of all Patents, including the application or registration number, title, jurisdiction in which the application was made or from which registration issued, date of application and date of issuance (if issued), and names of all current applicant(s) and registered owners(s) (as applicable). One or more of the Emcore Companies is, and as of the Closing one or more of the Acquired Companies will be, the owner of all right, title, and interest in and to each of the Patents (other than Patents licensed to an Emcore Company), free and clear of all Encumbrances and other adverse claims.

(ii) All of the issued Patents are currently in material compliance with formal Legal Requirements, and are valid and subsisting and are not subject to any maintenance fees or taxes or actions falling due within ninety days after the date of this Agreement.

(iii) All products made, used or sold under the Patents have been marked with proper patent notice.

(iv) To the Knowledge of Seller, no product of the Business infringes any third party patent rights, except where such infringement would not have a material adverse effect on the Business.

(v) No Patent has been or is now involved in any interference, reissue, re-examination, or opposition proceeding. To the Knowledge of Seller, there is no patent or patent application of any third party interfering with any Patent.

(d) Trademarks.

(i) Section 2.21(d) of the Sellers' Schedule contains a true, complete and correct list, as of the date of this Agreement, including jurisdictions where applied for or registered (if applicable), of all (A) registered Marks, (B) applications for registration of Marks and (C) material unregistered Marks. One or more of the Emcore Companies is, and as of the Closing one or more of the Acquired Companies will be, the owner of all right, title, and interest in and to each of the Marks, free and clear of all Encumbrances and other adverse claims.

(ii) No Mark has been or is now involved in any opposition, invalidation or cancellation proceedings.

(iii) To the Knowledge of Seller, no Mark infringes any third party trademark rights, except where such infringement would not have a material adverse effect on the Business.

(iv) All products, materials and services rendered under a Mark have been and are properly marked in accordance with Legal Requirements.

(e) Copyrights.

(i) Section 2.21(e) of the Sellers' Schedule contains a true, complete and correct list, as of the date of this Agreement, of all registered Copyrights, including jurisdictions where registered. All registered Copyrights are currently in compliance with all Legal Requirements, are valid and enforceable and are not subject to any maintenance fees or taxes or actions falling due within ninety days after the date of this Agreement. One or more of the Emcore Companies is, and as of the Closing one or more of the Acquired Companies will be, the owner of all right, title, and interest in and to each of the Copyrights listed in Section 2.21(e) of the Seller's Schedule and unregistered mask works which are Copyrights, free and clear of all Encumbrances and other adverse claims.

(ii) To the Knowledge of Seller, no Copyright infringes any third party copyrights, except where such infringement would not have a material adverse effect on the Business.

(f) Trade Secrets.

(i) The Emcore Companies have taken all commercially reasonable precautions to protect the secrecy, confidentiality, and value of their Trade Secrets. As of the date of this Agreement, one or more of the Emcore Companies has, and as of the Closing one or more of the Acquired Companies will have, good title to the Trade Secrets (other than Trade Secrets licensed to Seller) and an absolute (but not necessarily exclusive) right to use the Trade Secrets.

(ii) The Trade Secrets are not part of the public domain, and, to the Knowledge of Seller, have not been used, divulged, or appropriated to the detriment of the Business.

(g) To the Knowledge of Seller (i) the Business as currently conducted does not infringe or otherwise violate any Person's marks, patents, copyrights or trade secrets in any manner that could materially and adversely affect the Business and the Acquired Companies' operation of the Business after the Closing in the same manner as previously conducted by any Emcore Company, (ii) there is no claim Threatened against any Emcore Company related to any infringement, violation or misuse of any Person's marks, patents, copyrights or trade secrets and (iii) no Person is materially infringing or otherwise materially violating any Intellectual Property Assets, and no such infringement claims are Threatened against any Person by any Emcore Company.

(h) All personnel, including employees, agents, consultants and contractors, who have contributed to or participated in the conception, reduction to practice or development of any Intellectual Property Asset, have so contributed or participated either (i) in a "work for hire" arrangement or agreement with Seller or an Emcore Company, in accordance with applicable Law, that by its terms accords Seller or an Emcore Company full, effective, exclusive and original ownership of, and all right, title and interest in and to, all tangible and intangible property included in the Intellectual Property Assets; or (ii) under appropriate instruments of assignment in favor of Seller or an Emcore Company as assignee that by their terms convey to Seller or an Emcore Company full, effective and exclusive ownership of all right, title and interest in and to all tangible and intangible property included in the Intellectual Property Assets.

2.22 Accounts; Safe Deposit Boxes; Powers of Attorney and Directors and Officers

. Section 2.22 of the Seller Schedule sets forth, as of the date of this Agreement, (a) a true and correct list of all bank and savings accounts, certificates of deposit and safe deposit boxes of each Acquired Company and those Persons authorized to sign thereon, (b) true and correct copies of all corporate borrowing, depository and transfer resolutions of each Acquired Company and those Persons entitled to act thereunder, (c) a true and correct list of all powers of attorney granted by each Acquired Company and those Persons authorized to act thereunder and (d) a true and correct list of all officers and directors of each Acquired Company.

2.23 Suppliers

. To the Knowledge of Seller, since the Pro Forma Balance Sheet Date, no Emcore Company has entered into any Contract with respect to the Business for the purchase of goods or services other than in the Ordinary Course of Business. Section 2.23 of the Seller's Schedule sets forth a list of the top twenty (20) (by total cost to the Emcore Companies with respect to the Business) suppliers of goods and services to the Business for each of the twelve months ended December 31, 2009 and December 31, 2008. Since the Pro Forma Balance Sheet Date, no supplier of goods and services named in Section 2.23 of the Seller's Schedule has terminated or has indicated the intention to terminate their relationship with the Company.

2.24 Customers

. Section 2.24 of the Seller's Schedule sets forth a list of the top twenty (20) (by revenue to the Emcore Companies) customers of the Business for each of the twelve months ended December 31, 2009 and December 31, 2008. Since the Pro Forma Balance Sheet Date, no customer named in Section 2.24 of the Seller's Schedule has terminated or has indicated the intention to terminate their relationship with the Company.

2.25 Certain Payments

. No Emcore Company nor, to the Knowledge of Seller, any director, officer, agent, or employee of any Emcore Company or any Person acting for or on behalf of any Emcore Company, has, with respect to the Business, directly or indirectly, (a) made any contribution, gift, bribe, rebate, payoff, influence payment or kickback, or has made, authorized, offered or promised to make any other payment, gift or transfer of anything of value to any Person, private or public, regardless of form, whether in money, property, or services in violation of Anti-Bribery Law or other Legal Requirement, or (b) established or maintained any fund or asset, or made any payment or entered into any other transaction, that has not been recorded appropriately and accurately in the books and records of the Emcore Companies.

2.26 Disclosure

. No representation or warranty of Seller contained in this Agreement or in any Ancillary Agreement, and no statement contained in the Seller's Schedule and the Fixed Assets List, contains or will contain when delivered any material untrue statement of fact, or to the knowledge of Seller, omits or will omit to state when delivered any material fact necessary, in light of the circumstances under which it was or will be made, in order to make the statements herein or therein not misleading in all material respects.

2.27 Brokers or Finders

. No Emcore Company has incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment in connection with this Agreement or any Ancillary Agreement.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller as follows:

3.1 Organization and Good Standing

. Buyer is a limited liability company duly organized, validly existing, and in good standing under the laws of its jurisdiction of organization.

3.2 Authority; No Conflict.

(a) This Agreement constitutes the legal, valid, and binding obligation of Buyer, enforceable against Buyer in accordance with its terms subject, as to enforcement, to applicable bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect affecting creditors' rights generally and general principles of equity. Upon the execution and delivery by Buyer of each Ancillary Agreement (other than the CFD Loan Agreement) to be executed or delivered by Buyer at Closing, each such Ancillary Agreement will constitute the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its respective terms. Buyer has all necessary corporate power and authority to execute and deliver this Agreement and the Ancillary Agreements (other than the CFD Loan Agreement) to be executed and delivered by Buyer at the Closing and to perform its obligations under this Agreement and such Ancillary Agreements and the transactions contemplated hereby and thereby have been duly authorized by all requisite action on the part of Buyer.

(b) Neither the execution and delivery of this Agreement, nor any of the Ancillary Agreements, by Buyer nor the consummation or performance of any of the transactions contemplated herein, or therein, by Buyer will, directly or indirectly (with or without notice or lapse of time):

(i) conflict with or result in a violation of (A) any provision of Buyer's Organizational Documents or (B) any resolution adopted by the board of directors or stockholders of Buyer;

(ii) except for the need to obtain PRC Approvals, conflict with, or result in a violation of, any Legal Requirement or Order to which Buyer may be subject or give any Governmental Body the right to challenge any of the transactions contemplated by this Agreement or any of the Ancillary Agreements or to exercise any remedy, obtain any relief under or revoke or otherwise modify any rights held under any such Legal Requirement; or

(iii) give any Person the right to prevent, delay, or otherwise interfere with any of the transactions contemplated herein or in any Ancillary Agreement pursuant to any Contract to which Buyer is a party or by which Buyer may be bound.

(c) Other than the PRC Approvals, Buyer is not and will not be required to give any notice to or obtain any Consent from any Person in connection with the execution and delivery of this Agreement or any of the Ancillary Agreements or the consummation or performance of any of the transactions contemplated herein or therein.

3.3 Certain Proceedings

. There is no pending Proceeding that has been commenced against Buyer or that challenges, or may have the effect of preventing, delaying, making illegal, or otherwise interfering with, any of the transactions contemplated herein or in any of the Ancillary Agreements. To the Knowledge of Buyer, no such Proceeding has been Threatened.

3.4 Investment Intent; Ability to Evaluate and Bear Risks

. Buyer is acquiring the Shares for its own account and not with a view to their distribution within the meaning of Section 2(11) of the Securities Act. Buyer is able to bear the economic risk of holding the Shares for an indefinite period, and has knowledge and experience in financial and business matters such that it is capable of evaluating the risks of the investment in the Shares.

3.5 Brokers or Finders

. Buyer and its officers and agents have incurred no obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment in connection with this Agreement or any Ancillary Agreement.

3.6 Financing

. Buyer will have on the Closing Date, funds in its possession in an amount sufficient to enable it to (i) pay the Estimated Purchase Price and (ii) pay all fees and expenses required to be paid by Buyer in connection with the transactions contemplated by this Agreement.

3.7 No Military Affiliation. Buyer has no affiliation with nor is it controlled by the military of the People's Republic of China.

ARTICLE IV

COVENANTS OF SELLER PRIOR TO CLOSING DATE

4.1 Access and Investigation

. Subject to any Legal Requirement, between the date of this Agreement and the Closing Date, Seller will, and will cause each of the other Emcore Companies and its representatives to, (a) afford Buyer and its representatives and prospective lenders and their representatives (collectively, "Buyer's Advisors") reasonable access during normal business hours to each Emcore Company's personnel, properties, Contracts, books and records, Tax Returns (excluding Emcore's consolidated income Tax Returns) and other documents and data relating to the Business, (b) furnish Buyer and Buyer's Advisors with copies of all such Contracts, books and records, and other existing documents and data

relating to the Business as Buyer may reasonably request and (c) furnish Buyer and Buyer's Advisors with such additional financial, operating, and other data and information (including but not limited to monthly balance sheet, profit and loss statement, back-log and cash flow statement) as Buyer may reasonably request, in each case, so long as such actions (1) do not materially interfere with the business of the Emcore Companies and (2) would not violate any Legal Requirement.

4.2 Operation of the Business

. Except as otherwise provided or contemplated by this Agreement (including the Restructuring Plan) or the Ancillary Agreements or required by any applicable Legal Requirement, between the date of this Agreement and the Closing Date, Seller will, and will cause each of the other Emcore Companies to:

(a) conduct the Business in the Ordinary Course of Business;

(b) separately account for all cash and cash equivalents generated by the Business, inventory, accounts payables and accounts receivables, and all other assets and liabilities (including all movements thereof) and all cash and cash equivalents generated by the Business shall be applied to discharge accounts payables and liabilities of the Business arising in the Ordinary Course of Business consistent with the usual and customary conduct of the Business.

(c) maintain a level and quality of Inventory and supplies, raw materials and spare parts that is sufficient for the normal operation of the Business in accordance with past practice;

(d) use commercially reasonable efforts to (i) maintain the relations and goodwill with suppliers, customers, landlords, creditors, employees, agents, and others having business relationships with the Emcore Companies relating to the Business so that the Business shall be unimpaired in every material respect at Closing (ii) maintain the facilities and assets owned, leased or used in connection with the Business in the same state of repair, order and condition as they are on the date of this Agreement (except for reasonable wear and tear) and (iii) complete the Restructuring;

(e) send a letter to LSI Corporation confirming their statement made on a conference call dated 1 February 2010 that, as between LSI Corporation and Seller, the environmental condition at the Alhambra, CA facility and the Superfund Site is the responsibility of LSI Corporation, and that LSI Corporation will indemnify Seller against such liability as provided under the transaction documents between Seller and Agere Systems, Inc.;

(f) use reasonable commercial efforts to renegotiated the master leases for the Alhambra, CA facility to clarify the environmental conditions on the site and the associated liabilities which pre-date Seller's occupancy of the site, provided that Seller shall not be obligated to incur substantial direct or indirect costs associated with renegotiation of such leases; and

(g) as promptly as practicable after the date of this Agreement, Seller will use commercially reasonable efforts to fund the initial draw down of $2,000,000 by the Company pursuant to the Emcore Loan Agreement.

In addition, prior to Closing, Seller shall establish new Plans (which shall be Acquired Company Plans to take effect from Closing), or ensure that immediately after the Closing the employees of the Acquired Companies can participate under existing Plans as provided in the Transition Services Agreement, for the benefit of the Business employees that provide benefits (other than equity compensation) which are substantially similar to the benefits provided under the comparable Plans (excluding equity plans) maintained by the Emcore Companies. Notwithstanding anything in this Agreement to the contrary, nothing contained herein shall (i) be treated as an amendment to any particular employee benefit plan of Buyer or Seller or the Company, (ii) obligate Buyer or any of its Affiliates (including the Company or any other Acquired Company) to (A) maintain any particular benefit plan or arrangement or (B) retain the employment of any particular employee, (iii) prevent Buyer, the Company or any of their Affiliates from amending or terminating any benefit plan or arrangement, or (iv) give any third party the right to enforce any of the provisions of this Agreement.

4.3 Negative Covenant

. Except as otherwise permitted or contemplated by this Agreement (including the Restructuring Plan) or any Ancillary Agreement or required by any applicable Legal Requirement, between the date of this Agreement and the Closing Date Seller will not, and will cause each other Emcore Company not to, without the prior Consent of Buyer:

(a) take, or fail to take, any commercially reasonable action, as a result of which any of the changes or events listed in Section 2.15 would occur;

(b) adopt or establish any new employee benefit plans for employees of the Business or amend an Acquired Company Plan to the extent that such action would result in an Acquired Company Plan providing a level of benefits that is materially greater than the level of benefits currently provided to employees of the Business under the comparable Plan maintained by the Emcore Companies;

(c) enter into any consulting Contract with respect to the Business which would become a Liability of the Acquired Companies following the Closing and providing for payments in excess of $200,000 in aggregate;

(d) if it may affect an Acquired Company, make any material Tax election or settlement or compromise of any material Tax Liability or refund, make any change in any annual Tax accounting period or method of Tax accounting, file any material amendment to a Tax Return, enter into any closing agreement relating to any material Tax, surrender any right to claim a Tax refund, or consent to any extension or waiver of the statute of limitations period applicable to any Tax claim or assessment; or

(e) enter into any material contract or transaction relating to the Business or the Acquired Companies with any Affiliate, director or officer of Seller that is outside of the Ordinary Course of Business.

provided that Seller may, and may cause the Emcore Companies to grant rights to retention, severance or termination pay to, or enter into any new (or amend any existing) employment, retention, severance or other Contract with, any employee, director, officer, agent or consultant of an Emcore Company who will be employed or engaged by an Acquired Company as may be required by Legal Requirement or where the effect of any of the foregoing would not increase the total staff costs of the Business by more than five percent (5%) per annum.

4.4 Notification

. Between the date of this Agreement and the Closing Date, Seller will notify Buyer as soon as practicable in writing if Seller becomes aware of any fact or condition that causes or constitutes a material Breach of any of Seller's representations and warranties as of the date of this Agreement and of the occurrence of any material Breach of any covenant of Seller in this Article IV or of the occurrence of any event that may make the satisfaction of the conditions in Article VII impossible or unlikely. Notwithstanding anything herein to the contrary, no notice provided pursuant to this Section 4.4 shall limit or otherwise affect the remedies available hereunder to the party receiving such notice, or the representations or warranties of, or the conditions to the obligations of, the parties hereto.

4.5 Consultation

. In connection with the continuing operation of the Business between the date of this Agreement and Closing, to the extent not reasonably believed by Seller to be prohibited by Legal Requirements, Seller shall use reasonable efforts to consult in good faith on a regular and frequent basis with one or more designated representatives of Buyer, to report

material operational developments and the general status of ongoing operations pursuant to procedures reasonably requested by Buyer or such representatives. Seller acknowledges that any such consultation (or any information shared in connection therewith) shall not constitute a waiver by Buyer of any rights it may have under this Agreement, and that Buyer shall not have any liability or responsibility for any actions of Seller or any of its officers or directors with respect to matters that are the subject of such consultations unless Buyer expressly consents to such action in writing.

4.6 Required Approvals

. Except as otherwise permitted by this Agreement, as promptly as practicable after the date of this Agreement, Seller will, and will cause each other Emcore Company to, (a) make all filings required by Legal Requirements to be made by it in order to consummate the transactions contemplated herein and (b) make commercially reasonable efforts to obtain all Consents required to be obtained by Seller or the other Emcore Companies to consummate the transactions contemplated hereby. Between the date of this Agreement and the Closing Date, Seller will, and will cause each other Emcore Company to, (i) reasonably cooperate with Buyer with respect to all filings that Buyer elects to make or is required by Legal Requirements to make in connection with the transactions contemplated herein, and (ii) reasonably cooperate with Buyer in obtaining all Consents identified in Schedule 3.2.

4.7 Acquisition Proposals.

(a) Seller agrees that, except as expressly contemplated by this Agreement or with respect to a Seller Sale Proposal, Seller shall not and shall cause the Emcore Companies and its and their respective officers, directors, investment bankers, attorneys, accountants, financial advisors, agents and other representatives (collectively, "Representatives") not to (i) directly or indirectly initiate, solicit, knowingly encourage or facilitate (including by way of furnishing information) any inquiries or the making or submission of any proposal that constitutes, or could reasonably be expected to lead to, an Acquisition Proposal, (ii) participate or engage in discussions or negotiations with, or disclose any non-public information or data relating to Seller or any Emcore Company or afford access to the properties, books or records of Seller or any Emcore Company to any Person that has made an Acquisition Proposal or to any Person in contemplation of an Acquisition Proposal, or (iii) accept an Acquisition Proposal or enter into any agreement (A) constituting or related to, or that is intended to or could reasonably be expected to lead to, any Acquisition Proposal (other than a confidentiality agreement permitted pursuant to this Section 4.7(a)) or (B) requiring, intended to cause, or which could reasonably be expected to cause Seller to abandon, terminate or fail to consummate the sale of the Shares pursuant to this Agreement (each an "Acquisition Agreement"). Notwithstanding anything to the contrary in this Agreement, Seller and the Board of Directors of Seller (the "Board") may take any actions described in clause (ii) of this Section 4.7(a) with respect to a third party if (x) Seller receives a written Acquisition Proposal from such third party (and such Acquisition Proposal was not during such time period initiated, solicited, knowingly encouraged or facilitated by Seller or any of its Representatives) and (y) such proposal constitutes, or the Board determines in good faith (after consultation with its financial advisors and outside legal counsel) that such proposal could reasonably be expected to lead to, a Superior Proposal, provided that Seller shall not deliver any information to such third party without entering into a customary confidentiality agreement. Nothing contained in this Section 4.7 shall prohibit Seller or the Board from taking and disclosing to Seller's stockholders a proposition with respect to an Acquisition Proposal pursuant to Rules 14d-9 and 14e-2(a) promulgated under the Exchange Act or from making any similar disclosure, in either case to the extent required by applicable Legal Requirement.

(b) Neither (i) the Board nor any committee thereof shall directly or indirectly (A) withdraw (or amend or modify in a manner adverse to Buyer), or publicly propose to withdraw (or amend or modify in a manner adverse to Buyer), the approval or recommendation by the Board of this Agreement and the sale of the Shares pursuant to this Agreement or (B) recommend, adopt or approve, or propose publicly to recommend, adopt or approve, any Acquisition Proposal (any action described in this clause (i) being referred to as a "Seller Adverse Recommendation Change") nor (ii) shall Seller execute or enter into an Acquisition Agreement. Notwithstanding the foregoing, subject to Seller's compliance at all times with the provisions of this Section 4.7, (Y) in response to a Seller Sale Proposal, the Board or any committee thereof may make a Seller Adverse Recommendation Change if the Board or any committee thereof determines in good faith, after consultation with outside legal counsel, that it is required for purposes of fulfilling its fiduciary duties under applicable Legal Requirements, or (Z) in response to a Superior Proposal, the Board or any committee thereof may make a Seller Adverse Recommendation Change and/or enter into an Acquisition Agreement; provided, however, that Seller shall not be entitled to exercise its right under this clause (Z) to make a Seller Adverse Recommendation Change and/or enter into an Acquisition Agreement in response to a Superior Proposal (aa) until fifteen (15) Business Days after Seller provides written notice to Buyer (a "Seller Notice") advising Buyer that the Board or any committee thereof has received a Superior Proposal, specifying the material terms and conditions of such Superior Proposal, and identifying the Person or group making such Superior Proposal and (bb) if during such fifteen (15) Business Day period, Buyer proposes any alternative transaction (including any modifications to the terms of this Agreement), unless the Board or any committee thereof determines in good faith (after consultation with its financial advisors and outside legal counsel, and taking into account all financial, legal, and regulatory terms and conditions of such alternative transaction proposal) that such alternative transaction proposal is not at least as favorable to Seller and its stockholders as the Superior Proposal (it being understood that any change in the financial or other material terms of a Superior Proposal shall require a new Seller Notice and a new fifteen (15) Business Day period under this Section 4.7(b)).

(c) As promptly as practicable after receipt thereof, Seller shall advise Buyer in writing of any request for information or any Acquisition Proposal received from any Person, or any inquiry, discussions or negotiations with respect to any Acquisition Proposal, and the terms and conditions of such request, Acquisition Proposal, inquiry, discussions or negotiations, and Seller shall promptly provide to Buyer copies of any written materials received by Seller in connection with any of the foregoing, and the identity of the Person or group making any such request, Acquisition Proposal or inquiry or with whom any discussions or negotiations are taking place. Seller agrees that it shall simultaneously provide to Buyer any non-public information concerning itself or its subsidiaries provided to any other Person or group in connection with any Acquisition Proposal which was not previously provided to Buyer. Seller shall keep Buyer fully informed of the status of any Acquisition Proposals (including the identity of the parties and price involved and any changes to any material terms and conditions thereof). Seller agrees not to release any third party from, or waive any provisions of, any confidentiality or standstill agreement to which it is a party.

(d) For purposes of this Agreement "Acquisition Proposal" shall mean any bona fide proposal, whether or not in writing, for the direct or indirect acquisition or purchase of a business or assets that constitute 90% or more of the net revenues, net income or the assets (based on fair market value thereof) of the Business, but specifically excluding any (i) direct or indirect acquisition or purchase of any class of equity securities or capital stock of Seller, (ii) merger, consolidation, business combination, tender offer, exchange offer, recapitalization or other similar transaction involving a Person that if consummated would result in such Person beneficially owning 50% or more of any class of equity securities of Seller (a "Seller Sale Proposal") and (iii) the transactions contemplated by this Agreement. The term "Superior Proposal" shall mean any bona fide written Acquisition Proposal for the direct or indirect acquisition or purchase of a business or assets that constitute 90% or more of the net revenue, net income or the assets (based on fair market value thereof) of the Business made by a third party on terms which a majority of the Seller's Board or any committee thereof determines in good faith (after consultation with its financial advisors and outside legal counsel, and taking into account all financial, legal and regulatory terms and conditions of the Acquisition Proposal and this Agreement (including any modifications to the terms of this Agreement) proposed by any other party in response to such Superior Proposal, including any conditions to and expected timing of consummation, and any risks of non-consummation, of such Acquisition Proposal) to be superior to Seller and its stockholders as compared to the transactions contemplated hereby (including any modifications to the terms of this Agreement proposed by the Buyer pursuant to this Section 4.7(b)).

4.8 Commercially Reasonable Efforts

. Except as otherwise permitted by this Agreement, between the date of this Agreement and the Closing, Seller will use, and will cause each Acquired Company to use, its commercially reasonable efforts to cause the conditions in Articles VII and VIII to be satisfied and to cause the Closing to occur as soon as reasonably practicable, including taking all commercially reasonable actions necessary to comply promptly with Legal Requirements that may be imposed on it or any Emcore Company with respect to the Closing. Notwithstanding the foregoing, Seller may take any of the actions permitted by Section 4.7, and such actions shall not constitute a Breach of this Agreement.

ARTICLE V

COVENANTS OF BUYER PRIOR TO CLOSING DATE

5.1 Notification

. Between the date of this Agreement and the Closing Date, Buyer will notify Seller as soon as practicable in writing if Buyer becomes aware of any fact or condition that causes or constitutes a material Breach of any of Buyer's representations and warranties as of the date of this Agreement and of the occurrence of any material Breach of any covenant of Buyer in this Article V or of the occurrence of any event that may make the satisfaction of the conditions in Article VIII impossible or unlikely. Notwithstanding anything herein to the contrary, no notice provided pursuant to this Section 5.1 shall limit or otherwise affect the remedies available hereunder to the party receiving such notice, or the representations or warranties of, or the conditions to the obligations of, the parties hereto.

5.2 Required Approvals

. Except as otherwise permitted by this Agreement, as promptly as practicable after the date of this Agreement, Buyer will (a) make all filings required by Legal Requirements to be made by it to consummate the transactions contemplated herein and (b) make commercially reasonable efforts to obtain all Consents required to be obtained by Buyer to consummate the transactions contemplated hereby. Between the date of this Agreement and the Closing Date, Buyer will (i) reasonably cooperate with Seller with respect to all filings and applications that the Emcore Companies elect to make or are required by Legal Requirements to make in connection with the transactions contemplated herein (including but not limited to obtaining export control licenses from the U.S. Department of Commerce in respect of the Export Controlled Technologies and approval by CFIUS in respect of the transaction contemplated under this Agreement, and (ii) reasonably cooperate with Seller in obtaining all Consents identified in Section 2.2 of the Seller's Schedule, provided that Seller shall (upon production of relevant invoice) reimburse or pay on behalf of Buyer (as Buyer may direct in writing) in full for all attorney's expenses outside of the PRC reasonably and properly incurred by Buyer in connection with obtaining export control licenses for the Export Controlled Technologies and approval by CFIUS, up to a maximum of $100,000.

5.3 Commercially Reasonable Efforts

. Between the date of this Agreement and the Closing, Buyer will use its commercially reasonable efforts to cause the conditions in Articles VII and VIII to be satisfied and to cause the Closing to occur as soon as reasonably practicable, including taking all commercially reasonable actions necessary to comply promptly with Legal Requirements that may be imposed on it with respect to the Closing.

ARTICLE VI

ADDITIONAL AGREEMENTS

6.1 Tax Returns and Transfer Taxes.

(a) Seller's Consolidated Income Tax Returns. Seller shall, at its own expense, prepare and file, or cause to be prepared and filed, all Tax Returns (including amended Tax Returns) of the Acquired Companies that are income Tax Returns and are prepared on a consolidated, unitary, or combined basis and that include Seller for all taxable periods ending on or before the Closing Date. Any Tax Returns prepared by Seller for any taxable period ending on or prior to the Closing (including any amended Tax Returns) shall be prepared in a manner consistent with past practice (except as required by Legal Requirements) during the taxable periods ending on or prior to the Closing. Seller shall timely pay, or cause to be paid, any such Taxes shown as due on such Tax Returns.

(b) Other Returns. Buyer and Seller shall cause the Acquired Companies to, at the Acquired Companies' own expense, prepare and file, or cause to be prepared and filed, all Tax Returns of the Acquired Companies (other than the Tax Returns that are prepared by Seller pursuant to Section 6.1(a) above) that are required to be filed after the Closing with respect to taxable periods beginning on or before the Closing Date or any period commencing after the Closing, and, subject to the right to payment from Seller pursuant to this Section, Buyer and Seller shall cause the Acquired Companies to pay, all Taxes shown as due on those Tax Returns. Seller shall reimburse the Acquired Companies for all Taxes shown on Tax Returns of the Acquired Companies (other than the Tax Returns that are prepared by Seller pursuant to Section 6.1(a) above) for all periods (or portions thereof) ending on or prior to the Closing Date which are filed after the Closing Date, but Seller shall be credited for any estimated tax payments made by it prior to Closing. For Tax periods which begin before the Closing Date and end after the Closing Date (a "Straddle Period"), Seller shall reimburse Buyer for an amount equal to the Pre-Closing Taxes due with respect to any such Tax Returns filed by the Acquired Companies and payable by such Acquired Companies. Seller shall also reimburse Buyer for all costs and expenses incurred by Buyer or any of its Affiliates with respect to the preparation and filing of any Tax Returns of the Acquired Companies for any taxable period ending on or prior to the Closing Date and for a pro rata share of any Tax Returns of the Acquired Companies for a Straddle Period. Any amounts owed by Seller to Buyer or the Acquired Companies pursuant to this Section 6.1(b) shall be paid by Seller within thirty (30) Business Days of Buyer's request therefor. Buyer and Seller shall cause each Acquired Company to timely pay all such Taxes on or prior to their due date. With respect to a Straddle Period, such Pre-Closing Taxes shall be calculated as follows: for purposes of this Section 6.1(b), in the case of any Taxes that are imposed on a periodic basis and are payable for a Straddle Period, the portion of such Taxes that relates to the portion of the Straddle Period ending on or prior to the Closing Date shall (A) in the case of any Taxes other than Taxes based upon or related to income or receipts, be deemed to be the amount of such Taxes for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of days in the Straddle Period from the first day of the Straddle Period through and including the Closing Date, and the denominator of which is the number of days in the entire Straddle Period and (B) in the case of any Taxes based upon or related to income or receipts, be deemed equal to the amount that would be payable if the relevant Straddle Period ended on the Closing Date, using the "closing of the books" method of accounting.

(c) Amended Returns. Unless required by Legal Requirements, Buyer shall not (nor shall it cause or permit the Acquired Companies to) amend, re-file or otherwise modify any Tax Return relating in whole or in part to the Acquired Companies with respect to any taxable year or period ending on or before the Closing Date, or that includes the Closing Date, without the prior written Consent of Seller, not to be unreasonably withheld or delayed.

(d) Tax Proceedings. In the event Buyer or any Acquired Company receives notice of any pending or Threatened Tax audits or assessments by any Tax authority or other disputes concerning Taxes with respect to which Seller or its Affiliates may incur Liability under this Agreement, the party in receipt of such notice shall promptly notify Seller of such matter in writing. Seller shall have the right, at its own expense, to represent the interests of the Acquired Companies in any such Tax audit or administrative or court proceeding to the extent relating to Taxes for which Seller is liable under this Agreement if Seller acknowledges in writing to Buyer its responsibility for any such Liability which may result. Seller shall promptly commence and diligently pursue any such contest. Buyer shall have the right to observe the proceedings with its own counsel and to receive copies of all materials relevant to the proceedings. Seller shall not settle or compromise any such claim, accept any final determination or resolution or agree to any payment, refund or credit of Tax without the written consent of Buyer (which shall not be unreasonably withheld or delayed). To the extent they reasonably are needed in connection with the proceedings, Buyer shall make officers, employees, agents, auditors and representatives of the Acquired Companies available to Seller at Seller's expense at mutually convenient times and places.

(e) Cooperation on Tax Matters. Buyer, the Acquired Companies, and Seller shall cooperate fully, as and to the extent reasonably requested by the other party, in connection with the filing of all Tax Returns (including any amended Tax Return or claim for refund) and any audit, litigation, or other proceeding with respect to Taxes. Buyer and Seller further agree to use commercially reasonable efforts to obtain any certificate or other document from any governmental authority or any other Person as may be necessary to mitigate, reduce or eliminate any Tax that could be imposed.

(f) Tax Sharing Agreements. All Tax sharing agreements or similar agreements, if any, between any of the Acquired Companies and any other Affiliate of Seller shall be terminated as of the Closing Date and, after the Closing, none of the Acquired Companies, nor Seller, nor any Affiliate thereof, shall be bound thereby or have any Liability thereunder and no payments (or any other obligations) that are owed by or to the Acquired Companies pursuant thereto shall be required to be made (or performed) thereunder.

(g) Transfer Taxes. Buyer and Seller each shall be responsible for and shall pay 50% of all documentary stamp Taxes, recording charges and other similar Taxes, if any, in respect of the sale of the Shares to Buyer. Seller shall be responsible for any income Taxes, capital gain Taxes or other similar Taxes, if any, in respect of the sale of

the Shares to Buyer. Each of the parties hereto shall prepare and file, and shall fully cooperate with each other party with respect to the preparation and filing of, any Tax Returns and other filings relating to any such Taxes or charges as may be required.

6.2 Other Intercompany Arrangements; Third Party Assurances.

(a) Except as otherwise expressly contemplated by this Agreement (including the Restructuring Plan) or the Ancillary Agreements, all Contracts, whether written, oral or otherwise, which are solely between the Acquired Companies, on the one hand, and Seller and its Affiliates (excluding the Acquired Companies), on the other hand, shall be terminated and of no further effect, simultaneously with the Closing without any further action on the part of the parties thereto, including, without limitation, any promissory notes, interest bearing liabilities, shareholder loans, accounts receivables and payables, and other intercompany charges. For the avoidance of doubt, as of the Closing Date, none of the Company nor any of the other Acquired Companies shall owe or have outstanding any of the aforementioned liabilities towards Seller or any of its Affiliates, except for those arising in the Ordinary Course of Business.

(b) Seller shall use its commercially reasonable efforts to ensure that as soon as reasonably practicable after Closing, each Acquired Company is released from all Third Party Assurances given by such Acquired Company in respect of obligations of any Emcore Company (other than an Acquired Company). Pending release of any Third Party Assurance, Seller shall indemnify Buyer and each of its Affiliates (including the Acquired Companies) against any and all Damages arising after Closing under or by reason of any such Third Party Assurances.

(c) Buyer and Seller shall each use its commercially reasonable efforts to ensure that as soon as reasonably practicable after Closing, each Emcore Company (other than an Acquired Company) is released from all Third Party Assurances given by such Emcore Company in respect of the obligations of any Acquired Company. Pending release of any such Third Party Assurance, Buyer shall indemnify such Emcore Company against any and all Damages arising after Closing under or by reason of any such Third Party Assurance.

6.3 Excluded Insurance Policies; Continued Product Liability Insurance.

(a) Buyer shall not, and shall cause its Affiliates (including the Acquired Companies after the Closing) not to, assert, by way of claim, action, litigation or otherwise, any right to any Excluded Insurance Policy or any benefit under any Excluded Insurance Policy. Seller and its Affiliates (other than the Acquired Companies) shall retain all right, title and interest in and to the Excluded Insurance Policies, including the right to any credit or return premiums due, paid or payable in connection with the termination thereof; *provided*, *however*, that to the extent any returned premiums have been paid by an Acquired Company, such returned premiums shall belong to Buyer.

(b) Promptly upon the Closing and except as otherwise provided herein, Buyer shall release, and shall cause its Affiliates, including the Acquired Companies, to release, all rights to all Excluded Insurance Policies that covered the Acquired Companies prior to the Closing Date. All Excluded Insurance Policies issued prior to the Closing Date in the name of or to the Acquired Companies shall remain with Seller or its Affiliates (other than the Acquired Companies). Notwithstanding anything to the contrary herein, (i) if any Insurance Policy (including any Excluded Insurance Policy) is occurrence-based and provides coverage to an Acquired Company or (ii) provides coverage to an Acquired Company in respect of an outstanding insurance claim, then the parties shall use commercially reasonable efforts to provide the benefits of such coverage to the applicable Acquired Companies. In furtherance of and without limiting the foregoing, Seller shall and shall cause its Affiliates to (in each case, promptly upon the request of Buyer) (i) provide copies of any Excluded Insurance Policy to Buyer for the sole purposes of determining whether a potential claim may be covered thereunder, (ii) to the extent Buyer reasonably believes such potential claim would be covered under an Excluded Insurance Policy, submit such claim to the applicable insurance company and take all reasonable action to have such claim promptly processed, (iii) upon receipt by Seller or its Affiliates of any proceeds received pursuant to an Excluded Insurance Policy in connection with the foregoing, remit such proceeds to the applicable Acquired Company within ten (10) Business Days and (iv) otherwise keep Buyer reasonably informed, and take any other action as may be reasonably requested by Buyer, in respect of the foregoing.

6.4 Litigation Support

. So long as any party actively is contesting or defending against any Proceeding in connection with (a) the transactions contemplated hereby or (b) any fact, situation, circumstance, status, condition, activity, practice, plan, occurrence, event, incident, action, failure to act, or transaction on or prior to the Closing Date involving the Business or any Acquired Company, each other party will cooperate with such party and such party's counsel in the contest or defense, make available their personnel, and provide such testimony and access to their books and records as will be reasonably necessary in connection with the contest or defense, at the sole cost and expense of the contesting or defending party (subject to any indemnification rights under Article X). For the avoidance of doubt, unless the Acquired Companies have assumed the same under this Agreement, none of the Acquired Companies shall be liable for any judgment, award or order for damages of any court or tribunal or other Governmental Body relating to any Proceeding (whether or not relating to the Business and whether arising before or after the date of this Agreement) against Seller or any of its Affiliates or any damage or compensation payment, settlement pay-out or any other costs (including but not limited to attorney's costs) in connection with such Proceeding, and Seller shall indemnify and hold Buyer and the Acquired Companies harmless against such liabilities, damage or compensation payments, settlement pay-outs and other costs in connection with any matter or event arising prior to Closing.

6.5 Additions to and Modification of Schedules; Notification

. Except as otherwise provided by this Agreement or the Ancillary Agreements, if**,** from the date hereof, any of the information in the Seller's Schedule or any other schedule of Seller is not true, accurate and complete in all material respects on and as of such date, Seller shall have the continuing obligation until Closing promptly (a) to notify Buyer in writing with respect to any matter arising subsequent to the date hereof that, if existing at the date of this Agreement, would have been required to be set forth or described in the Seller's Schedule and (b) to amend or supplement such schedules to make additions to or modifications of such schedules necessary to make the information set forth therein true, accurate and complete in all material respects; *provided, however,* that, except as consented to in writing by Buyer**,** no such amendment or supplement shall have any effect for the purpose of determining the satisfaction of the conditions set forth in Article VII and no such amendment or supplement to the Seller's Schedule shall have any effect for the purpose of determining any right to indemnification.

6.6 Non-Solicitation and Non-Competition.

(a) For the period commencing on the Closing Date and ending on the date three (3) years after the Closing Date, Seller agrees with Buyer, and for the benefit of the Company, that it will not, and it will cause the other Emcore Companies not to, directly or indirectly, without the prior written consent of Buyer, hire any employee of the Acquired Companies, or persuade or solicit any such employee to leave the employ of the Acquired Companies, or to become employed by the Emcore Companies. Notwithstanding the foregoing, Seller and the other Emcore Companies shall not be precluded from soliciting for employment, hiring or employing any such employee who has been terminated by an Acquired Company or has terminated his or her employment with an Acquired Company before Seller or the other Emcore Companies commences employment discussions with such employee.

(b) None of Seller or any of the other Emcore Companies shall at any time during the period commencing on the Closing Date and ending on the date three (3) years after the Closing Date, other than through the Acquired Companies, directly or indirectly, develop, own, manage, control or operate, or participate in the development, ownership, management, control or operation of, any business engaged in the Business as conducted by the Emcore Companies as of the Closing. For purposes of this Section 6.6, ownership by Seller or any other Emcore Company of an aggregate of 5% or less of any class of securities of any Person shall not be prohibited.

(c) If any of Seller or the other Emcore Companies violates any of its obligations under this Section 6.6, Buyer may proceed against it in law or in equity for such damages or other relief as a court may deem appropriate. Seller acknowledges that a violation of this Section 6.6 may cause Buyer irreparable harm which may not be adequately compensable by money damages. Seller therefore agrees that in the event of any actual or threatened violation of this Section 6.6, Buyer shall be entitled, in addition to

other remedies that it may have available to it under law or in equity, to a temporary restraining order and to preliminary and final injunctive relief against Seller or the other Emcore Companies to prevent any violations of this Section 6.6, without the necessity of posting of a bond or other security.

6.7 Restructuring

. Buyer and Seller acknowledge and agree that the assets, Liabilities, Contracts, employees and operations of the Emcore Companies with respect to the Retained Business are not, and are not intended to be, considered part of the Business and will not be transferred to the Acquired Companies in the Restructuring or will be transferred out of the Acquired Companies as part of the Restructuring. In addition, certain assets, contracts and services of the Emcore Companies are used by or exist for the benefit of both the Business and the Retained Business. Seller shall bear all costs, expenses and Taxes (including all Taxes that may be incurred or levied after Closing) arising or in connection with the preparation and implementation of the Restructuring Plan.

6.8 Technology Protection Plan

. As soon as practicable after the date of this Agreement, Seller shall apply for any necessary export license or licenses from the U.S. Department of Commerce Bureau of Industry and Security ("BIS") with respect to the Export Controlled Technologies, including technology, requiring such licenses under the US Export Administration Regulations ("EAR") for transfer to non-US nationals or to China. In connection with the export license application process, Seller shall submit to BIS its Technology Control Plan, which shall include specific references to export control procedures that Seller may establish specifically as a result of this transaction. If as a condition to obtaining the necessary export license (or other applicable US government approvals), the Technology Control Plan needs to contain provisions materially more onerous to the operation of the Company following closing than those contained in the draft plan reviewed by Buyer prior to the signing of this Agreement, the Buyer at its sole discretion may terminate the Agreement. Seller shall bear all costs (including costs for asset valuation), expenses and Taxes (including all Taxes that may be incurred or levied after Closing) arising or in connection with the preparation and implementation of the technology protection plan.

6.9 Delivery of Documents, Etc.

Seller hereby undertakes and agrees that if any agreement, document, book, record or file, including those stored on computer disks or tapes or any other storage medium, if any, reasonably related to the ongoing operation and management of the Business and in the possession of any Emcore Company to the extent not provided to Buyer or any Acquired Company on or prior to Closing, including any material which also relates to the Retained Business or if the Emcore Companies are otherwise required to retain the original of such material, then upon request by Buyer or any Acquired Company, Seller shall as soon as practicable provide or cause a hard or electronic copy (as appropriate) of such requested material to be provided to the requesting party, subject in appropriate circumstances to the recipient agreeing to maintain the confidentiality of such information. Notwithstanding the foregoing, to the extent required by any Legal Requirements, Seller may require Buyer to designate a United States citizen as the recipient of any of the foregoing, and such recipient, as a condition to receiving such items, shall agree to any restrictions on further disclosures as may be required by such Legal Requirements.

6.10 Collection of Accounts Receivable

. The ownership and title over all accounts receivables and accounts payables of the Business shall be assigned and transferred to the Acquired Companies with effect from Closing. Seller shall provide all necessary assistance to the Acquired Companies with regard to the collection of accounts receivables and payment of accounts payables in accordance with the terms of the Transition Services Agreement.

6.11 No Military Application

. Buyer and Seller agree that they will, and will cause each of the Acquired Companies to, use the assets and technologies of the Acquired Companies as of the Closing solely for civilian and commercial applications and not for any military applications. Buyer and Seller further agree that they will cause the Acquired Companies to comply with the provisions of applicable Anti-Bribery Law and with all export control Legal Requirements**.**

6.12 Audit Right

. Buyer shall be entitled at any time after Closing to commission an audit of the Acquired Companies and the Business for such purposes as it deems reasonably necessary to protect its rights as the buyer of the Shares, including for the purpose of verifying the accuracy of the representations and warranties of Seller given hereunder and compliance of Seller with its undertakings, covenants and obligations hereunder. Seller shall provide, or cause to be provided, to Buyer and its employees, agents, representatives and advisors reasonable access to the books, records and working papers held by Seller relating to the Business, including taking electronic copies, to the extent that they are reasonably required for the purpose of the said audit. Buyer will pay the costs for any audit it has commissioned but nothing here shall preclude Buyer from claiming such costs from Seller in connection with any claims made under this Agreement to the extent Buyer is legally entitled to do so.

6.13 Seller's Schedule

. Seller undertakes that, within 14 days from the date of this Agreement, it shall provide an updated Seller's Schedule, which shall contain such disclosures that are true, complete and not misleading in all material respects and to the extent reasonably practicable addresses comments provided by Buyer's counsel prior to the date hereof on the draft Seller's Schedule provided on 30 January 2010 but shall be in no respect less favorable to Buyer than the Seller's Schedule (the "Updated Seller's Schedule"). The Updated Seller's Schedule shall replace the Seller's Schedule attached hereto on the date hereof, and the Updated Seller's Schedule shall be deemed to have been delivered as of the date of this Agreement. Buyer agrees that during the said 14-day period, it shall not make any claims against Seller under any of the representations and warranties hereunder or otherwise seek to terminate this Agreement on the basis of an alleged breach of any representation or warranty. The Parties hereby agree that Buyer shall be entitled to verify the content of the Updated Seller's Schedule and may terminate this Agreement in accordance with Section 9.1(l) by written notice to Seller if Buyer discovers that any disclosure therein: (a) is materially untrue, incomplete or misleading and which individually or taken in aggregate with other untrue, incomplete or misleading disclosures, will have a material adverse effect on Buyer's interest as a holder of the Shares following Closing; or (b) otherwise reveals or gives rise to a Company Material Adverse Effect.

ARTICLE VII

CONDITIONS PRECEDENT TO BUYER'S OBLIGATION TO CLOSE

Buyer's obligation to purchase the Shares and to take the other actions required to be taken by Buyer at the Closing is subject to the satisfaction, at or prior to the Closing, of each of the following conditions (any of which may be waived in writing by Buyer, in whole or in part):

7.1 Accuracy of Representations

. All of Seller's representations and warranties contained in this Agreement must have been true and correct in all respects as of the date of this Agreement and, except as otherwise contemplated by this Agreement (including the Restructuring) or the Ancillary Agreements, must be true and correct in all respects as of the Closing as if made on the Closing Date (except to the extent made as of an earlier date, in which case as of the earlier date), except where the failure of such representations and warranties (to the extent they relate to the assets, liabilities, operations or business of the Business or the Acquired Companies) to be true and correct (a) would not, in the aggregate, result in a Company Material Adverse Effect or (b) is the result of actions taken by a Buyer Governmental Body. Buyer shall have received a certificate signed on behalf of Seller by the Chief Executive Officer of Seller to such effect.

7.2 Seller's Performance.

(a) All of the covenants and obligations that Seller is required to perform or to comply with pursuant to this Agreement at or prior to the Closing (considered collectively) must have been duly performed and complied with in all material respects. Buyer shall have received a certificate signed on behalf of Seller by the Chief Executive Officer of Seller to such effect.

(b) Each document required to be delivered by Seller pursuant to Section 1.6 must have been delivered.

7.3 Consents and Approvals

. Each of the Consents and permits identified in Schedule 7.3 must have been obtained and a copy delivered to Buyer and must be in full force and effect.

7.4 No Injunction

. There shall not be in effect any Legal Requirement or any injunction or other Order (other than a Legal Requirement, injunction or Order of a Buyer Governmental Body) that prohibits, restrains, prevents, makes illegal or otherwise materially impairs the sale of the Shares by Seller to Buyer and the consummation of any other material transactions contemplated by this Agreement and the Ancillary Agreements and there shall not be pending or Threatened on the Closing Date any Proceeding which could reasonably be expected to result in the issuance of any such Legal Requirement, injunction or other Order (other than a Legal Requirement, injunction or Order of a Buyer Governmental Body).

7.5 Amended and Restated Credit Agreement Release

. Seller shall provide evidence to Buyer's reasonable satisfaction that the security interests over the Acquired Companies' stock and assets, pursuant to the Loan and Security Agreement among Seller (and certain subsidiaries of Seller) and Bank of America N.A. dated September 26, 2008, as amended (the "Bank Agreement"), has been terminated and discharged or will be terminated and discharged as part of the Closing.

7.6 PRC Approvals

. Buyer shall have obtained the PRC Approvals and the approval of its board of directors authorizing the execution, delivery and performance of this Agreement.

7.7 US Approvals

. Seller shall have obtained export control licenses from the U.S. Department of Commerce in respect of the Export Controlled Technologies and approval by CFIUS in respect of the transactions contemplated hereby, each in substance and form reasonably satisfactory to Buyer.

7.8 Restructuring

. Seller shall provide evidence to Buyer's reasonable satisfaction that the Restructuring has been completed in accordance with the Restructuring Plan.

7.9 Company Material Adverse Effect

. Since the date of this Agreement, there shall not have occurred a Company Material Adverse Effect, nor shall any event or events have occurred that, individually or in the aggregate, with or without the lapse of time, is reasonably likely to result in a Company Material Adverse Effect.

ARTICLE VIII .

CONDITIONS PRECEDENT TO SELLER'S OBLIGATION TO CLOSE

Seller's obligation to sell the Shares and to take the other actions required to be taken by it at the Closing is subject to the satisfaction, at or prior to the Closing, of each of the following conditions (any of which may be waived in writing by Seller, in whole or in part):

8.1 Accuracy of Representations

. All of Buyer's representations and warranties contained in this Agreement (considered collectively) must have been true and correct in all material respects as of the date of this Agreement and must be true and correct in all material respects as of the Closing as if made on the Closing (except to the extent made as of an earlier date, in which case as of such earlier date). Seller shall have received a certificate signed on behalf of Buyer by the Chief Executive Officer of Buyer to such effect.

8.2 Buyer's Performance.

(a) All of the covenants and obligations that Buyer is required to perform or to comply with pursuant to this Agreement at or prior to the Closing (considered collectively) must have been performed and complied with in all material respects. Seller shall have received a certificate signed on behalf of Buyer by the Chief Executive Officer of Buyer to such effect.

(b) Each document required to be delivered by Buyer pursuant to Section 1.6 must have been delivered.

8.3 Consents and Approvals

. Each of the Consents and permits identified in Schedule 8.3 must have been obtained and a copy delivered to Seller and must be in full force and effect. Buyer shall have obtained the PRC Approvals and the approval of its board of directors authorizing the execution, delivery and performance of this Agreement. Seller shall have obtained the approval of its board of directors authorizing the execution, delivery and performance of this Agreement.

8.4 No Injunction

. There shall not be in effect any Legal Requirement or any injunction or other Order that prohibits, restrains, prevents, makes illegal or otherwise materially impairs the sale of the Shares by Seller to Buyer and the consummation of any other material transactions contemplated by this Agreement and the Ancillary Agreements or could reasonably be expected to result in a material diminution of the benefits of the transactions contemplated herein and therein (taken as a whole) and there shall not be pending or Threatened on the Closing Date any Proceeding which could reasonably be expected to result in the issuance of any such Legal Proceeding, injunction or other Order.

8.5 Bank Consent/Release

. Seller shall have received the Consent of Bank of America to the sale of Shares to Buyer pursuant to this Agreement and the release by Bank of America of all liens with respect to the stock and assets of the Acquired Companies.

ARTICLE IX

TERMINATION

9.1 Termination Events

. This Agreement may, by written notice given prior to or at the Closing to the other parties hereto, be terminated and the transactions contemplated by this Agreement abandoned:

(a) by Seller if a material Breach of any provision of this Agreement has been committed by Buyer which (i) would result in a failure of a condition set forth in Section 8.1 or 8.2 and (ii) is not cured, or cannot be cured, in all material respects within thirty (30) days after written notice thereof and such Breach has not been waived in writing by Seller;

(b) by Seller if the Closing shall not have occurred on or prior to the expiration of a 180-day period from the date of this Agreement; *provided*, *however*, that the right to terminate this Agreement under this Section 9.1(b) shall not be available to Seller if Seller is in material Breach of this Agreement;

(c) by Seller, upon written notice to Buyer, if (i) Seller, or the Board, as the case may be, shall have (A) entered into any Acquisition Agreement or (B) approved or recommended, or, in the case of a committee, proposed to the Board, to approve or recommend, any Acquisition Proposal, (ii) the Board or any committee thereof shall have resolved to do any of the foregoing, or (iii) a Seller Adverse Recommendation Change shall have occurred in response to a Superior Proposal or a Seller Sale Proposal or the Board or any committee thereof shall have resolved to make such Seller Adverse Recommendation Change;

(d) by Buyer if a material Breach of any provision of this Agreement has been committed by Seller which (i) would result in a failure of a condition set forth in Section 7.1 or 7.2 and (ii) is not cured, or cannot be cured, in all material respects within thirty (30) days after written notice thereof and such Breach has not been waived in writing by Buyer;

(e) by Buyer if the Closing shall not have occurred on or prior to expiration of a 180-day period from the date of this Agreement; *provided*, *however*, that the right to terminate this Agreement under this Section 9.1(e) shall not be available to Buyer if Buyer is in material Breach of this Agreement;

(f) by either Seller or Buyer if any Governmental Body shall have issued an Order or taken any other action preventing or prohibiting Closing and such Order or other such action shall have become final without possibility of appeal, or there shall be any Legal Requirement enacted, promulgated, issued or applicable to the material transactions contemplated herein by any Governmental Body that would make consummation of such transactions illegal;

(g) by Buyer if (A) a Seller Adverse Recommendation Change shall have occurred or (B) Seller shall have entered into, or the Board (or any committee thereof) shall have publicly announced an intention that the Seller enter into, an Acquisition Agreement;

(h) by Buyer if a Change of Control occurs in respect of Seller (which for the purpose of this Section 9.1(h) shall deemed to have occurred upon (A) Seller entering into any binding or non-binding agreement, letter of intent or other document with any third party which contemplates a Change of Control of Seller; (B) the Board of Seller having made a favorable recommendation to shareholders regarding a transaction contemplating a Change of Control of Seller; or (C) a third party makes an offer to acquire a majority shareholding in Seller (whether through a tender offer or otherwise) and such offer has been accepted by shareholders holding 25% or more of the total outstanding shares of Seller;

(i) by mutual consent of Seller and Buyer;

(j) by Buyer prior to Closing if a Company Material Adverse Effect has occurred;

(k) by Buyer in accordance with Section 6.8;

(l) by Buyer in accordance with Section 6.13;

(m) by Buyer if Seller fails to obtain export control licenses from the U.S. Department of Commerce in respect of the Export Controlled Technologies or approval by CFIUS in respect of the transaction by the end of a 180-day period from the date of this Agreement.

9.2 Termination Fee.

(a) In the event this Agreement is terminated pursuant to (i) Section 9.1(a) and Buyer's material breach of its obligations under this Agreement shall have been the direct and proximate cause for the failure of Closing to occur in accordance with this Agreement, and provided Seller is not in material breach of this Agreement and has not received written notice thereof from Buyer, or (ii) where this Agreement is terminated by Seller due to the failure of Buyer to obtain the PRC Approvals (other than approvals by the State Administration of Foreign Exchange or its relevant local branch) by the end of a 180-day period from the date of this Agreement then Buyer shall pay to Seller $2,775,000 (the "Buyer Termination Fee") by wire transfer in immediately available United States Dollar funds within twenty (20) Business Days after such termination of this Agreement. The Buyer Termination Fee shall be Seller's sole remedy for any such termination of this Agreement. The Parties agree that the Buyer Termination Fee shall constitute a fair and reasonable estimation of the losses and damages that Seller would suffer as a result of the termination of this Agreement pursuant to Section 9.1(a), and Buyer hereby agrees to irrevocably waive any right to challenge the said amount or its liability to pay the same.

(b) In the event this Agreement is terminated pursuant to (i) Section 9.1(d) and Seller's material breach of its obligations under this Agreement shall have been the direct and proximate cause for the failure of Closing to occur in accordance with this Agreement, and provided Buyer is not in material breach of this Agreement and has not received written notice thereof from Seller, (ii) Section 9.1(c), (iii) Section 9.1(k), or (iv) Section 9.1(m), then Seller shall pay to Buyer $2,775,000 (the "Seller Termination Fee") by wire transfer in immediately available United States Dollar funds within twenty (20) Business Days after such termination of this Agreement. The Seller Termination Fee shall be Buyer's sole remedy for any such termination of this Agreement. The Parties agree that the Seller Termination Fee shall constitute a fair and reasonable estimation of the losses and damages that Buyer would suffer as a result of the termination of this Agreement pursuant to Sections 9.1(c), 9.1(d), 9.1(k) or 9.1(m), and Seller hereby agrees to irrevocably waive any right to challenge the said amount or its liability to pay the same.

9.3 Effect of Termination

. Each party's right of termination under Section 9.1 is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies. If this Agreement is terminated pursuant to Section 9.1, all further obligations of the parties under this Agreement will terminate, except that the obligations in Sections 9.1, 9.2, Article X (in respect of claims for indemnification in respect of any breach of the terms and provisions of this Agreement prior to the date of such termination) 11.1, 11.3, 11.4, 11.5, 11.13 and Exhibit 1 (to the extent applicable) will survive; provided, however, that if this Agreement is terminated by a party because of the

Breach of this Agreement by the other party or because one or more of the conditions to the terminating party's obligations under this Agreement is not satisfied as a result of the other party's failure to comply with its obligations under this Agreement, the terminating party's right to pursue all legal remedies will survive such termination unimpaired.

ARTICLE X

INDEMNIFICATION; REMEDIES

10.1 Survival

. Subject to the terms and conditions of this Article X, all representations, warranties, covenants, and obligations in this Agreement will survive the Closing.

10.2 Indemnification and Payment of Damages by Seller

. Seller will indemnify and hold harmless Buyer and its Affiliates (including, after Closing, the Acquired Companies) and their respective representatives, agents, successors, assigns, employees, officers, directors, stockholders and controlling persons (collectively, the "Buyer Indemnified Persons") for, and will pay to the Buyer Indemnified Persons the amount of, any loss, liability, claim, damage, interest, awards, judgment, penalty, cost or expense (including all reasonable costs of investigation and defense, any expense of enforcement of obligations and reasonable attorneys' and consultants' fees and other fees and expenses reasonably incurred in connection with the investigation, defense or settlement thereof) suffered or incurred by, or imposed on, them (collectively, "Damages"), arising out of or resulting from (a) any Breach of any representation or warranty contained in Article II (other than the representations and warranties contained in Section 2.11) or in any certificate delivered by or on behalf of Seller pursuant to this Agreement, (b) any Breach by Seller of any covenant or obligation of Seller in this Agreement, (c) any Pre-Closing Environmental Liability; (d) any Non-Business Liability or (e) any Pre-Closing Taxes.

10.3 Indemnification and Payment of Damages by Buyer

. Buyer will indemnify and hold harmless Seller and its Affiliates and their respective representatives, agents, successors, assigns, employees, officers, directors, stockholders and controlling persons (collectively, the "Seller Indemnified Persons"), and will pay to the Seller Indemnified Persons the amount of any Damages arising out of or resulting from (a) any Breach of any representation or warranty contained in Article III or in any certificate delivered by or on behalf of Buyer pursuant to this Agreement or (b) any Breach by Buyer of any covenant or obligation of Buyer in this Agreement. Buyer will indemnify and hold harmless the Seller Indemnified Persons, and will pay to the Seller Indemnified Persons the amount of any:

(i) Taxes imposed on the Emcore Companies (other than the Acquired Companies) with respect to a taxable period beginning after the Closing;

(ii) Taxes allocated as provided in Section 6.1 to the portion of a Straddle Period beginning after the Closing; and

(iii) Taxes attributable to any breach by Buyer of its obligations under this Agreement.

10.4 Time Limitations.

(a) Neither Seller, or any of its Affiliates, nor Buyer, or any of its Affiliates, will have any liability (for indemnification or otherwise) with respect to any representation or warranty unless, on or before the eighteen (18) month anniversary of the Closing Date, Seller, or Buyer (as the case may be), is notified in writing by the other party of a claim specifying the factual basis of that claim in reasonable detail to the extent then known by Buyer, or Seller (as the case may) except:

(i) with respect to claims in relation to Sections 2.1, 2.18 and 2.26, which may be made by Buyer indefinitely and claims in relation to Section 3.1, which may be made by Seller indefinitely;

(ii) with respect to claims arising in relation to Section 2.12 or in respect of any Pre-Closing Environmental Liability, any Non-Business Liability or any Pre-Closing Taxes which may be made until the expiration of the statute of limitations under the applicable Legal Requirement; and

(iii) with respect to claims arising under Section 2.11 which may be made at any time until all Tax liabilities of Seller are decided by final determination of the IRS, judicial decision or upon thirty (30) days after the expiration of the statute of limitations, taking into account any waiver or extension of such applicable statute of limitation.

(b) Any claim made with reasonable specificity (but only to the extent known at such time) by the Party seeking to be indemnified within the time periods set forth in this Section 10.4 shall not thereafter be barred by the expiration of the relevant time representation or warranty and shall survive until such claim is finally and fully resolved.

(c) The time limitations set forth in this Section 10.4 are expressly intended to shorten the statute of limitations which would otherwise apply.

10.5 Limitations on Amount

. Neither Seller nor any of its Affiliates will have any liability (for indemnification or otherwise) with respect to the matters described in clause (a), or to the extent relating to any failure to perform or comply prior to the Closing Date, clause (b) of Section 10.2 until the total of all Damages with respect to such matters exceeds $100,000 provided that when such amount is exceeded, Seller shall be liable for all amounts including the first $100,000. In addition, the Buyer Indemnified Persons shall not have the right to indemnification for any individual Breach with respect to the matters described in clause (a) of Section 10.2 resulting in Damages which are equal to or less than $5,000. Furthermore, other than in the case of fraud, any liability of Seller or any of its Affiliates hereunder (for indemnification or otherwise) with respect to the matters described in clause (a) or, to the extent relating to any failure to perform or comply prior to the Closing Date, clause (b) of Section 10.2 shall terminate at such time as the aggregate amount of Damages paid to Buyer, from the Holdback Amount or otherwise, equals 15% of the Final Purchase Price.

10.6 Exclusive Remedy; Holdback Amount.

(a) After the Closing, the indemnities provided in this Article X, and Section 11.14, shall constitute the sole and exclusive remedy of any Indemnified Party for Damages arising out of, resulting from or incurred in connection with, the breach of any representation, warranty, covenant, agreement or obligation made by the parties in this Agreement; *provided*, *however*, that nothing in this Section 10.6 shall preclude a party from bringing an action for specific performance or other equitable remedy, pursuant to Section 11.14 or otherwise, in connection with any breach, or an alleged or threatened breach, by a party to perform its obligations under this Agreement, whether before or following Closing. Without limiting the generality of the preceding sentence, no legal action sounding in tort, statute or strict liability may be maintained by any party. Notwithstanding anything to the contrary in this Section 10.6, in the event of a fraudulent breach of the representations, warranties, covenants or agreements contained herein by Seller, the Buyer Indemnified Persons shall have all remedies available at law or in equity (including for tort) with respect thereto and the Damage sought with respect to such fraudulent Breach shall not be subject to any of the limitations (including as to amount and timing) set forth in this Article X.

(b) Upon written notice (a "Set-off Claim Notice") to Seller specifying in reasonable detail the basis for and Buyer's reasonable good faith estimate of the amount (the "Set-off Claim Amount") of any indemnification claim by a Buyer Indemnified Party under this Article X, Buyer may set-off against the Holdback Amount such Set-off Claim Amount. Notwithstanding the foregoing, if Buyer wishes to set-off any amount to which a Buyer Indemnified Person may be entitled to indemnification under this Article X against the Holdback Amount and Seller notifies Buyer within twenty (20) Business Days of receiving the Set-off Claim Notice that Seller disputes such claim, the amount disputed (the "Disputed Amount") will be placed in escrow by the Buyer with an independent third party acceptable to Buyer and Seller until such dispute is resolved. On the eighteen (18) month anniversary of the Closing, Buyer agrees to deliver to Seller by wire transfer of immediately available funds, in accordance with wire instructions delivered by Seller to Buyer at least three (3) Business Days prior thereto, the Holdback Amount less (i) any unresolved Disputed Amounts and (ii) any Set-off Claim Amount for which a Set-off Claim Notice has been given to Seller as provided above and which Seller and Buyer have agreed may be set-off. Until such time as the Holdback Amount is exhausted, the sole and exclusive remedy of Buyer Indemnified Persons for indemnification shall be to make a claim against the Holdback Amount.

10.7 Procedure for Indemnification–Third Party Claims.

(a) Within fifteen (15) Business Days of receipt by a Buyer Indemnified Person or a Seller Indemnified Person (each an "Indemnified Party") under Section 10.2 or 10.3 of notice of a claim by a third party in respect of which the Indemnified Party would be entitled to indemnification under this Article X (a "Third Party Claim"), such Indemnified Party will give written notice to the party from which indemnification may be sought under Sections 10.2 or 10.3 (an "Indemnifying Party") of the assertion of such Third Party Claim, but the failure to notify the Indemnifying Party in accordance with this Section 10.7(a) will not relieve the Indemnifying Party of any liability that it may have to any Indemnified Party, nor result in the forfeit of any rights or claims to indemnification under this Agreement with respect to such Third Party Claim or any subsequent claim relating thereto or arising in connection therewith, unless, and then only to the extent that, the defense of such action by the Indemnifying Party is prejudiced by the Indemnified Party's failure to so give such notice.

(b) If any Third Party Claim is asserted against an Indemnified Party, other than a Third Party Claim in respect of Tax matters, which shall be governed by Section 6.1(d), upon notice to the Indemnified Party within thirty (30) days (or less if the nature of the Third Party Claim requires) from the date on which the Indemnifying Party received notice of the Third Party Claim in accordance with Section 10.7(a), the Indemnifying Party will be entitled to participate in such Third Party Claim and, to the extent that it wishes (unless (i) the Indemnifying Party is also a party to such Third Party Claim and the Indemnified Party determines in good faith that joint representation would be inappropriate or (ii) the Indemnifying Party fails to provide reasonable assurance to the Indemnified Party of its financial capacity to investigate, contest, defend, arbitrate or settle such Third Party Claim and provide indemnification with respect to such Third Party Claim), to assume the investigation, contest, defense, arbitration or settlement of such Third Party Claim with counsel reasonably satisfactory to the Indemnified Party and, after notice from the Indemnifying Party to the Indemnified Party of its election to assume the investigation, contest, defense, arbitration or settlement of such Third Party Claim, the Indemnifying Party will not, as long as it actively and diligently conducts such investigation, contest, defense, arbitration or settlement, be liable to the Indemnified Party under this Article X for any fees of other counsel or any other expenses with respect to the investigation, contest, defense, arbitration or settlement of such Third Party Claim, in each case subsequently incurred by the Indemnified Party in connection with the investigation, contest, defense, arbitration or settlement of such Third Party Claim. If the Indemnifying Party assumes the investigation, contest, defense, arbitration or settlement of a Third Party Claim, (i) it will be conclusively established for purposes of this Agreement that the Third Party Claim is within the scope of and subject to indemnification, (ii) no compromise or settlement of such Third Party Claim may be effected by the Indemnifying Party without the Indemnified Party's written consent (such consent to not be unreasonably withheld, delayed or conditioned) unless (A) the terms of the proposed compromise or settlement include as an unconditional term thereof the giving to the Indemnified Party by the third party of a release of the Indemnified Party from all liability in respect of the Third Party Claim, (B) there is no finding or admission of any violation of Legal Requirements or any violation of the rights of any Person and no effect on any other claims that may be made against the Indemnified Party and (C) the sole relief provided is monetary damages that are paid in full by the Indemnifying Party and (iii) the Indemnified Party will have no liability with respect to any compromise or settlement of such claims effected without its consent. If notice is given to an Indemnifying Party of the assertion of any Third Party Claim and the Indemnifying Party does not, within thirty (30) days (or less if the nature of the Third Party Claim requires) after the Indemnified Party's notice is given, give notice to the Indemnified Party of its election to assume the defense of such Third Party Claim, the Indemnifying Party will be bound by any determination made in such Third Party Claim or any compromise or settlement effected by the Indemnified Party, who shall have the right, with counsel of its choice, to defend, conduct and control the Third Party Claim at the sole cost and expense of the Indemnifying Party. If having assumed the defense of a Third Party Claim the Indemnifying Party fails to reasonably conduct the defense or prosecution of the Third Party Claim in good faith, and the Indemnified Party has provided the Indemnifying Party with reasonable notice in writing of such failure, the Indemnified Party shall have the right to consent to the entry of any Order or enter into any settlement with respect to the Third Party Claim without prior written consent of the Indemnifying Party and the Indemnifying Party shall reimburse the Indemnified Party for all Damages incurred in connection with such Order or settlement. If the Indemnifying Party does not elect to assume the defense or prosecution of a Third Party Claim which it has the right to assume hereunder, the Indemnified Party shall have no obligation to do so.

(c) Notwithstanding the foregoing, if an Indemnified Party determines in good faith that there is a reasonable probability that a Third Party Claim may adversely affect it or its Affiliates other than as a result of monetary damages for which it would be entitled to indemnification under this Agreement, the Indemnified Party may, by notice to the Indemnifying Party, assume the exclusive right to defend, compromise, or settle such Third Party Claim, but the Indemnifying Party will not be bound by any determination of a Third Party Claim so defended or any compromise or settlement effected without its consent (which may not be unreasonably withheld, delayed or conditioned).

(d) The parties agree to render to each other such assistance as they may reasonably require of each other in order to facilitate the proper and adequate defense of a Third Party Claim. Upon assuming the defense of a Third Party Claim, the Indemnifying Party shall keep the Indemnified Party reasonably informed as to such Third Party Claim, whether or not the Indemnified Party is represented by its own counsel.

(e) With respect to a Third Party Claim, after a final Order or award, which is not subject to appeal or with respect to which the time for appeal has expired, shall have been issued by a court, arbitral tribunal or administrative agency of competent jurisdiction, or a settlement shall have been consummated, or the parties shall have arrived at a mutually binding agreement with respect to any such Third Party Claim, the Indemnified Party shall give prompt notice to the Indemnifying Party of the amounts due and owing by the Indemnifying Party with respect to such matter and the Indemnifying Party shall pay all of the amounts so owing, subject to the other provisions of this Article X.

10.8 Procedure for Indemnification–Other Claims

. A claim for indemnification for any matter not involving a Third-Party Claim may be asserted by written notice to the party from whom indemnification is sought.

10.9 Interpretation

. Damages shall be quantified on an after-Tax basis and shall be otherwise determined net of any Tax Benefit, insurance proceeds and indemnity payments actually received by indemnified persons in connection with the facts giving rise to the right of indemnification (but increased by any costs and expenses incurred in obtaining such insurance proceeds including any increase in premium payable by the indemnified persons under any such insurance) and other compensation to which the party or its Affiliates is entitled from Persons other than Seller, in the case of Buyer, or other than Buyer, in the case of Seller, in respect of such matter. The indemnified persons may not seek indemnification hereunder in respect of any claim to the extent that such claim arises in connection with any action taken by the indemnified person, the effect of which is to induce a third party to take any action resulting in a claim which, but for this clause, indemnification could be sought. If any amount related to Damages is subsequently recovered by a party, in whole or in part, from any third party (including any insurer or taxing authority) after indemnification by the other party, the amounts so recovered shall be promptly reimbursed to the party who provided such indemnification. The indemnified persons shall use commercially reasonable efforts to obtain from any applicable insurance company any insurance proceeds in respect of any claim for which the indemnified persons seek indemnification under this Article X. Any liability for indemnification hereunder shall be determined without duplication of recovery by reason of the state of facts giving rise to such liability constituting a breach of more than one representation, warranty, covenant or agreement. For purposes of determining Damages for which either Party or their respective indemnified persons are entitled to indemnification hereunder only, the term "Damages" shall not include any indirect, incidental or consequential damages, claims for lost profits or punitive damages.

10.10 Tax Purchase Price

. Any indemnification payments made hereunder shall be considered, to the extent permissible under applicable law, as adjustments to the Purchase Price for all Tax purposes.

ARTICLE XI

GENERAL PROVISIONS

11.1 Expenses

. Except as otherwise expressly provided in this Agreement, each party to this Agreement will bear its respective costs and expenses incurred in connection with the preparation, execution, and performance of this Agreement and the Ancillary Agreements and the transactions contemplated herein, including all fees and expenses of agents, representatives, counsel, and accountants.

11.2 Public Announcements

. Any public announcement, news release, circular or similar publicity with respect to this Agreement or the transactions contemplated herein will be issued, if at all, at such time and in such manner as Buyer and Seller mutually determine in writing, unless applicable Legal Requirements require otherwise. Seller and Buyer will consult with each other concerning the means by which Seller's employees, customers, and suppliers and others having dealings with Seller will be informed of the transactions contemplated herein.

11.3 Confidentiality.

(a) Buyer and Seller will maintain in confidence, and will cause the directors, officers, employees, agents, advisors and Affiliates of Buyer and Seller to maintain in confidence, any written information obtained in confidence from another party in connection with this Agreement, the Ancillary Agreements or the transactions contemplated herein or therein, unless such information is already known to such party or to others not bound by a duty of confidentiality or such information becomes publicly available through no fault of such party (the "Confidential Information") and shall refrain from disclosing, in whole or in part to any third party, any Confidential Information except (i) as required by Legal Regulation or by any Governmental Body having applicable jurisdiction, including in making any filing or obtaining any consent or approval required for the consummation of the transactions contemplated herein or (ii) as required by or necessary in connection with any Proceedings arising out of or in connection with this Agreement (provided that in each such case, unless legally restricted from doing so, the disclosing party shall give prior notice to the other party of its intention to disclose such information, take into account, in so far as practicable, the reasonable comments of the other party and use reasonable efforts to assist the disclosing party in its attempts to obtaining confidential treatment of such information). Notwithstanding the foregoing, Buyer acknowledges that Seller may disclose this Agreement and the transactions contemplated herein in filings with the United States Securities and Exchange Commission and the Nasdaq Stock Market without requiring any consent from Buyer.

(b) If the transactions contemplated herein are not consummated, each party will (subject to Legal Requirements and the rules and regulations of any body with applicable jurisdiction) return or destroy as much of such written information as the other party may reasonably request and the parties further acknowledge and agree to remain bound by the terms and conditions set forth in that certain Confidentiality Agreement dated August 14, 2009 between Buyer and Seller (the "Confidentiality Agreement").

(c) Effective upon the Closing Date, the parties acknowledge and agree that the terms of the Confidentiality Agreement shall be of no further force and effect and are, for all purposes, superseded by the terms of this Agreement, provided that the terms of this Section 11.3(c) shall be without prejudice to any rights or liabilities which may have accrued to any party to such Confidentiality Agreement prior to the Closing Date.

11.4 Notices

. All notices, consents, requests, waivers, demands and other communications under this Agreement must be in writing and will be deemed to have been duly given (a) when delivered if delivered by hand (with written confirmation of receipt), (b) when sent if sent by telecopier (with written confirmation of receipt), provided that a copy is mailed by registered mail, return receipt requested, or (c) when received by the addressee, if sent by a nationally recognized overnight delivery service (return receipt requested), with postage prepaid, in each case to the appropriate addresses and telecopier numbers set forth below (or to such other addresses and telecopier numbers as a party may designate by notice to the other parties by like notice):

If to Seller:

EMCORE Corporation
10420 Research Road, S.E.
Albuquerque, NM 87123
Attention: General Counsel
Facsimile: (505) 323-3402

With copy to:

O'Neil LLP
19900 MacArthur Blvd., Suite 1050
Irvine, CA 92612
Attention: Paul A. Rowe
Facsimile: (949) 798-0511

If to Buyer:

Tangshan Caofeidian Investment Co., Ltd.
2nd Floor, Business & Commercial Affairs Centre,
Caofedian Industrial Zone,
Tanghai County,
Tangshan City, Hebei Province 063200,
People's Republic of China
Attention: General Manager
Facsimile: +86 0315 882 0517

11.5 Arbitration.

(a) Any dispute, claim or controversy arising out of or relating to, or in connection with, this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope and applicability of this Agreement to arbitrate, but specifically excluding resolution of disputes regarding adjustments to arrive at the Final Purchase Price addressed in Section 1.4, shall be referred to and finally resolved by arbitration in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Center ("SIAC Rules") at the time in force, which rules are deemed to be incorporated herein by reference. The SIAC tribunal (the "Tribunal") shall consist of three arbitrators to be appointed in accordance with the SIAC Rules. The language of the arbitration shall be English.

(b) The prevailing party shall be entitled to recover its reasonable costs and expenses, including witness fees and expenses, arbitrators' fees and expenses, and fees and expenses of legal representation, incurred in the arbitration proceedings or in any action to enforce this Agreement or any arbitral award in any judicial proceeding.

(c) The arbitral award shall be delivered to the parties, shall be in writing, shall state the reasons for the award, and shall be final and binding upon the parties, and the parties agree to be bound thereby and to act accordingly. The Tribunal shall be empowered to grant either party summary judgment (or its equivalent) based on documentary evidence alone or, if a hearing shall be required, such hearing shall be held as soon as reasonably practicable after the completion of the Memorandum of Issues. The Tribunal shall apply applicable substantive laws. The Tribunal shall not have power to award damages in connection with any dispute in excess of actual compensatory damages and shall not multiply actual damages or award consequential or punitive damages or award any other damages that are excluded under the provisions of Article X of this Agreement. Nothing in this Section 11.5 shall prevent any party from seeking conservatory or interim measures, including, but not limited to, temporary restraining orders or preliminary injunctions or their equivalent, from any court of competent jurisdiction before the Tribunal is constituted or, thereafter, upon the order of the Tribunal.

(d) Judgment upon any award may be entered by any court having jurisdiction thereof or having jurisdiction over the relevant party or its assets. Each of the parties knowingly, voluntarily, intentionally and expressly waives any and all rights it may have to a trial by jury with respect to any litigation instituted to compel arbitration pursuant to this Section 11.5 or to confirm, enforce, vacate, modify or correct an award. Each of the parties acknowledges and agrees that any party may effect a valid service or process in any arbitration or judicial proceedings by delivering any arbitral or judicial process or notice by utilizing the provisions set out in Section 11.4.

11.6 Further Assurances

. The parties agree (a) to furnish upon request to each other such further information, (b) to execute and deliver to each other such other documents and (c) to do such other acts and things, all as the other party may reasonably request for the purpose of carrying out the intent of this Agreement.

11.7 Waiver

. The rights and remedies of the parties to this Agreement are cumulative and not alternative. Neither the failure nor any delay by any party in exercising any right, power, or privilege under this Agreement or the documents referred to in this Agreement will operate as a waiver of, or estoppel with respect to, such right, power, or privilege, and no single or partial exercise of any such right, power, or privilege will preclude any other or further exercise of such right, power, or privilege or the exercise of any other right, power, or privilege. To the maximum extent permitted by applicable law, (a) no claim or right arising out of this Agreement or the documents referred to in this Agreement can be discharged by one party, in whole or in part, by a waiver or renunciation of the claim or right unless in writing signed by the other party, (b) no waiver that may be given by a party will be applicable except in the specific instance for which it is given; and (c) no notice to or demand on one party will be deemed to be a waiver of any obligation of such party or of the right of the party giving such notice or demand to take further action without notice or demand as provided in this Agreement or the documents referred to in this Agreement by the party against whom enforcement is sought and such notice or demand expressly references the provision of this Agreement that is waived.

11.8 Entire Agreement and Modification

. This Agreement supersedes all prior agreements and understandings between the parties with respect to its subject matter and constitutes (along with the documents referred to in this Agreement) a complete and exclusive statement of the terms of the agreement between the parties with respect to its subject matter. This Agreement may be amended, modified or supplemented in whole or in part at any time only by an agreement in writing between Buyer and Seller.

11.9 Seller's Schedule

. The disclosures in the Seller's Schedule relate to the representations and warranties in the Section of the Agreement to which they expressly relate and to other representations or warranties in this Agreement, to the extent that such other representation and warranty would reasonably be expected to be pertinent to the disclosures made.

11.10 Assignments, Successors, and No Third-Party Rights

. No party may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other party, which will not be unreasonably withheld. Subject to the preceding sentence, this Agreement will apply to, be binding in all respects upon, and inure to the benefit of the successors and permitted assigns of the parties. Nothing expressed or referred to in this Agreement will be construed to give any Person other than the parties to this Agreement, and their respective successors and assigns, any legal or equitable right, remedy, or claim under or with respect to this Agreement or any provision of this Agreement. This Agreement and all of its provisions and conditions are for the sole and exclusive benefit of the parties to this Agreement and their successors and assigns.

11.11 Severability

. If any provision of this Agreement, or the application of any such provision to any Person or circumstance, is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

11.12 Time of Essence

. With regard to all dates and time periods set forth or referred to in this Agreement, time is of the essence.

11.13 Governing Law

. This Agreement and all the transactions contemplated hereby, and all disputes between the parties under or related to this Agreement or the facts and circumstances leading to its execution, whether in contract, tort or otherwise, will be governed by and construed in accordance with the law of Hong Kong without giving effect to its principles of conflict of laws requiring the substantive law of any other jurisdiction.

11.14 Equitable Remedies

. In addition to legal remedies, to the extent allowed pursuant to this Agreement or by law, in recognition of the fact that remedies at law may not be sufficient, the parties hereto (and their successors) shall be entitled to equitable remedies including, without limitation, specific performance and injunction.

11.15 Execution

. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party, it being understood that both parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission, or by e-mail delivery of a ".pdf" data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or e-mail signature page were an original thereof.

11.16 Other Definitional and Interpretive Matters.

(a) The parties have participated jointly in negotiating and drafting this Agreement. In the event that an ambiguity or a question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement.

(b) Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation shall apply:

(i) Calculation of Time Period. When calculating the period of time before which, within which or following which, any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day.

(ii) Agreement. Any definition of or reference in this Agreement to any agreement, contract, document, instrument or other record shall be construed as referring to such agreement, contract, document, instrument or other record as from time to time amended, supplemented restated or otherwise modified (subject to any restriction on such amendments, supplements or modifications set forth herein).

(iii) Dollars. Any reference in this Agreement to "dollar" or "$" shall mean U.S. dollars.

(iv) Gender and Number. Any reference in this Agreement to gender shall include all genders, and words imparting the singular number only shall include the plural and vice versa.

(v) Headings. The provision of a Table of Contents, the division of this Agreement into Articles, Sections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect or be utilized in construing or interpreting this Agreement. All references in this Agreement to any "Section" are to the corresponding Section of this Agreement unless otherwise specified.

(vi) Herein. The words such as "herein," "hereby, "hereto", "hereinafter," "hereof," "hereunder" and derivative or similar words refer to this Agreement as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires.

(vii) Including. The word "including" or any variation thereof means (unless the context of its usage requires otherwise) "including, but not limited to," and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.

[Signature page follows]

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement effective as of the date first written above.

"BUYER"
TANGSHAN CAOFEIDIAN INVESTMENT CO., LTD., a PRC corporation

By: /s/ Yong Dong Liu
Name: Yong Dong Liu
Title: General Manager

"SELLER"

EMCORE CORPORATION, a New Jersey corporation

By: /s/ Hong Q. Hou
Name: Hong Q. Hou
Title: Chief Executive Officer

EXHIBIT 10.2

3rd February 2010

TANGSHAN CAOFEIDIAN INVESTMENT CO., LTD

EMCORE CORPORATION

SHAREHOLDERS AGREEMENT

CONTENTS

Clause Page

THIS SHAREHOLDERS AGREEMENT (***Agreement***) is made on this third day of February 2010.

BETWEEN

(1) TANGSHAN CAOFEIDIAN INVESTMENT CO., LIMITED, a limited liability company incorporated under the laws of the People's Republic of China, with its principal place of business at Kilometre Zero, Caofeidian Industrial Zone, Tangshan City, Hebei Province 063200, People's Republic of China (***Party A***); and

(2) EMCORE CORPORATION, a publicly listed company incorporated under the laws of New Jersey, with its principal executive office at 1600 Eubank Boulevard, Albuquerque, New Mexico, USA (***Party B***).

WHEREAS

(A) Pursuant to a share purchase agreement dated 3rd February 2010 (***SPA***), Party B has agreed to sell and Party A has agreed to purchase a 60% interest in the share capital of a newly established Hong Kong subsidiary of Party B (the ***Company***) which will directly or indirectly (through its subsidiaries) hold Party B's fibre optic assets for the operation of the Business.

(B) Following the completion of the said share purchase pursuant to the SPA, Party A and Party B will own 60% and 40% of the equity interests of the Company, respectively.

(C) The Parties have entered into this Agreement in order to set out the terms governing the relationship of Party A and Party B as Shareholders in the Company as well as the management and operation of the Company.

IT IS HEREBY AGREED as follows:

1. Definitions and interpretations

1.1 Definitions

Words and expressions used in this Agreement shall have the meanings set out below unless the context otherwise requires:

Acceptance Period has the meaning as set out in Clause 9.3(b).

Affiliate of any particular Person means any other Person Controlling, Controlled by or under common Control with such Person.

Articles of Association means the memorandum and articles of association of the Company jointly agreed by the Shareholders (as may be amended, modified or supplemented from time to time).

Auditing Firm means PriceWaterhouseCoopers, Ernst & Young, Deloitte Touche Tohmatsu, KPMG, or their joint venture accounting firms incorporated in the PRC, or such other accounting firms with comparable qualifications and international reputation as may be approved from time to time by the Board.

Board means the Company's board of directors as constituted from time to time.

Board Term has the meaning as set out in Clause 6.2.

Business means the business of the Group Companies which shall be the designing, manufacturing and selling of telecom, enterprise, cable tv, fiber-to-the-premises, video transport, sub-systems and systems that enable the transmission of video, voice and data over high-capacity fiber optic cables in various fiber-optic transmission networks, and/or such other business activity as may be approved by the Board from time to time.

Business Day means any day (except Saturday or Sunday) on which banks in Hong Kong, Beijing and New York City are open for the transaction of normal banking business.

Budget means the budget for the initial 24 months of operation of the Company following the Establishment Date as set out in Schedule 3 of this Agreement and, for any period thereafter, the agreed budget of the Group Companies as approved by the Board prior to the start of each Financial Year.

Business Plan means the business plan for the initial 24 months of operation of the Company following the Establishment Date as set out in Schedule 4 of this Agreement and, for any period thereafter, the agreed business plan of the Group Companies as approved by the Board prior to the start of each Financial Year.

CEO means the chief executive officer of the Company.

CFO means the chief financial officer of the Company.

Chairman means the Chairman of the Board.

Change of Control in respect of a Person occurs when another Person who is not an Affiliate of such Person acquires, directly or indirectly, either by itself or in concert with others, Control over such Person.

Completion means the closing of the SPA in accordance with the terms of the SPA.

Confidential Information means and includes all proprietary information and/or the information relating to the business or assets of any of the Parties, the Company or their respective Affiliates (including oral, video or electronic data and information or those transmitted or acquired in writing via any other media), which is acquired by a Party by virtue of this Agreement or in its capacity as a Shareholder.

Control means:

(a) the ownership or control (directly or indirectly) of more than 50 per cent of the voting share capital of the relevant undertaking; or

(b) the ability to direct the casting of more than 50 per cent of the votes exercisable at general meetings of the relevant undertaking on all, or substantially all, matters; or

(c) the right to appoint or remove directors of the relevant undertaking holding a majority of the voting rights at meetings of the board on all, or substantially all, matters.

COO means the chief operating officer of the Company.

Deadlock has the meaning as set out in Clause 10.2.

Deadlock Notice has the meaning as set out in Clause 10.3.

Deadlock Offer Notice has the meaning as set out in Clause 10.4.

Deed of Adherence means a deed in the form set out in Schedule 2.

Defaulting Party has the meaning as set out in Clause 11.1(d).

Directors means the directors who are appointed by the Company from time to time in accordance with this Agreement and the Articles of Association, including any alternate director where applicable.

Dispute has the meaning as set out in Clause 29.1.

Emergency Deadlock Event has the meaning as set out in Clause 10.8.

Encumbrance means any mortgage, pledge, lien, restriction, assignment, security interest, title retention, option, priority, trust arrangement, equity interest, any type of preferential arrangement, hypothecation or security arrangement, or any other agreement or arrangement which causes a guarantee or any other person's equity, equity interest or right (including any right to acquire, option, pre-emptive right or priority).

ESOP means the Company's employee share option plan to be drawn up by the Parties and approved by the Board.

Establishment Date means the date of establishment of the Company as a joint venture between Party A and Party B, being the date of Completion of the transactions contemplated under the SPA.

Event of Force Majeure has the meaning as set out in Clause 22.1.

Financial Year means any fiscal year of the Group Companies commencing from 1st January to 31st December of any given calendar year.

Fundamental Issue has the meaning as set out in Clause 10.3.

Group Company means the Company or any of its Subsidiaries.

Governmental Body means any:

(a) nation, state, county, city, town, village, district, or other jurisdiction of any nature;

(b) federal, state, local, municipal, foreign, or other government;

(c) governmental or quasi-governmental authority of any nature (including any governmental agency, branch, department, official, or entity and any court, arbitral body or other tribunal with competent jurisdiction);

(d) multi-national or supra-national organization or body; or

(e) body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, police, regulatory, or taxing authority or power of any nature, including any national securities exchange (and including, for this purpose, any automated quotation service).

IFRS means International Financial Reporting Standards promulgated by the International Accounting Standards Board (***IASB***) (which includes standards and interpretations approved by the IASB and International Accounting Standards (***IAS***) issued under previous constitutions), together with its pronouncements thereon from time to time, and applied on a consistent basis.

Initial Equity Interest has the meaning as set out in Clause 9.2.

Insolvency Event means any of the following:

(a) a court of competent jurisdiction makes an order or a resolution is passed, for the dissolution, liquidation, winding up, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of a Person, whether out of court or otherwise (and otherwise than in the course of a reorganisation or restructuring previously approved in writing by all the other Shareholders);

(b) any step is taken whether out of court or otherwise (which is not withdrawn or discharged within 30 days) to appoint a liquidator, manager, receiver, administrator or other similar officer (whether out of court or otherwise) in respect of a Person; or

(c) if a Person enters into any composition, assignment or arrangement with its creditors generally.

Lock-up Period means the period from the date of this Agreement up to the end of the second anniversary following Establishment Date.

Material Event of Force Majeure has the meaning as set out in Clause 22.3.

Non-transferring Shareholder has the meaning as set out in Clause 9.3(a).

Offered Shares has the meaning as set out in Clause 9.3(b).

Ordinance means the Companies Ordinance of Hong Kong (Cap. 32).

PRC means the People's Republic of China, which, for the purposes of this Agreement does not include the Hong Kong Special Administrative Region, the Macau Special Administrative Region and the territory of Taiwan.

PRC GAAP means the PRC Generally Accepted Accounting Principles.

PRC Subsidiary has meaning set out in Clause 5.2.

Pre-emptive Right has the meaning as set out in Clause 9.3(b).

Regulatory Approvals means any necessary approvals required by any competent governmental or regulatory agencies or authorities;

Reserved Matters has the meaning as set out in Clause 6.7.

Share(s) means the ordinary share(s) with par value of HK$0.01 each in the share capital of the Company, having the rights and benefits as granted by, and being subject to the restrictions set out in, the Articles of Association.

Shareholders means Persons at the relevant time hold Shares (and Shareholder means any one of them), including any Person to whom Shares have been Transferred or issued and who has agreed to be bound by this Agreement by executing a Deed of Adherence.

Shareholders Loans has the meaning as set out in Clause 4.1.

Shareholders' Meeting has the meaning set out in Clause 8.1.

SIAC has the meaning as set out in Clause 29.1.

Subsidiaries or ***Subsidiary*** means, in relation to a specific Person (***holding company***), any company or other commercial entity who is Controlled by the holding company (either directly or through one or more Subsidiaries).

Surviving Provisions means Clause 1 (*Definitions And Interpretations*), Clause 15 (*Confidentiality*), Clause 16 (*Entire Agreement*), Clause 18 (*No Assignment*), Clause 19 (*Modification*), Clause 20 (*Notices*), Clause 21 (*Waiver*), Clause 25 (*Costs And Tax*), Clause 26 (*Conflict with the Articles Of Association*), Clause 27 (*Severability*), Clause 28 (*Governing Law*), Clause 29 (*Dispute Resolution*) and Clause 30 (*Language*).

Termination Events has the meaning as set out in Clause 11.1.

Third Party Purchaser has the meaning as set out in Clause 9.3(a).

Transfer means to sell, assign, hypothecate or create any charge on, security interest in or any other Encumbrance on, or otherwise dispose of.

Transfer Notice has the meaning as set out in Clause 9.3(a).

Tribunal has the meaning as set out in Clause 29.1.

US$ means the United States Dollar, the lawful currency of the United States of America.

US Subsidiary means the corporation incorporated in the State of Delaware which holds the principal U.S.-based assets of the Business.

1.2 Interpretation

(a) Unless the context otherwise requires, capitalised terms not defined in this Agreement shall have the meaning as set forth in the SPA.

(b) Words importing the singular shall include the plural and vice versa, and words importing one gender shall include every gender.

(c) The headings in this Agreement are inserted for ease of reference only and do not affect the construction or interpretation of this Agreement.

(d) References to a "Person" shall include a body corporate, unincorporated organisation and partnership (in each case whether or not having separate legal personality).

(e) References to any document (including this Agreement) are the references to that document together with any amendment, supplementation or modification thereto or consolidation or novation thereof as made from time to time.

(f) Where any obligation in this Agreement is expressed to be undertaken or assumed by any Party, that obligation is to be construed as requiring the Party concerned to exercise, to the extent possible, all rights and powers of control over the affairs of any other Person which it is able to exercise (whether directly or indirectly) in order to secure performance of the obligation.

2. Shareholding structure of the Company

2.1 The authorised share capital of the Company shall be HK$1,000,000 divided into [100,000,000] Shares with a par value of HK$0.01 per Share. The issued share capital of the Company as of the Establishment Date shall be 10,000,000 Shares.

2.2 On the Establishment Date, the number of Shares held by Party A and Party B respectively shall be as follows:

Shareholder	Total number of Shares	Shareholding Proportion at Completion
Party A	6,000,000	60%
Party B	4,000,000	40%

3. Employee Share Option Plan

3.1 The Parties agree that as soon as practicable following the Establishment Date, the ESOP shall be submitted to the Board for review and approval. The ESOP shall contemplate the issuance of an additional 10% of the share capital in the Company to specified categories of employees of the Group Companies upon exercise of the option rights granted under the ESOP. The Parties shall cause all Directors to vote in favour of the ESOP.

4. Shareholders loans and Future Financing

4.1 Shareholders Loans

Each of Party A and Party B (each, a Lending Shareholder) shall provide shareholders loans in accordance with this Clause 4 on the terms provided in Schedule 5 (the ***Shareholders Loans***) following the Establishment Date.

4.2 Party A Loan

Party A shall provide a term loan in the aggregate amount of US$18,000,000 (or its equivalent, in such proportion of RMB and US$ to be agreed by the Shareholders) no later than ninety (90) days following the Establishment Date to the Company to be utilised in accordance with the Business Plan and Budget. In addition, Party A shall within ninety (90) days after the first anniversary of the Establishment Date provide an additional term loan in the aggregate amount of US$9,000,000 (or its equivalent, in such proportion of RMB and US$ to be agreed by the Shareholders) to the Company to be utilised in accordance with the Business Plan and Budget. The principal terms of the term loans shall be as set out in Schedule 5.

4.3 Party B Loan

Party B shall within five (5) Business Days following Completion, provide a shareholder loan to the Company for an aggregate amount of US$2,000,000 to be paid into a U.S. bank account designated by the Company, to be utilised in accordance with the Business Plan and Budget. In addition, Party B shall on or around the first anniversary of within ninety (90) days after the first anniversary of the Establishment Date provide an additional term loan in the aggregate amount of US$1,000,000 to the Company to be utilised in accordance with the Business Plan and Budget. The principal terms of the term loans shall be as set out in Schedule 5.

4.4 Priority of Shareholders Loan

Unless otherwise agreed by Party A and Party B, the Shareholders Loans shall be rank *pari passu* with each other and with respect to any other present and future unsecured and unsubordinated indebtedness of the Company owed to the Shareholders and their Affiliates or third parties from time to time.

4.5 Use of Shareholders Loan

The Shareholders agree that the Company and its Subsidiaries shall use the Shareholders Loans only for the following purposes and in accordance with the Budget and Business Plan of the Company as approved by the Board from time to time:

(a) to expand capacity by setting up new facilities in the PRC;

(b) as capital contribution to (or subsequent increase in the capital of) the Subsidiaries of Company;

(c) to satisfy the working capital needs of the Group Companies; and

(d) for general corporate purpose(s) of the Group Companies in relation to the Business (including research and development, and acquisitions as approved by the Board).

4.6 Future Capital Increase and Financing

Increase of share capital

4.7 The share capital of the Company may be increased from time to time as the Shareholders may agree in accordance with this Agreement. In case of any proposed increase in the share capital, each Shareholder shall be entitled (but has no obligation) to subscribe to such increase on a pro-rata basis in proportion to its shareholdings in the Company at the time of the increase. Each Shareholder may exercise its right to subscribe for all or any of its entitled amount of the capital increase by giving notice in writing to the Company within twenty (20) Business Days after a preliminary proposal with respect to the increase in registered capital has been approved by the Board.

4.8 Notwithstanding Clause 4.7, if a Shareholder does not subscribe for its full pro rata entitlement in respect of a capital increase in the manner described in Clause 4.7, to the extent permitted by law and subject to Regulatory Approvals, the other Shareholder shall have the right at its option, by giving a written notice to the Company and the non-subscribing Shareholder within ten (10) Business Days after the expiration of the twenty (20) Business Day period referred to in Clause 4.7, to subscribe for all or any part of such Shareholder's pro rata entitlement for which the Shareholder has not subscribed.

Future financing

4.9 Subject to on-going review of expansion and acquisition strategies by the Board, the Shareholders agree that it is their intention that the Company will expand primarily through acquisitions and Party A shall be responsible for either providing, arranging or assisting in the arrangement of financing for such acquisitions that have been approved by the Board.

4.10 If and to the extent that all the Shareholders agree to participate in any such guarantee, bond or financing arrangement then, unless the Shareholders agree otherwise:

(a) any liability or obligation to be assumed by them in relation to any such guarantee, bond or financing arrangement shall be borne pro rata to their existing shareholdings in the Company; and

(b) any such liability or obligation shall be several and not joint or joint and several.

5. Business

Business principles

5.1 The Business of the Group Companies shall be conducted based on sound commercial principles, in accordance with the Business Plan and Budget as formulated and approved by the Board from time to time, and in compliance with all applicable laws. The initial Budget and Business Plan of the Group Companies which have been formulated and agreed by the Shareholders are appended in Schedule 3 and Schedule 4 respectively.

Establishment of PRC operations

5.2 Pursuant to the Restructuring Plan of Party B, Party B shall as soon as practicable after the establishment of the Company, procure the Company to apply to the relevant Governmental Bodies for the incorporation of a foreign-invested enterprise in Caofeidian Industrial Zone, Tangshan City, Hebei Province, PRC (the ***PRC Subsidiary***). The Parties will endeavour to agree on the name, registered capital, total investment, business scope, term and other relevant matters concerning the PRC Subsidiary as soon as practicable following the date of this Agreement.

All costs in connection with the establishment of the PRC Subsidiary shall be borne by the Company, and the Company shall reimburse each Party in full for all reasonable and proper costs incurred on behalf of the Company in connection with the foregoing.

6. Board of directors

Board of Directors

6.1 The Company shall be managed by the Board in accordance with the provisions of this Agreement and applicable laws. The Board shall be responsible for the overall strategy, direction, policy and management of the Group Companies. Subject to Clause 9.2(b), the Board shall consist of five (5) Directors, three (3) of whom shall be nominated by Party A, two (2) of whom shall be nominated by Party B, and their appointment shall be subject to formal appointment at the Shareholders Meeting. Each Shareholder shall forthwith take all steps necessary to ensure (by the exercise of voting rights or otherwise) that the persons nominated as Directors pursuant to this Clause 6.1 are so appointed.

6.2 The Board shall have a term of three (3) years (the ***Board Term***). At the end of the Board Term, a new Board shall be elected, and members of the Board may stand for re-election upon nomination by the relevant Shareholder in accordance with this Agreement. If for any reason a new Board has not been elected upon the end of the Board Term, the existing Directors shall continue to serve as Directors and exercise powers and discharge duties accordingly, until a new Board has been elected.

6.3 Subject to the legal obligations of the Directors, each Shareholder shall use best efforts to procure that the Directors it nominates comply with this Agreement and take all necessary measures to give effect to this Agreement.

Nomination and removal

6.4 Any Shareholder may at any time, by placing a written notice to the Board and by sending a copy of the same to the other Shareholder, remove any Director nominated by it. The Directors shall take all actions necessary in order to remove such Director as soon as practicable after receipt of such written notice. Upon a Director's position becoming vacant by reason of removal, resignation, retirement, illness, loss of civil capacity, death or any other reason, the Party that originally nominated such Director may by written notice to the Board and sending a copy of the same to the other Shareholder, nominate a new Director to fill the vacant position. The Directors shall take all actions necessary in order to appoint such nominee to the Board as soon as practicable after receipt of such written notice. The Director nominated to fill the vacant position shall serve out the remaining Board Term. In the event that any Shareholder ceases to hold any Shares, such Shareholder shall procure that all the Directors appointed by it shall immediately resign from the Board. Each Party agrees that it will not arbitrarily and without just cause act to remove a Director nominated by the other Party at a Shareholders' Meeting.

Compensation upon removal

6.5 Any Shareholder who removes any Director in accordance with this Clause 6 and the relevant provisions of the Articles of Association shall bear and indemnify the other Shareholder and the Company in full for any liability arising from such removal and in connection with any claim for unfair and wrongful dismissal, and any reasonable costs and expenses incurred in defending such claim, including without limitation the attorney fees actually paid.

Board meetings

6.6 The Board shall convene a meeting at least twice a year to be held in such location as stated in the notice of meeting (provided that such location shall be reasonably convenient for the Directors), and such meeting may be attended in person or by means of telephone, videoconferencing or any other modern communication devices using which the Directors can properly communicate with each other in real time, and the Directors who properly attended a meeting via such devices shall be deemed to have attended in person.

6.7 At each meeting of the Board, and in respect of each resolution proposed to the Board, each Director shall have one (1) vote. Subject to Clause 6.10 and unless otherwise required by the Ordinance or other applicable laws, all resolutions passed by the Board shall be adopted by the affirmative votes of a simple majority of the Directors present at the meeting in person or by proxy. Notwithstanding the foregoing and subject to Clause 6.10, the adoption of any resolutions for any of the matters set out in Schedule 1 (the ***Reserved Matters***) shall require the affirmative vote of at least one (1) Director nominated by Party A and at least one (1) Director nominated by Party B, provided, however, that the Reserved Matters shall cease to require the affirmative vote of at least one (1) Director nominated by Party B immediately upon a Change of Control occurring in respect of Party B.

Notice of meetings

6.8 Unless otherwise waived by all the Directors, the notice of each meeting of the Board shall be sent to each Director not less than fourteen (14) days prior to the convening of such meeting and shall be accompanied by the agenda of the meeting together with all written papers to be circulated to the Directors or be presented at the meeting. Within fourteen (14) days after such meeting, a copy of the minutes of that meeting shall be delivered to each Director. Unless otherwise agreed by the Board, the minutes of meetings of the Board shall be prepared in English and Chinese languages.

Chairman

6.9 Party A shall nominate a Director to act as the Chairman. Any Director may convene a Board meeting and the Chairman (or in his absence, any other Director elected at a Board meeting) shall preside over the Board meeting. The Chairman shall not have a casting vote in the event of a deadlock over any matter to be decided by the Board.

Quorum

6.10 Each Board meeting shall require a quorum of at least three (3) Directors, present in person or by proxy, and shall include at least one (1) Director appointed by Party A and one (1) Director appointed by Party B. If proper notice to convene a Board meeting under Clause 6.8 has been given and if the required number of Directors fail to attend the meeting by themselves or by proxy within one (1) hour of the time scheduled for the commencement of the Board meeting, and therefore a quorum is not constituted in accordance with this Clause 6.10, such Board meeting shall be adjourned and reconvened in the same location and at the same time on the seventh (7^{th}) day (or such later date as specified by the Chairman) from the date of the earlier meeting, and if at the reconvened meeting a quorum is not present within one (1) hour from the time scheduled for the commencement of the Board meeting, then the Directors present (provided their numbers shall be not less than two) shall be deemed to constitute a quorum. In the event that a meeting is reconvened and held in accordance with this Clause 6.10, only such matters as are specified in the agenda for the originally scheduled meeting may be dealt with and be decided upon at such reconvened meeting.

Attendance by Proxy

6.11 If any Director is unable to attend a Board meeting, he may send a written notice to the Board at least one (1) Business Day prior to the date of convening the Board meeting and appoint an alternate to attend the meeting as proxy. An alternate director shall be a person already serving as a Director at the time of appointment and may represent one or more Directors. Such alternate director shall be entitled to attend and vote at meetings of the Board and to be included in the quorum. Each alternate director shall have one (1) vote of every Director whom he represents, in addition to his own vote as a Director.

Written resolutions

6.12 A written resolution signed by all Directors then entitled to receive a notice of Board meeting shall be deemed as valid and effectual as if it had been passed at a meeting of the Board duly convened and held, without the need for any agenda or notice. The signature of any Director may be given by his alternate. Any such resolution may be signed by the Directors in one or more counterparts which shall, when taken together, constitute one and the same document. A cable, telex, fax message or other written electronic communication sent by a Director or his alternate shall be deemed to be a document signed by him for the purposes of this Clause 6.12.

Remuneration

6.13 The remuneration of Directors, officers and senior management personnel of the Company shall be approved by the Shareholders at the annual general meeting of the Company. The Company shall reimburse a Director for reasonable expenses incurred in respect of travelling, accommodations and other living expenses to attend Board meetings if the Board agrees to do so.

Subsidiaries of the Company

6.14 The Shareholders shall procure that, subject to applicable laws and regulations in the jurisdiction in which the relevant Subsidiary is incorporated, the size, composition, term and procedure of the board of each of the Subsidiaries of the Company (including any future Subsidiaries to be established by the Company) shall be consistent with those adopted for the Board of the Company as set forth above.

7. Management of Group Companies

Appointment of management personnel

7.1 For the first and second Board Term and provided that Party B holds no less than 25% of the Shares in the Company, Party B shall be entitled to nominate the CEO (whose appointment shall be approved by the Board), who shall in turn be entitled to nominate the COO and appoint other senior management personnel of the Company (other than the CFO) to be approved by the Board. Party B shall ensure that the CEO candidate it nominates, and shall procure the CEO to ensure that each of the candidates for other senior management personnel he nominates or appoints, shall have good moral character and possess the requisite levels of expertise, qualifications and experience to fulfil the position for which he has been nominated. At the earliest of (a) the end of the second Board Term; (b) when Party B ceases to hold at least 25% of the Shares in the Company; or (c) immediately upon a Change of Control occurring in respect of Party B, Party B shall cease to have the right to nominate the CEO and the CEO shall thereafter be appointed by the Board upon nomination of either Shareholder.

7.2 The CEO, CFO and COO shall be responsible to the Board and their respective powers, duties and responsibilities shall be within such scope as specified by the Board.

7.3 For the first and second Board Term and provided that Party A holds no less than 25% of the Shares in the Company, Party A shall be entitled to nominate the CFO (whose appointment shall be approved by the Board). Party A shall ensure that the CFO candidate it nominates shall have good moral character and possess the requisite levels of expertise, qualifications and experience to fulfil the position for which he has been nominated. At the earlier of (a) the end of the second Board Term or (b) when Party A ceases to hold at least 25% of the Shares in the Company, Party A shall cease to have the right to nominate the CFO and the CFO shall thereafter be appointed by the Board upon the nomination by either Shareholder.

7.4 Any Shareholder may at any time, by placing a written notice to the Board and by sending a copy of the same to the other Shareholder, remove any management personnel nominated by it. The Directors shall take all actions necessary in order to remove such management personnel as soon as practicable after receipt of such written notice. Upon a management position becoming vacant by reason of removal, resignation, retirement, illness, loss of civil capacity, death or any other reason, the Party that originally nominated such management personnel may by written notice to the Board and sending a copy of the same to the other Shareholder, nominate a new management personnel to fill the vacant position. The Directors shall take all actions necessary in order to approve the appointment of such nominee as soon as practicable after receipt of such written notice.

7.5 The Shareholders shall procure that, subject to applicable laws and regulations in the jurisdiction in which the relevant Subsidiary is incorporated, the nomination of senior management personnel of each Subsidiary (including any future Subsidiaries to be established by the Company) shall be effected in accordance with the provisions set forth in Clauses 7.1 and 7.2 above, and the board of directors of each Subsidiary shall accordingly appoint such senior management personnel so nominated.

7.6 The term of office of the CEO, COO and CFO of the Company (and the equivalent positions of each Subsidiary) shall be three (3) years, or such other term as deemed appropriate by the board of directors of the relevant Group Company. Upon expiration of the term of service, an individual may serve consecutive terms if re-appointed by the board of directors of the relevant Group Company. The CEO, COO and CFO of the Company (and the equivalent positions of each Subsidiary) may only be removed by the board of directors of the relevant Group Company by resolution. In such case, each successor shall be nominated and appointed in the same manner as his predecessor, and shall serve out the remaining term of service of his predecessor.

7.7 Performance benchmarks of the Company shall be decided by the Board. The Board will review on a regular basis the Company's actual performance against the financial, operational and strategic benchmarks set by the Board at the beginning of each year, with a view to assess the conditions of the Company. If the Company's performance does not meet the relevant benchmarks, the Board will consider adopting strategic alternatives (including sale of the Company or its assets), and such decisions shall not constitute a Reserved Matter of the Board.

8. Shareholders' meeting

Shareholders' meeting and voting rights

8.1 An annual general meeting of the Company shall be convened by the Board within four (4) months after the end of each Financial Year, unless otherwise required by the Ordinance or the Articles of Association of the Company, in Hong Kong, the PRC or the United States or any other location provided that such location shall be reasonably convenient for the Directors and Shareholders. General meetings other than such annual general meetings shall be called extraordinary general meetings (such annual general meetings and extraordinary general meetings to be collectively referred to as ***Shareholders' Meeting***). Unless waived by all Shareholders, the notice of each Shareholders' Meeting shall be given by the Chairman to all Shareholders no less than thirty (30) days prior to the date of convening such meeting, and shall be accompanied by the agenda of the meeting together with all written papers to be circulated to the Shareholders or presented at the meeting. In addition, any extraordinary general meeting of the Shareholders may be held and convened by the Shareholders in accordance with the Ordinance. Within fourteen (14) days after each Shareholders' Meeting, a copy of the minutes of that meeting shall be delivered to each Shareholder. The minutes of Shareholders' Meetings shall be written in English and Chinese languages.

Unless otherwise prohibited by the Articles of Association of the Company or the Ordinance, a Shareholders' Meeting may also be held by means of telephone, videoconferencing or any other modern communication devices using which the representatives of the Shareholders can properly communicate with each other in real time, and the representatives of Shareholders who properly attended a meeting via such devices shall be deemed to have attended in person.

Quorum for Shareholders' Meeting

8.2 The quorum required by any Shareholders' Meeting shall be constituted by at least one (1) representative appointed by Party A and one (1) representative appointed by Party B, present in person or by proxy. If proper notice to convene a Shareholders' Meeting under Clause 8.1 has been given and if the required number of Shareholders fail to attend the meeting by themselves or by proxy within one (1) hour of the time scheduled for the commencement of the meeting, and therefore a quorum is not constituted in accordance with this Clause 8.2, such Board meeting shall be adjourned and reconvened in the same location and at the same time on the fourteenth (14th) day (or such later date as specified by the Chairman) from the date of the earlier meeting, and if at the reconvened meeting a quorum is not present within one (1) hour from the time scheduled for the commencement of the meeting, then the Shareholders present shall be deemed to constitute a quorum. In the event that a Shareholders' Meeting is reconvened and held in accordance with this Clause 8.2, only such matters as are specified in the agenda for the originally scheduled meeting may be dealt with and be decided upon at such reconvened meeting.

Written resolution

8.3 A written resolution signed by all of the Shareholders shall be deemed as valid and effective as the resolution passed at a Shareholders' Meeting duly convened, without the need for any agenda and notice. The signature of any Shareholder may be given by his duly authorised representative. Any such resolution may be signed by the Shareholders in one or more counterparts which shall, when taken together, constitute one and the same document.

Voting at Shareholders' Meeting

8.4 Subject to Clause 8.2 and unless otherwise required by the Ordinance or other applicable laws, all resolutions passed by the Shareholders' Meeting shall be adopted by the affirmative votes of more than fifty percent (50%) of the voting rights present at the relevant Shareholders' Meeting. Notwithstanding the foregoing, the adoption of any resolutions for any of the matters set out below shall require the affirmative votes of at least seventy-five percent (75%) of the voting rights present at the relevant Shareholders' Meeting provided, however, that immediately upon a Change of Control occurring in respect of Party B, the following matters shall, unless otherwise mandatorily required by the Articles of Association of the Company and the Ordinance, cease to require at least seventy-five percent (75%) of the voting rights present at the relevant Shareholders' Meeting:

(a) modifications to the Articles of Association of the Company, which do not constitute corrections, restatements or amendments made to comply with applicable laws or this Agreement;

(b) redemption of Shares, buy-back of Shares, reduction or conversion of capital or change of the authorised share capital of the Company;

(c) any form of reorganisation of the Company, including any merger, amalgamation, reconstruction or consolidation of the Company with any third party;

(d) winding up, liquidation or dissolution of the Company or commencement of bankruptcy proceedings with respect to, or appoint a liquidator or official receiver to manage the assets of, the Company.

8.5 Each Shareholder undertakes to the other Shareholders as follows:

(a) to exercise all voting rights and powers of control in relation to the Company so as to give full effect to the terms and conditions of this Agreement; and

(b) to procure the Director(s) appointed by it and its other representatives and nominees (subject to the Directors' fiduciary duties to the Company) to support and implement all resolutions of the Shareholders.

9. Restrictions on sale of equity interest

Lock-up of Equity Interest

9.1 During the Lock-up Period, except with prior written consent of the other Shareholders or except for the transactions contemplated in Clause 9.4 (*Transfer to Affiliates and Mandatory Transfers*), each of the Shareholders shall not Transfer the legal or beneficial interest in all or any part of the Shares held or owned by it to any third party.

Transfer following expiry of Lock-up Period

9.2 Subject to the provisions in this Clause 9, each Shareholder shall be permitted to:

(a) transfer up to twenty five percent (25%) of the total equity interest in the Company then held by it following the expiry date of the Lock-up Period (***Initial Equity Interest***); and

(b) transfer up to an additional twenty five percent (25%) of its Initial Equity Interest on or after the expiry of each 12-month anniversary following the Lock-up Period provided that, if, as a result of such transfer of stock in the Company, the percentage interests of the parties hereto are reduced, the following shall apply:

(i) Party A shall only have the right to nominate two (2) Directors if it holds 30% or more, but less than 45% equity interest in the Company from time to time;

(ii) Party A and Party B shall only have the right to nominate one (1) Director if that Party holds 15% or more, but less than 30% equity interest in the Company from time to time; and

(iii) Party A and Party B shall lose the right to nominate a Director if that Party holds less than 15% equity interest in the Company.

(c) The foregoing provisions shall not apply if the Parties' percentage interests are reduced through the issuance of additional Shares by the Company rather than by transfer.

Pre-emptive Right

9.3 Subject to Clauses 9.1 to 9.2, each of Party A and Party B undertakes the following:

(a) If any Shareholder receives a bona fide written offer from a third party purchaser (the ***Third Party Purchaser***) and intends to accept such offer, the selling Shareholder shall give a written notice (the ***Transfer Notice***) to the other Shareholder (the ***Non-transferring Shareholder***) relating to the Third Party Purchaser offer and shall set out details of the identity of the Third Party Purchaser, the price of and other terms and conditions for the Third Party Purchaser offer.

(b) Subject to Clause 9.3(d), within fifteen (15) days after receipt of the Transfer Notice (the ***Acceptance Period***), the Non-transferring Shareholder shall have the right to notify the selling Shareholder in writing of its election to purchase all (but not less than all) of the Shares offered for sale (***Offered Shares***) at the price stated in the Third Party Purchaser offer and under the other terms and conditions as set out in the Transfer Notice (the ***Pre-emptive Right***).

(c) The failure by the Non-transferring Shareholder to deliver the notice under Clause 9.3(b) to the selling Shareholder within the Acceptance Period shall be deemed as waiver of its right to exercise its Pre-emptive Right. In such case and subject to Clause 9.3(a), the selling Shareholder may transfer the Offered Shares to the Third Party Purchaser at the price and under other terms and conditions not more favourable than those as set out in the Transfer Notice and based on good faith and arm's length terms, provided that (i) such transfer shall be completed within ninety (90) days after the date of the Transfer Notice and the Third Party Purchaser enters into a Deed of Adherence, and (ii) the Third Party Purchaser purchases all (but not less than all) of the Shares offered for sale by the selling Shareholder.

(d) For purposes of this Clause 9.3, a bona fide offer means a genuine offer obtained through negotiations based on good faith and arm's length terms, and given by an unrelated party which is not otherwise affiliated with the selling Shareholder.

Transfer to Affiliates and Mandatory Transfers

9.4 Notwithstanding other provisions of this Clause 9, each Party may freely transfer all or part of its Shares to one of its Affiliates. The transferring Shareholder shall give written notice to the Board and the other Shareholder of the transfer, specifying the name, legal address and legal representative (if applicable) of the Affiliate and providing documentary evidence reasonably satisfactory to the other Shareholder that the proposed transferee is its Affiliate, provided always that such Affiliate shall enter into a Deed of Adherence.

9.5 Notwithstanding other provisions of this Clause 9, Party A shall be entitled to Transfer all or part of its Shares to any PRC state-owned enterprise that is not controlled by the PRC military or a designated military supplier who conducts substantial business with the PRC military, provided that:

(a) the Transfer is required by any applicable PRC law or mandated in writing by a competent Governmental Body having jurisdiction over Party A;

(b) it shall give written notice to the Board and Party B in respect of the transfer, setting out the name, legal address and legal representative (if applicable) of the transferee; and

(c) Party A agrees, to the extent permitted by applicable PRC law or the competent Governmental Body, to use reasonable efforts to procure the transferee to undertake in writing to comply with the terms and conditions of this Agreement.

10. Deadlock

10.1 The Parties shall cause the Directors to, in good faith, attempt to arrive at a consensus when considering significant decisions relating to the management and the operation of the Company. The Parties shall strive to avoid impasse in decisions to be made by the Board.

10.2 A ***Deadlock*** shall be deemed to have occurred in the event that a decision cannot be made on any matter to be decided by the Board (including any Reserved Matter as specified in Schedule 1) due to which no action can be taken on the matter in question in three (3) successive duly convened Board meetings at which a quorum is present.

10.3 Upon a Deadlock having occurred, either Shareholder may give notice in writing (the ***Deadlock Notice***) to the Chief Executive Officer (or person holding an equivalent position) of the other Shareholder (collectively referred to as the "Chief Officers"), of the existence of a Deadlock and the issue on which Deadlock has arisen (hereinafter referred to as the ***Fundamental Issue***). The Deadlock Notice shall specify in reasonable detail the nature of the Fundamental Issue giving rise thereto. The Chief Officer receiving the Deadlock Notice shall promptly arrange for a meeting with the other Chief Officer for the purpose of resolving the Deadlock. The meeting shall be held within twenty-five (25) Business Days from the date the Deadlock Notice is given.

10.4 In the event the Fundamental Issue is not resolved within seventy-five (75) days after the aforementioned meeting of the Chief Officers, unless the Shareholders mutually agree in writing regarding an alternative solution, Party A may within fifteen (15) Business Days notify Party B (a ***Deadlock Offer Notice***) specifying a price at which it offers to sell or purchase all (but not less than all) of the Shares of Party B. If Party A does not issue a Deadlock Offer Notice within the said fifteen (15) Business Day, Party B may within a further fifteen (15) Business Days serve a Deadlock Offer Notice on Party A specifying a price at which it offers to sell or purchase all (but not less than all) of the Shares of Party A. A Deadlock Offer Notice is irrevocable.

10.5 Within a period of ten (10) Business Days after receiving a Deadlock Option Notice, the recipient Party shall at its sole option elect either to:

(a) buy, all of the other Party's Shares at the price stated in the Deadlock Offer Notice; or

(b) require the other Party to buy all (but not less than all) of the Shares held by the recipient Party at the same price per Share as would have applied to a purchase under option (a).

10.6 If the recipient Party fails to make an election within the period stipulated in Clause 10.5, it shall be deemed to have agreed to sell to the Party issuing the Deadlock Offer Notice all (but not less than all) of the Shares held by the recipient Party at the same price per Share as would have applied to a purchase under Clause 10.5(a).

10.7 If (a) neither Party issues a Deadlock Offer Notice within the required period as provided under Clause 10.4 or (b) the recipient Party is deemed to have agreed to sell its Shares under Clause 10.6 but the Party issuing the Deadlock Offer Notice does not wish to proceed with the purchase, the Parties shall (unless they agree otherwise) make reasonable efforts to seek a third party purchaser for either all of the Shares held by both Parties or the entire shareholding of one of the Parties. If a third party purchaser acceptable to the Parties cannot be found within a sixty (60)-day period, the Parties shall proceed without delay to commence liquidation proceedings in respect of the Company.

10.8 An ***Emergency Deadlock Event*** occurs where the Board is unable to make a decision on any matter on the first occasion the matter is put to the Board and such matter, if not addressed immediately, will or is reasonably likely to lead to the imminent insolvency or bankruptcy of either the Company or all of the Group Companies taken as a whole. In the case of an Emergency Deadlock Event having occurred, if such Emergency Deadlock Event is not resolved by the Board in consultation with the Chief Officers within thirty (30) days after the initial Board meeting that considered the matter, the Party whose nominated Director initially proposed the matter to the Board may serve the other Party a Deadlock Offer Notice specifying a price at which it offers to sell or purchase all (but not less than all) of the Shares of the other Party, in which case Clauses 10.4 to 10.7 shall apply *mutatis mutandis*.

10.9 Notwithstanding any Deadlock or Emergency Deadlock Event, the Parties must, so far as it is reasonably practicable, continue to perform and comply with their respective obligations under this Agreement to the extent that such obligations are not the subject of the Deadlock until the procedure described in this Clause 10 has been completed.

11. Termination

11.1 A Party, or either Party as specified below, shall be entitled to terminate this Agreement forthwith upon the occurrence of any of the following events (***Termination Events***):

(a) by the remaining sole Shareholder if upon completion of Transfer of Shares according to this Agreement (including pursuant to the procedure applicable to a Deadlock), the Company has only one remaining Shareholder;

(b) upon mutual agreement in writing by the Parties to terminate this Agreement;

(c) by Party A, in the event that any Regulatory Approval required from any U.S. Governmental Body, or by Party B, in the event any Regulatory Approval required from PRC Governmental Body is withdrawn or modified or is not renewed at any time preventing the Group Companies from continuing to carry on the Business or a substantial part thereof, thereby rendering the Company unable to achieve the commercial objectives set by the Board;

(d) by the non-Defaulting Party, upon a Party (the ***Defaulting Party***) committing a material breach or default of this Agreement or a material breach or default of any of the Ancillary Agreements causing material detriment to a Group Company (such right of termination shall be without prejudice to any right or action to claim damages by the non-Defaulting Party).

(e) by the non-insolvent party upon an Insolvency Event occurring in respect of the other Party;

(f) by either Party, upon occurrence of a Material Event of Force Majeure as provided in Clause 22.3;

(g) by either Party if all or a material portion of the assets or property of the Group Companies are expropriated or requisitioned by any Governmental Body.

11.2 In the case of a Termination Event in Clause 11.1(b), 11.1(c), 11.1(e), 11.1(f) or 11.1(g), the Shareholder electing to terminate shall have the right to serve a Deadlock Offer Notice to the other Shareholder in accordance with the procedures set out in Clause 10.4, in which case, Clauses 10.5 to 10.7 shall apply *mutatis mutandis*.

11.3 In the case of a Termination Event in Clause 11.1(d), the non-Defaulting Party shall have the right to serve a Deadlock Offer Notice to the Defaulting Party in accordance with the procedures set out in Clause 10.4, in which case, Clauses 10.5 to 10.7 shall apply *mutatis mutandis*, provided that if the Defaulting Party accepts or is deemed to have accepted the non-Defaulting Party's offer to purchase all of its Shares, the Parties agree that the non-Defaulting Party shall be entitled to purchase the Defaulting Party's Shares at a per Share price which is 80% of the price of such Shares that would have applied had the Defaulting Party not committed a material breach or default.

11.4 Nothing in this Clause 11 shall affect the non-Defaulting Party's right to claim damages or other compensation under applicable law for a breach or, where appropriate, to seek an immediate remedy of an injunction, specific performance or similar court order to enforce the Defaulting Party's obligations.

12. Business Plan and Budget

The CEO and CFO shall draw up the draft Business Plan and Budget. The Company shall procure that the Business Plan and Budget for the next Financial Year be submitted to the Board for examination and approval prior to 31 October of each Financial Year and in addition to setting out details of the current situation of the Group Companies and the Business, it shall also include detailed plans and projections regarding:

(a) estimated revenues, expenditures and profits of the Group Companies;

(b) staffing levels and plans for recruitment of personnel of the Group Companies; and

(c) planning assumptions for all of the above.

The Board shall complete its examination and approval of each Business Plan and Budget for the next Financial Year prior to 31 December of each year. The Company shall procure the CEO and the CFO to implement the Business Plan and Budget as approved by the Board.

13. Financial Affairs and Accounting

Financial Year

13.1 The financial year of the Company shall be from 1 January to 31 December (the ***Financial Year***). However the first financial year will begin on the Establishment Date and end either on 31 December of the same calendar year, or 31 December of the following calendar year as the Board may decide at its first meeting and subject to approval by the relevant Governmental Bodies (if necessary).

Accounting Principles and System

13.2 The Company shall ensure that each Group Company keeps its accounts and prepare financial statements in accordance with IFRS, or

(a) in the case of Group Companies incorporated in the PRC, PRC GAAP; and

(b) in the case of Group Companies incorporated in the United States, US GAAP.

In addition, the Company shall keep consolidated accounts for the Group Companies in accordance with IFRS. If requested by Party A for its financial reporting purposes, the Company shall prepare consolidated accounts for the Group Companies in accordance with PRC GAAP. If requested by Party B for its financial reporting purposes, the Company shall prepare consolidated accounts for the Group Companies in accordance with US GAAP.

13.3 The accounting system and procedures to be adopted by the Company shall be approval by the Board. The Company shall maintain complete and accurate financial and accounting books and records and provides periodic reporting of financial information which is in accordance with all relevant laws and regulations and meets the requirements of the Shareholders and the Board. The Company shall ensure that the other Group Companies keep their respective accounting systems and procedures in accordance with the requirements under this Clause 13.3.

13.4 US$ shall be used as the units of account by the Company in its financial accounts or in the case of any Group Companies incorporated in the PRC, RMB shall be used as the units of account in its financial accounts. All financial statements and reports of the Group Companies shall be written in English (and in Chinese in the case of Group Companies incorporated in the PRC). Party A shall be entitled to request copies of the English language financial statements and reports to be translated into Chinese and the costs of such translation shall be borne by the Company.

Independent Auditor

13.5 The Company shall engage an Auditing Firm as its auditor, to examine and verify the annual financial statements of the Group Companies. The auditor shall be appointed by the Board for two (2) years or such other term as it considers desirable, and may be replaced by the Board at any time.

13.6 A Shareholder may, at its own expense, appoint another accountant to audit the accounts of the Company on its behalf. Reasonable cooperation and access to the accounting books and records shall be given to such accountant and such accountant shall maintain the confidentiality of all information disclosed during the course of this audit (except for disclosure to the relevant party and its Affiliates).

Company Financial Statements

13.7 Within twenty-five (25) days following the end of each fiscal quarter for the Company, the CEO shall submit to the Board an operating report for the Group Companies such fiscal quarter for review.

13.8 Within 120 days following the end of each Financial Year, the CEO shall submit to the Board audited financial statements for the Group Companies for such Financial Year (including audited balance sheet, profit and loss statement, cash flow statement, foreign exchange balance and a profit distribution plan) together with the audit report of the Auditing Firm.

13.9 The Board shall review the audited financial statements and audit report of the Group Companies and submit the same to the Shareholders' Meeting for approval.

Compliance with Law

13.10 The Parties agree that each of them and their respective representatives, as well as the Company, shall operate in compliance with all applicable laws with respect to the operation and business of the Company.

14. Information and Reporting

14.1 A Shareholder may examine the books, records and accounts to be kept by the Company and each Group Company. A Shareholder shall be entitled to receive any information held by the Company and each Group Company which such Shareholder reasonably requires to keep it properly informed about the business and affairs of such Group Company and generally to protect its interests as a Shareholder.

14.2 Without prejudice to the generality of Clause 14.1, the Company and each Group Company shall, and each Shareholder shall procure that the Company and each Group Company shall, supply each Shareholder with:

(a) unaudited financial statements of the Group Companies at the quarterly Board meetings of the Company. If the Board meeting is not held within thirty (30) days of the end of a calendar quarter then the Company or a Group Company shall in any event provide the unaudited quarterly financial statements to each Party on the thirtieth (30^{th}) day after the end of the calendar quarter;

(b) annual audited financial statements under IFRS or PRC GAAP (where relevant), including cash flow statements as soon as they are available and no later than 120 days after the end of the relevant Financial Year;

(c) a copy of monthly management accounts (including monthly income statement, cash flow statement and balance sheet) of each Group Company;

(d) written details (including the Board's reasonable estimate of potential liability thereunder) of any litigation or arbitration commenced or threatened against any Group Company which, if successful, would be likely to have a material adverse effect on the Group Company as soon as practicable after such litigation is threatened or commenced.

14.3 Each Shareholder shall be entitled to request information, records, statements and reports relating to the financial affairs of the Group Companies from the CFO and CEO subject to reasonable notice of not less than five (5) Business Days, and the CFO and CEO, as the case may be, shall promptly provide such information requested (if readily available) and in any event within five (5) Business Days of the request. Where the requested information is not readily available, the CFO and CEO, as the case may be, shall use his or her best endeavours to provide such information as soon as practicable.

15. Confidentiality

15.1 Confidentiality undertaking

Each Shareholder undertakes to the other Shareholders and to the Company that, unless with the prior written consent of the relevant Shareholder who has provided the Confidential Information, none of the Shareholders, its respective management, employees, agents, Affiliates, Subsidiaries or other persons under its control and the respective management, employees and agents of such person will, during the validity period and after the termination of this Agreement (for whatever reason) use, or divulge to any third party, or publish, or disclose, or permit to publish or disclose any such Confidential Information which it has received or acquired, or is likely to receive or acquire (whether or not such information is marked as confidential if it is documented). Each Party acknowledges that Party B is a publicly traded Unites States company listed on Nasdaq and subject to the securities laws and regulations of the United States. Each Party further acknowledges and agrees that it is aware, and that its officers, employees, agents and other representatives are aware, of restrictions imposed by the United States federal securities laws on a person possessing material, non-public information about a company (which in the case of Party B could include information about the Company) and that each party and its officers, employees and agents will comply with such laws.

15.2 Exceptions

The obligations as set out in Clause 15.1 shall not apply to any information which:

(a) is in the public domain or obtained from the public through whatever channel pursuant to this Agreement;

(b) is rightfully in a Shareholder's possession due to disclosure by a third party entitled to disclose the Confidential Information and which is not subject to restrictions as to the use and disclosure thereof, and such information has been stored through proper channels;

(c) is, as required by any applicable law or any stock exchange, Governmental Body or antitrust organisation with competent jurisdiction as appropriate, disclosed only to the extent required by any Shareholder, which shall first notify the other Shareholders of its intent to disclose the information and take into account the reasonable opinion of the other Shareholder; or

(d) is independently developed by a Shareholder without use of the Confidential Information.

15.3 Announcements

Except as set forth below, any Shareholder or its Affiliates (or through a third party) shall not publish any announcement or press release in connection with the execution or subject matter of this Agreement without the prior written consent of the other Shareholder (such consent shall not be unreasonably withheld). If any Shareholder or any of its Affiliates has an obligation to announce, disclose or declare under applicable laws or regulations (including the listing rules of the relevant stock exchange) or as required by any stock exchange or by any Governmental Body, the Shareholder shall inform the other Shareholders and give the other Shareholders a reasonable opportunity to comment on what is to be announced, disclosed or declared prior to such announcement, disclosure or declaration, provided that the other Shareholders shall not prevent or impede the Shareholder from its obligations required by law or the rules of the relevant stock exchange.

16. Entire agreement

Save in respect of the SPA, this Agreement (together with any relevant documents referred to herein) constitute the entire agreement among the Parties and supersedes any previous agreement, arrangement or memorandum among the Parties relating to the subject matter of this Agreement, which shall cease to be binding on all Parties.

Each Party acknowledges that it is not relying on any statements, warranties or representations given or made by any Party relating to the subject matter hereof, save as expressly set out in this Agreement.

17. Further Assurance

Each of the Parties agrees to perform (or procure the performance of) all further acts and things, and execute and deliver (or procure the execution and delivery of) such further documents, as may be required by law or as may be necessary or desirable to implement and/or give effect to this Agreement and the transactions contemplated by it.

18. No assignment

A Party may not assign this Agreement or otherwise assign the interests in this Agreement or any right or remedy hereunder without the prior written consent of the other Parties, except that such assignment is pursuant to a Transfer in accordance with Clause 9.

19. Modification

No modification or amendment to this Agreement shall become effective, except where it is signed in writing and confirmed by the authorised representative of each of the Parties.

20. Notices

Each notice, demand or other communication to be sent or given under or in connection with this Agreement shall be in writing and delivered by facsimile, hand or courier to the addresses or facsimile numbers of the relevant Parties as set out below (or such other addresses or facsimile numbers as informed to the other Parties in writing three (3) Business Days in advance):

To **Party A**:

Address: 0 Kilometre, Caofeidian Industrial Zone, Tangshan City, Hebei Province 063200, People's Republic of China
Facsimile Number: +86 0315 882 0517
Attention: General Manager

To **Party B**:

Address: 10420 Research Road, SE Albuquerque, NM 87123 USA
Facsimile Number: +1 505 323 3402
Attention: Chief Executive Officer

Any notice, demand or other communication so given to the relevant Party shall be deemed to have been duly given: (a) if delivered by hand or courier, at the time its receipt is signed for, whether or not the person signing for such receipt has authority to do so, and (b) if sent or given by facsimile, when confirmation of its transmission has been recorded by the sender's facsimile machine. In the case of any notice received (or deemed received if not actually received by the time of receipt as deemed) after 4.00 p.m. on any day, service shall be deemed to occur on the next following Business Day.

21. Waiver

Any Party's failure to exercise, or delay in exercising, any right or remedy under the provisions of this Agreement shall not operate or be construed as the Party's waiver of such right or remedy.

22. Force majeure

22.1 None of the Parties shall be liable for any breach of or failure to perform any of its obligations hereunder where and to the extent that such breach or failure is caused by any event beyond such Party's reasonable control, including acts of God, fire, flood, storms, typhoons, earthquakes, landslides, tsunamis, wars, civil strikes, actions of any Governmental Body not attributable to Party A, epidemics, terrorism and other similar events (an ***Event of Force Majeure***).

22.2 If an Event of Force Majeure occurs, the performance of the contractual obligations under this Agreement of the Party affected by such Event of Force Majeure shall, to the extent and for the duration that they are affected by such Event of Force Majeure, be suspended and shall automatically be extended, without penalty, for a period equal to such suspension. A Party claiming an Event of Force Majeure shall promptly give notice to the other Party by appropriate means, and shall furnish reasonably substantial proof of the occurrence and duration of the adverse consequences of such Event of Force Majeure. A Party claiming an Event of Force Majeure shall also use all reasonable efforts to mitigate or terminate the effects of Force Majeure on its obligations hereunder.

22.3 If an Event of Force Majeure occurs in respect of any material obligation under this Agreement (***Material Event of Force Majeure***), the Parties shall immediately consult with each other in order to find an equitable solution and shall use all reasonable efforts to minimise the consequences of such Event of Force Majeure. If they are unable to find a solution after six (6) months and the aforesaid Event of Force Majeure continues unabated, either Party shall be entitled to terminate this Agreement in accordance with Clause 11.1(f).

23. Counterparts

This Agreement may be executed in any number of counterparts, and by each party on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument. Delivery of a counterpart of this Agreement by e-mail attachment or telecopy shall be an effective mode of delivery.

24. No partnership

This Agreement shall not constitute or be deemed to constitute a partnership between the Parties and the Parties shall not have any power to bind the others in any way.

25. Costs and tax

Each Party shall bear its own costs and expenses (including attorney fees and transaction costs) incurred by it in its preparation, negotiation, execution and performance of this Agreement and completion of the transactions contemplated hereunder.

26. Conflict with the articles of association

Notwithstanding that the provisions of the Articles of Association or the Company's further amendments thereto may be contrary hereto, in the event of any ambiguity or conflict arising between the provisions of this Agreement and those of the Articles of Association, the provisions of this Agreement (so long as they remain in full force and effect) shall prevail. The Company is not bound by any provision of this Agreement to the extent that it constitutes an unlawful fetter on any statutory power of the Company.

27. Severability

If any provision of this Agreement is or is held to be invalid or unenforceable, then so far as it is invalid or unenforceable it has no effect and is deemed not to be included in this Agreement. This shall not invalidate any of the remaining provisions of this Agreement. The Parties shall use all reasonable endeavours to replace any invalid or unenforceable provision by a valid provision the effect of which is as close as possible to the intended effect of the invalid or unenforceable provision.

28. Governing law

This Agreement shall be governed by and construed in accordance with the laws of Hong Kong without giving effect to its principles of conflict of laws requiring the substantive law of any other jurisdiction.

29. Dispute Resolution

29.1 The Parties agree that any dispute, claim, controversy or disagreement (the ***Dispute***) arising out of, relating to, or in connection with this Agreement (including the formation, existence, validity, enforcement, performance, breach, termination or interpretation thereof), shall be referred to and finally resolved in accordance with the Arbitration Rules administered by the Singapore International Arbitration Centre (***SIAC***) for the time being in force, which rules are deemed to be incorporated herein by reference. The legal seat of the arbitration shall be Singapore. The arbitration tribunal (***Tribunal***) shall consist of three arbitrators to be appointed by the chairman of the SIAC. The language of the arbitration shall be English and Chinese.

29.2 The prevailing party shall be entitled to recover its reasonable costs and expenses, including witness fees and expenses, arbitrators' fees and expenses, and fees and expenses of legal representation, incurred in the arbitration proceedings or in any action to enforce this Agreement or any arbitral award in any judicial proceeding.

29.3 The arbitral award shall be delivered to the parties, shall be in writing, shall state the reasons for the award, and shall be final and binding upon the parties, and the parties agree to be bound thereby and to act accordingly. Nothing in this Clause 29 shall prevent any Party from seeking conservatory or interim measures, including, but not limited to, temporary restraining orders or preliminary injunctions or their equivalent, from any court of competent jurisdiction before the Tribunal is constituted or, thereafter, upon the order of the Tribunal.

29.4 Judgment upon any award may be entered by any court having jurisdiction thereof or having jurisdiction over the relevant party or its assets. Each of the Parties knowingly, voluntarily, intentionally and expressly waives any and all rights it may have to a trial by jury with respect to any litigation instituted to compel arbitration pursuant to this Clause 29 or to confirm, recognize, enforce, vacate, modify or correct an award. Each of the Parties acknowledges and agrees that any Party may effect a valid service or process in any arbitration or judicial proceedings by delivering any arbitral or judicial process or notice by utilizing the provisions set out in Clause 29.

30. Language

This Agreement shall be written in both English and Chinese. Both language versions shall have equal effect.

31. Effectiveness

Following execution of this Agreement by the authorised representatives of the Parties, this Agreement shall take effect from the Establishment Date.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the day and year first above written.

SIGNED by

By: /s/ Yong Dong Liu
Name: Yong Dong Liu
Title: General Manager

for and on behalf of
TANGSHAN CAOFEDIAN INVESTMENT CO., LIMITED

SIGNED by

By: /s/ Hong Q. Hou
Name: Hong Q. Hou
Title: Chief Executive Officer

for and on behalf of
EMCORE CORPORATION

EXHIBIT 10.3

Supplemental Agreement

This supplemental agreement (***Agreement***) is made on this 3rd day of February 2010

BETWEEN

(1) **TANGSHAN CAOFEIDIAN INDUSTRIAL ZONE MANAGEMENT COMMITTEE**, with its principal place of business at Tangshan Caofeidian Industrial Zone, Tangshan, Bei, China (***Party A***)
Person in Charge: Liu Jianli

AND

(2) **EMCORE CORPORATION**, with its principal executive office at 1600 Eubank Boulevard, Albuquerque, New Mexico, USA (***Party B***)
Legal Representative: Reuben Richards

WHEREAS

With the objective of promoting long-term development and based on the principle of "cooperation for mutual benefit in pursuit of a win-win result", IT IS HEREBY AGREED as follows:

Party B undertakes to establish its China solar (CPV) manufacturing and operations base site in Caofeidian Industrial Zone. Party A undertakes to grant the following incentives and support to Party B:

(A) Party A shall cause Tangshan Caofeidian Investment Co. Limited to provide up to the equivalent of US$3,300,000 of RMB denominated loans to the Emcore solar CPV enterprise which shall be established in Caofeidian Industrial Zone by Party B, such loan to be provided based on the financing needs of such enterprise.

(B) Subject to payment of applicable enterprise income taxes and value-added taxes, Party A shall provide full tax rebate for the first 2 years and partial rebate for the subsequent three years to the solar CPV enterprise operating in the Caofeidian Industrial Zone, i.e., the enterprise's portion of enterprise income taxes and value-added taxes for the first two years of profitability which are retained by Caofeidian Industrial Zone shall be fully refunded by Caofeidian Industrial Zone and 50% of such taxes retained by Caofeidian Industrial Zone for the subsequent third, fourth and fifth years shall be refunded by Caofeidian Industrial Zone.

(C) If the enterprise referred to in Clause 3 above were to lease Party A's standard operating factories buildings in Caofeidian Industrial Zone, Party A will exempt the rental for the first two years from the effective date of the respective lease agreements and rent shall be imposed from the third year onwards.

(D) Party A will provide reasonable assistance to Party B in its negotiations with China Huaneng Group and other Chinese enterprises on joint cooperation for the development of solar business in China.

(E) Subject to favourable policies adopted by the PRC government, Party A will consider providing Party B with land use rights in the future for the solar CPV operation base in Caofeidian Industrial Zone.

SIGNED by

By: /s/ Yong Dong Liu
Name: Yong Dong Liu
Title: General Manager

for and on behalf of
TANGSHAN CAOFEDIAN INDUSTRIAL ZONE MANAGEMENT COMMITTEE

SIGNED by

By: /s/ Hong Q. Hou
Name: Hong Q. Hou
Title: Chief Executive Officer

for and on behalf of
EMCORE CORPORATION

EXHIBIT 10.4

SIXTH AMENDMENT TO

LOAN AND SECURITY AGREEMENT

This Sixth Amendment to Loan and Security Agreement (this "Amendment") is dated as of the 8th day of February, 2010, and is made by and among EMCORE Corporation, a New Jersey corporation ("Borrower"), Bank of America, N.A. ("Lender"), and the other Obligors party to that certain Loan and Security Agreement dated September 26, 2008 (as amended, modified, supplemented or restated from time to time, the "Agreement"). Borrower, Lender and such other Obligors now desire to amend the Agreement as provided herein, subject to the conditions set forth herein. Capitalized terms used in this Amendment and not otherwise defined herein have the meanings given to such terms in the Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Borrower, such other Obligors and Lender agree as follows:

1. The proviso following subsection 2(a)(iii) of the Agreement is amended to read in its entirety as follows:

> "provided that the Revolving Loan Limit shall in no event exceed Fourteen Million and No/100 Dollars ($14,000,000) minus the available amount under any separate line of credit provided by Lender to Borrower and/or any of its Subsidiaries for the purpose of hedging foreign exchange rates (the "**Maximum Revolving Loan Limit**"); and provided further that (A) in no event shall advances against the Eligible Accounts described in clause (x), subclause (B) of the definition thereof exceed Ten Million and No/100 Dollars ($10,000,000) in the aggregate at any time, and (B) in no event shall advances against Eligible Accounts described in clause (viii) of the definition thereof exceed Two Million Five Hundred Thousand and No/100 Dollars ($2,500,000) in the aggregate at any time."

2. Effective as of December 31, 2009, subsection 14(b) of the Agreement is amended to read in its entirety as follows:

> "No Obligor shall permit the Consolidated EBITDA of Borrower and its Subsidiaries to be less than the amount set forth below for the corresponding period set forth below:

Period	**Minimum EBITDA**
Three months ended June 30, 2009	($8,640,000)
Six months ended September 30, 2009	($14,649,000)
Nine months ended December 31, 2009	($15,200,000)
Fiscal quarter ended March 31, 2010, and each fiscal quarter end thereafter	$5,000,000"

3. Borrower shall pay all expenses, including attorney fees, which Lender incurs in connection with the preparation of this Amendment and any related documents. All such fees and expenses maybe charged against Borrower's loan account

4. To induce Lender to enter into this Amendment, Obligors make the following representations and warranties:

(a) Each recital, representation and warranty contained in this Amendment, in the Agreement as amended by this Amendment and in the Other Agreements, is true and correct as of the date of this Amendment and does not omit to state a material fact required to make such recital, representation or warranty not misleading; and

(b) No Event of Default or event which, with the passage of time or the giving of notice or both, would constitute an Event of Default has occurred and is continuing under the Agreement or any of the Other Agreements.

5. Each Obligor waives any and all defenses, claims, counterclaims and offsets against Lender which may have arisen or accrued through the date of this Amendment. Each Obligor acknowledges that Lender and its employees, officers, agents and attorneys have made no representations or promises except as specifically reflected in this Amendment and in the written agreements which have been previously executed.

6. Each Obligor represents and warrants to Lender that this Amendment has been approved by all necessary corporate action, and the individual signing below represents and warrants that he or she is fully authorized to do so.

7. This Amendment shall not become effective until this Amendment and the Guarantors' Acknowledgement attached hereto have been fully executed by all parties hereto or thereto and delivered to Lender.

8. Except as expressly amended hereby and by any other supplemental documents or instruments executed by either party hereto in order to effectuate the transactions contemplated by this Amendment, the Agreement and all Exhibits thereto are ratified and confirmed by Obligors and Lender and remain in full force and effect in accordance with their terms.

9. This Amendment may be executed in any number of counterparts, each of which shall be an original, but all of which, taken together, shall constitute one and the same agreement. This Amendment may be delivered by facsimile, and when so delivered will have the same force and effect as delivery of an original signature.

[Signatures appear on the following page.]

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first above written.

EMCORE CORPORATION

/s/ Keith Kosco

By: Keith J. Kosco, Esq.
Title: CLO and Corporate Secretary

EMCORE IRB COMPANY, LLC

/s/ Keith Kosco

By: Keith J. Kosco, Esq.
Title: CLO and Corporate Secretary

OPTICOMM CORP.

/s/ Keith Kosco

By: Keith Kosco, Esq.
Title: CLO and Corporate Secretary

EMCORE SOLAR POWER, INC.

/s/ Keith Kosco

By: Keith J. Kosco, Esq.
Title: CLO and Corporate Secretary

BANK OF AMERICA, N.A.

/s/ Joe Fudacz

By: Joe Fudacz
Title: Senior Vice President

GUARANTORS' ACKNOWLEDGMENT

The undersigned guarantors acknowledge that Bank of America, N.A. ("Lender") has no obligation to provide them with notice of, or to obtain their consent to, the terms of the foregoing Sixth Amendment to Loan and Security Agreement (the "Amendment"). The undersigned guarantors nevertheless: (i) acknowledge and agree to the terms and conditions of the Amendment; (ii) acknowledge that their guaranties remain fully valid, binding, and enforceable; and (iii) waive any and all defenses, claims, counterclaims, and offsets which they may have against Lender through the date of the Amendment.

EMCORE IRB COMPANY, LLC

/s/ Keith Kosco

By: Keith J. Kosco, Esq.
Title: CLO and Corporate Secretary

OPTICOMM CORP.

/s/ Keith Kosco

By: Keith J. Kosco, Esq.
Title: CLO and Corporate Secretary

EMCORE SOLAR POWER, INC.

/s/ Keith Kosco

By: Keith J. Kosco, Esq.
Title: CLO and Corporate Secretary

Exhibit 31.1

EMCORE CORPORATION
CERTIFICATION PURSUANT TO SECTION 302
OF THE SARBANES-OXLEY ACT OF 2002

I, Hong Q. Hou, Ph.D., certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of EMCORE Corporation ("Report");

2. Based on my knowledge, this Report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this Report;

3. Based on my knowledge, the financial statements, and other financial information included in this Report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this Report;

4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

    a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this Report is being prepared;

    b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

    c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this Report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this Report based on such evaluation; and

    d. Disclosed in this Report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

    a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

    b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: **February 9, 2010**

By: **/s/ Hong Q. Hou**
Hong Q. Hou, Ph.D.
Chief Executive Officer
(Principal Executive Officer)

Exhibit 31.2

EMCORE CORPORATION
CERTIFICATION PURSUANT TO SECTION 302
OF THE SARBANES-OXLEY ACT OF 2002

I, John M. Markovich, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of EMCORE Corporation ("Report");

2. Based on my knowledge, this Report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this Report;

3. Based on my knowledge, the financial statements, and other financial information included in this Report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this Report;

4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this Report is being prepared;

   b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this Report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this Report based on such evaluation; and

   d. Disclosed in this Report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: **February 9, 2010**

By: **/s/ John M. Markovich**
John M. Markovich
Chief Financial Officer
(Principal Financial and Accounting Officer)

Exhibit 32.1

STATEMENT REQUIRED BY 18 U.S.C. §1350, AS ADOPTED PURSUANT TO §906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report on Form 10-Q of EMCORE Corporation (the "Company") for the quarter ended December 31, 2009, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Hong Q. Hou, Ph.D., Chief Executive Officer (Principal Executive Officer) of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: **February 9, 2010**

By: **/s/ Hong Q. Hou**
Hong Q. Hou, Ph.D.
Chief Executive Officer
(Principal Executive Officer)

A signed original of this written statement required by Section 906 has been provided to EMCORE Corporation and will be retained by EMCORE Corporation and furnished to the Securities and Exchange Commission or its staff upon request. This certification has not been, and shall not be deemed to be, filed with the Securities and Exchange Commission.

Exhibit 32.2

STATEMENT REQUIRED BY 18 U.S.C. §1350, AS ADOPTED PURSUANT TO §906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report on Form 10-Q of EMCORE Corporation (the "Company") for the quarter ended December 31, 2009, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, John M. Markovich, Chief Financial Officer (Principal Financial and Accounting Officer) of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: **February 9, 2010**

By: **/s/ John M. Markovich**
John M. Markovich
Chief Financial Officer
(Principal Financial and Accounting Officer)

A signed original of this written statement required by Section 906 has been provided to EMCORE Corporation and will be retained by EMCORE Corporation and furnished to the Securities and Exchange Commission or its staff upon request. This certification has not been, and shall not be deemed to be, filed with the Securities and Exchange Commission.