

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549**

**FORM 10-K**

ANNUAL REPORT  
PURSUANT TO SECTIONS 13 OR 15(d)  
OF THE SECURITIES EXCHANGE ACT OF 1934

(Mark One)

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934.

For the fiscal year ended December 31, 2019

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 0-21074

**SUPERCONDUCTOR TECHNOLOGIES INC.**

(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

77-0158076  
(IRS Employer  
Identification No.)

9101 Wall Street, Suite 1300, Austin, Texas 78754  
(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: (512) 334-8900  
Securities registered pursuant to Section 12(b) of the Act:

| <u>Title of each class</u>      | <u>Trading Symbol(s)</u> | <u>Name of each exchange on which registered</u> |
|---------------------------------|--------------------------|--|
| Common stock, \$0.001 par value | SCON                     | The Nasdaq Stock Market LLC                      |

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

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

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

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

Indicate by check mark whether the registrant has submitted every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (\$232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes  or No

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

|                         |                                     |                           |                                     |
|-------------------------|-------------------------------------|---------------------------|-------------------------------------|
| Large accelerated filer | <input type="checkbox"/>            | Accelerated filer         | <input type="checkbox"/>            |
| Non-accelerated filer   | <input checked="" type="checkbox"/> | Smaller reporting company | <input checked="" type="checkbox"/> |
|                         |                                     | Emerging growth company   | <input type="checkbox"/>            |

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

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

The aggregate market value of the common stock held by non-affiliates was \$4.5 million as of June 28, 2019 (the last business day of our most recently completed second fiscal quarter). The closing price of the common stock on that date was \$0.82 as reported by the Nasdaq Capital Market ("Nasdaq"). For purposes of this determination, we excluded the shares of common stock held by each officer and director and by each person who was known to us to own 10% or more of the outstanding common stock as of June 28, 2019. The exclusion of shares owned by the aforementioned individuals and entities from this calculation does not constitute an admission by any of such individuals or entities that he or it was or is an affiliate of ours.

We had 23,283,609 shares of common stock outstanding as of the close of business on March 20, 2020.

[Table of Contents](#)

SUPERCONDUCTOR TECHNOLOGIES INC.

FORM 10-K ANNUAL REPORT  
Year Ended December 31, 2019

*Unless otherwise noted, the terms “we,” “us,” and “our” refer to the combined and ongoing business operations of Superconductor Technologies Inc. and its subsidiaries*

[SPECIAL NOTE REGARDING FORWARD LOOKING STATEMENTS](#)

Page  
1

WHERE YOU CAN FIND MORE INFORMATION

[PART I](#)

|          |   |    |
|----------|---|----|
| Item 1.  | <a href="#">Business</a>                  | 3  |
| Item 1A. | <a href="#">Risk Factors</a>              | 10 |
| Item 1B. | <a href="#">Unresolved Staff Comments</a> | 21 |
| Item 2.  | <a href="#">Properties</a>                | 21 |
| Item 3.  | <a href="#">Legal Proceedings</a>         | 21 |
| Item 4.  | <a href="#">Mine Safety Disclosures</a>   | 21 |

[PART II](#)

|          |  |    |
|----------|--|----|
| Item 5.  | <a href="#">Market for Registrant’s Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities</a> | 22 |
| Item 6.  | <a href="#">Selected Financial Data</a>  | 23 |
| Item 7.  | <a href="#">Management’s Discussion and Analysis of Financial Condition and Results of Operations</a>                        | 24 |
| Item 7A. | <a href="#">Quantitative and Qualitative Disclosures About Market Risk</a>   | 34 |
| Item 8.  | <a href="#">Financial Statements and Supplementary Data</a>  | 34 |
| Item 9.  | <a href="#">Changes in and Disagreements With Accountants on Accounting and Financial Disclosure</a>                         | 34 |
| Item 9A. | <a href="#">Controls and Procedures</a>  | 34 |
| Item 9B. | <a href="#">Other Information</a>  | 35 |

[PART III](#)

|          |  |    |
|----------|--|----|
| Item 10. | <a href="#">Directors, Executive Officers and Corporate Governance</a>   | 35 |
| Item 11. | <a href="#">Executive Compensation</a>   | 42 |
| Item 12. | <a href="#">Securities Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters</a> | 45 |
| Item 13. | <a href="#">Certain Relationships and Related Transactions, and Director Independence</a>                        | 46 |
| Item 14. | <a href="#">Principal Accounting Fees and Services</a>   | 46 |

[PART IV](#)

|          |  |    |
|----------|--|----|
| Item 15. | <a href="#">Exhibits and Financial Statement Schedules</a> | 47 |
| Item 16. | <a href="#">Form 10-K Summary</a>                          | 50 |

## SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

*This Annual Report on Form 10-K (this “Report”) contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. We claim the protection of the safe harbor contained in the Private Securities Litigation Reform Act of 1995 for these forward looking statements. Our forward-looking statements relate to future events or our future performance and include, but are not limited to, statements concerning our business strategy, future commercial revenues, market growth, capital requirements, new product introductions, expansion plans and the adequacy of our funding. Other statements contained in this Report that are not historical facts are also forward-looking statements. We have tried, wherever possible, to identify forward-looking statements by terminology such as “may,” “will,” “could,” “should,” “expects,” “anticipates,” “intends,” “plans,” “believes,” “seeks,” “estimates” and other comparable terminology.*

*We caution investors that any forward-looking statements presented in this Report, or that we may make orally or in writing from time to time, are based on the beliefs of, assumptions made by, and information currently available to, us. Such statements are based on assumptions and the actual outcome will be affected by known and unknown risks, trends, uncertainties and factors that are beyond our control or ability to predict. Although we believe that our assumptions are reasonable, they are not guarantees of future performance and some will inevitably prove to be incorrect. As a result, our actual future results can be expected to differ from our expectations, and those differences may be material. Accordingly, investors should use caution in relying on past forward-looking statements, which are based on known results and trends at the time they are made, to anticipate future results or trends.*

*We have included disclosures throughout this Report that relate to our business as it was conducted prior to the planned merger and asset dispositions described below. Readers are cautioned that both historical and forward looking disclosures regarding our business must be read in conjunction with the information regarding the planned merger and asset dispositions, because some disclosures regarding historical operations may not be indicative of future or current operations and plans. In particular, but without limitation, the reference to our historical business operations regarding our HTS wire should not be viewed as a statement that such operations continue to this day. Please see “Our Future Business” for additional important information.*

*Some of the risks and uncertainties that may cause our actual results, performance or achievements to differ materially from those expressed or implied by forward-looking statements include the following:*

- our planned merger with Allied Integral United, Inc. is subject to various uncertainties and risks, some of which are described under “Risk Factors”;*
- our limited cash and a history of losses;*
- our need to raise additional capital or complete a strategic alternative for the company. If we are unable to raise capital our ability to implement our current strategic plan and ultimately our viability as a company could be adversely affected;*
- the performance and use of our equipment to produce wire in accordance with our timetable;*
- overcoming technical challenges in attaining milestones to develop and manufacture commercial lengths of our high temperature superconducting (“HTS”) wire;*
- the possibility of delays in customer evaluation and acceptance of our HTS wire;*
- the limited number of potential customers and customer pressures on the selling prices of our products;*
- the limited number of suppliers for some of our components and our HTS wire;*
- there being no significant backlog from quarter to quarter;*
- our market being characterized by rapidly advancing technology;*

## Table of Contents

- *the impact of competitive products, technologies and pricing;*
- *manufacturing capacity constraints and difficulties;*
- *the impact of any financing activity on the level of our stock price;*
- *the dilutive impact of any issuances of securities to raise capital;*
- *cost and uncertainty from compliance with environmental regulations;*
- *local, regional, and national and international economic conditions and events, and the impact they may have on us and our customers;*  
*and*
- *if we fail to maintain the listing of our common stock with a U.S. national securities exchange, the liquidity of our common stock could be adversely affected.*

*For further discussion of these and other factors see, “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and “Risk Factors” in this Report.*

*This Report and all subsequent written and oral forward-looking statements attributable to us or any person acting on our behalf are expressly qualified in their entirety by the cautionary statements contained or referred to in this section. We do not undertake any obligation to release publicly any revisions to our forward-looking statements to reflect events or circumstances after the date of this Report.*

**PART I**

**ITEM 1. BUSINESS**

**General**

*Please see “Our Future Business” below regarding material information and updates that in many material respects superseded and modify the following general business description.*

Superconductor Technologies Inc (“STI”) is a leading company in developing and commercializing high temperature superconductor (“HTS”) materials and related technologies. Superconductivity is the unique ability to conduct electricity with little or no resistance when cooled to “critical” temperatures. HTS materials are a family of elements that demonstrate superconducting properties at temperatures significantly warmer than previous superconducting materials. Electric currents that flow through conventional conductors encounter resistance. This resistance requires power to overcome and generates heat. HTS materials can substantially improve the performance characteristics of electrical systems, reduce power loss, and lower heat generation providing extremely high current carrying density and zero resistance to direct current.

We were established in 1987 shortly after the discovery of HTS materials. Our stated objective was to develop products based on these materials for the commercial marketplace.

After analyzing the market opportunities available, we decided to develop products for the utility and telecommunications industries.

Our initial product was completed in 1998 and we began delivery to a number of wireless network providers. In the following 13 years, we continued to refine and improve the platform, with the primary focus on improving reliability, increasing performance and runtime, and most importantly, removing cost from the manufacturing process of the required subsystems. Our cost reducing efforts led to the invention of our proprietary, high-yield and high throughput HTS material deposition manufacturing process.

From 2010 through October 2019, we transitioned our research and development efforts to adapting our proprietary HTS material deposition techniques to the production of our HTS Conductus® wire for next generation power applications.

In November 2016, we were selected as the prime recipient of the \$4.5 million program award provided by the U.S. Department of Energy’s (DOE) Office of Energy Efficiency and Renewable Energy (EERE), on behalf of the Advanced Manufacturing Office, for its Next Generation Electric Machines (NGEM) program and, in June 2017, the related contract was finalized and we have commenced work under that contract. See ‘Other Assets and Investments’ below.

In early 2018, we announced the concentration of our future Conductus wire product development efforts on NGEM to capitalize on several accelerating energy megatrends. This refined focus is very synergistic with our program with the Department of Energy (DOE) award for the development of superconducting wire to enable NGEM.

On October 29, 2019 we announced that our management and Board of Directors were exploring strategic alternatives for the company and on February 26, 2020 we entered into a definitive merger agreement with Allied Integral United, Inc. (“Clearday”), a privately-held company dedicated to delivering next generation longevity care and wellness services, whereby a wholly-owned subsidiary of STI will merge with and into Clearday in a stock-for-stock transaction with Clearday. Upon completion of the merger, STI will change its name to Clearday, Inc. The merged company will focus on the development of Clearday’s non-residential daily care service model as well as the continued operation of Clearday’s existing Memory Care America residential memory care facilities. As part of plans to develop and expand its assortment of innovative, non-residential daily care services,

## [Table of Contents](#)

Clearday intends to leverage STI's existing Cryogenic Cooler as an enabling technology for one of its service offerings in the home healthcare market.

The completion of the Transaction is subject to customary conditions, including (i) adoption of the Merger Agreement by each of STI and AIU stockholders, (ii) Nasdaq approval of continued listing of STI Common Stock under its applicable rules, including the rules applicable to its change of control listing application, (iii) the Registration Statement being declared effective by the Securities and Exchange Commission ("SEC") and (iv) the STI officers with severance rights entering Waiver Agreements. Each party's obligation to complete the Merger is also subject to certain additional customary conditions, including (i) subject to certain exceptions, the accuracy of the representations and warranties of the other party, (ii) subject to certain exceptions, performance by the other party of its obligations under the Merger Agreement, (iii) the absence of any Material Adverse Effect (as defined in the Merger Agreement) on the other party and (iv) the absence of any law, order, injunction, decree or other legal restraint preventing the completion of the Transaction or making the completion of the Transaction illegal. In addition, it is a condition to closing that STI's adjusted net working capital computed in accordance with the terms of the Merger Agreement be not less than negative \$250,000 as of immediately prior to the Effective Time and that all directors of STI, other than Jeffrey Quiram, STI's current Chief Executive Officer, shall have resigned from the Board of Directors of STI; Mr. Quiram is expected to remain a member of the Board of Directors.

The Merger Agreement contains customary representations and warranties. The representations, warranties and covenants of each party set forth in the Merger Agreement have been made only for the purposes of, and were and are solely for the benefit of the parties to, the Merger Agreement, may be subject to limitations agreed upon by the contracting parties, including being qualified by confidential disclosures made for the purposes of allocating contractual risk between the parties to the Merger Agreement instead of establishing these matters as facts, and may be subject to standards of materiality applicable to the contracting parties that differ from those applicable to investors. Accordingly, the representations and warranties may not describe the actual state of affairs at the date they were made or at any other time, and investors should not rely on them as statements of fact. In addition, such representations and warranties (i) will not survive consummation of the Merger and (ii) were made only as of the date of the Merger Agreement or such other date as is specified in the Merger Agreement. Moreover, information concerning the subject matter of the representations and warranties may change after the date of the Merger Agreement, which subsequent information may or may not be fully reflected in the parties' public disclosures. Accordingly, the Merger Agreement is included with this filing only to provide investors with information regarding the terms of the Merger Agreement, and not to provide investors with any factual information regarding STI or AIU, their respective affiliates or their respective businesses. The Merger Agreement should not be read alone, but should instead be read in conjunction with the other information regarding the STI, AIU, their respective affiliates or their respective businesses, the Merger Agreement and the Merger that will be contained in, or incorporated by reference into, the Registration Statement, as well as in the Forms 10-K, Forms 10-Q and other filings that STI makes with the SEC.

In connection with the proposed transaction between STI and Clearday, the parties intend to file relevant materials with the SEC, including a STI registration statement on Form S-4 that will contain a combined proxy statement/prospectus/information statement. See '*Subsequent Events*' below.

In November 2016, we were selected as the prime recipient of the \$4.5 million program award provided by the U.S. Department of Energy's (DOE) Office of Energy Efficiency and Renewable Energy (EERE), on behalf of the Advanced Manufacturing Office, for its Next Generation Electric Machines (NGEM) program and, in June 2017, the related contract was finalized and we have commenced work under that contract. See '*Other Assets and Investments*' below.

In early 2018, we announced the concentration of our future Conductus wire product development efforts on NGEM to capitalize on several accelerating energy megatrends. This refined focus is very synergistic with our program with the Department of Energy (DOE) award for the development of superconducting wire to enable NGEM.

## **Our Future Business**

On October 29, 2019, we announced that our Board of Directors, supported by its management team, had commenced a process to explore strategic alternatives focused on maximizing shareholder value.

Strategic alternatives considered included, among others, a strategic investment financing which would allow the company to pursue its current business plan to commercialize the Conductus wire platform, a business combination such as a merger with another party, or a sale of STI.

On January 28, 2020, we announced a cost reduction plan for the purpose of aligning our personnel needs and capital requirements as we explored strategic alternatives previously announced. We will maintain operations of our Sapphire Cryocooler cryogenics initiatives while ceasing additional manufacturing of our HTS Conductus® wire. The plan also included a 70% employee workforce reduction.

On February 26, 2020, we entered into a definitive merger agreement with Allied Integral United, Inc. (which will change its name to, and is therefore referred herein as, “Clearday”), a privately-held company dedicated to delivering next generation longevity care and wellness services, whereby a wholly-owned subsidiary of STI will merge with and into Clearday in a stock-for-stock transaction with Clearday (the “Merger”), with Clearday surviving and becoming a wholly-owned subsidiary of STI, which will then change its name to Clearday, Inc.

The merged company will focus on the development of Clearday’s non-residential daily care service model as well as the continued operation of Clearday’s existing Memory Care America residential memory care facilities. As part of plans to develop and expand its assortment of innovative, non-residential daily care services, Clearday intends to leverage STI’s existing Cryogenic Cooler as an enabling technology for one of its service offerings in the home healthcare market.

STI’s Current Report on Form 8-K, filed on March 3, 2020, contains a summary of the Merger Agreement and attaches the entire Merger Agreement as an exhibit. Such Current Report and its attached copy of the Merger Agreement should be read in their entirety, as the following does not purport to be a summary of the Merger Agreement, but rather merely highlights a few provisions.

The completion of the Merger is subject to customary conditions, including (i) adoption of the Merger Agreement by each of STI and Clearday stockholders, (ii) Nasdaq approval of continued listing of STI Common Stock under its applicable rules, including the rules applicable to its change of control listing application, (iii) the registration statement on Form S-4 being declared effective by the Securities and Exchange Commission (“SEC”) and (iv) the STI officers with severance rights entering Waiver Agreements. Each party’s obligation to complete the Merger is also subject to certain additional customary conditions, including (i) subject to certain exceptions, the accuracy of the representations and warranties of the other party, (ii) subject to certain exceptions, performance by the other party of its obligations under the Merger Agreement, (iii) the absence of any Material Adverse Effect (as defined in the Merger Agreement) on the other party and (iv) the absence of any law, order, injunction, decree or other legal restraint preventing the completion of the Merger or making the completion of the Merger illegal. In addition, it is a condition to closing that STI’s adjusted net working capital computed in accordance with the terms of the Merger Agreement be not less than negative \$250,000 as of immediately prior to the Effective Time (as defined in the Merger Agreement) and that all directors of STI, other than Jeffrey Quiram, STI’s current Chief Executive Officer, shall have resigned from the Board of Directors of STI; Mr. Quiram is expected to remain a member of the Board of Directors.

STI also has several rights to terminate the Merger Agreement without paying or receiving a break-up fee, including if (i) AIU’s financial statements for the fiscal years ended December 31, 2018 and December 31, 2019 have either (A) not been delivered to STI on or prior to close of business on March 31, 2020 or such other date that is agreed by STI and AIU, or (B) not been audited by a PCAOB registered audit firm that is reasonably

## Table of Contents

acceptable to STI and who provides an unqualified audit opinion with respect to such financial statements and such accounting firm provides their consent as experts with respect to such audited financial statements for inclusion in the Registration Statement, or (C) are not, in form or substance, reasonably satisfactory to STI and (ii) if the firm that STI has retained for the purposes of delivering a fairness opinion qualifies its report or analysis, or is unwilling to provide an affirmative opinion as to fairness from a financial point of view, on the basis of the financial information that is delivered by AIU. The parties also have rights to terminate without paying a break-up fee if their respective disclosure schedules are not timely delivered and are acceptable. As of the date of this Report, the Nasdaq Hearing Panel has not ruled on our request to obtain additional time in which to cure our listing deficiencies. There is no assurance as to when or how the Nasdaq Hearing Panel will rule, or whether, even if a ruling is to provide us additional time, the amount of time will be sufficient. In addition, there is no assurance that the SEC will declare our planned Form S-4 effective at all or in a timely manner, nor is there any assurance that the various conditions to the Merger Agreement will be satisfied at all or in a timely manner. In particular, there is no assurance that the financial statements required of Clearday will be provided in a timely manner or that they will be reasonably satisfactory to us.

The Merger Agreement contains customary representations and warranties. The representations, warranties and covenants of each party set forth in the Merger Agreement have been made only for the purposes of, and were and are solely for the benefit of the parties to, the Merger Agreement, may be subject to limitations agreed upon by the contracting parties, including being qualified by confidential disclosures made for the purposes of allocating contractual risk between the parties to the Merger Agreement instead of establishing these matters as facts, and may be subject to standards of materiality applicable to the contracting parties that differ from those applicable to investors. Accordingly, the representations and warranties may not describe the actual state of affairs at the date they were made or at any other time, and investors should not rely on them as statements of fact. In addition, such representations and warranties (i) will not survive consummation of the Merger and (ii) were made only as of the date of the Merger Agreement or such other date as is specified in the Merger Agreement. Moreover, information concerning the subject matter of the representations and warranties may change after the date of the Merger Agreement, which subsequent information may or may not be fully reflected in the parties' public disclosures. Accordingly, the Merger Agreement is included with this filing only to provide investors with information regarding the terms of the Merger Agreement, and not to provide investors with any factual information regarding STI or Clearday, their respective affiliates or their respective businesses. The Merger Agreement should not be read alone, but should instead be read in conjunction with the other information regarding the STI, Clearday, their respective affiliates or their respective businesses, the Merger Agreement and the Merger that will be contained in, or incorporated by reference into, the Registration Statement, as well as in the Forms 10-K, Forms 10-Q and other filings that STI makes with the SEC.

In connection with the proposed transaction between STI and Clearday, the parties intend to file relevant materials with the SEC, including a STI registration statement on Form S-4 that will contain a combined proxy statement/prospectus/information statement. See '*Subsequent Events*' below.

Subsequent to the announcement on January 28, 2020 about our cost reduction plan, we started the process of selling, in separate transactions, assets that we deemed non-essential going forward. The latest such transaction entered into on March 5th, when considered in combination with the prior transactions since January 28, 2020, may be deemed a material definitive purchase agreement for sales of various production, R&D, and testing equipment and selected intellectual property related primarily to our superconducting wire initiative. The aggregate sales prices of the post January 28th transactions is expected to be approximately \$1,075,000, all sold to purchasers having no affiliation with us. When the transactions are completed over the next several weeks, we will continue to hold production, R&D, and testing assets for our Sapphire cryocooler business, along with the majority of our intellectual property assets. The proceeds from this series of transactions is expected to be sufficient, together with the our other capital resources, for us to complete the Merger.

As a result of these sales, we no longer have the ability to resume HTS wire operations without significant new investments and restructured operations and a new HTS wire business plan, neither of which we currently intend to pursue, as we instead focus our efforts on completing the Merger.



## **Our Proprietary Technology**

Our development efforts over the last 30 years have yielded an extensive patent portfolio as well as critical trade secrets, unpatented technology and proprietary knowledge. We have an extensive patent portfolio in addition to critical trade secrets, unpatented technology and proprietary knowledge. In June 2016, we were awarded U.S. Patent No. 9,362,025 from the U.S. Patent and Trademark Office (USPTO) further protecting our unique capabilities for improving the performance of our Conductus superconducting wire in applications that utilize the advantages for operating in the presence of high magnetic field. In February 2017 we were awarded two patents from the USPTO: U.S. Patent No. 9,564,258, associated with U.S. Patent No. 9,362,025, providing additional protection for the foundation from which we will build high performance wire for our customers, and U.S. Patent No. 9,567,661 protecting the system design developed by STI to improve monitoring efficiency when evaporating materials in vacuum. In July 2017, EU patent 2188495 (08797906.8) was granted, this patent follows the U.S. Patent granted by U.S. 8,607,560. This patent is focused on METHOD FOR CENTERING RECIPROCATING BODIES AND STRUCTURES MANUFACTURED THEREWITH, related to our Sapphire Cryocooler. Our current patents expire at various dates from 2020 to 2034. We enter into confidentiality and non-disclosure agreements with our employees, suppliers and consultants to protect our proprietary information.

We have sold most of patents related to our HTS wires business subsequent to January 28, 2020, but retain patents related to our Sapphire Cryocooler technology.

## **Other Assets and Investments**

In November 2016, we were selected as the prime recipient of the \$4.5 million program award provided by the U.S. Department of Energy's Office of Energy Efficiency and Renewable Energy, on behalf of the Advanced Manufacturing Office, for its Next Generation Electric Machines (NGEM) program. We were collaborating in this program with TECO-Westinghouse Motor Company, an industry leading manufacturer of electric generators and motors, and the Massachusetts Institute of Technology and University of North Texas. The combined team was focused on improving the manufacturing process of superconductive wires to improve performance and yield while reducing cost at high enough temperatures where nitrogen can be used as the cryogenic fluid. Advancing these enabling technologies has the potential to boost the competitiveness of American manufacturers and take the development of more efficient electric machines a giant step further. These technology R&D projects aim to significantly improve industrial motors for manufacturing, helping companies who use these motors in manufacturing save energy and money over the long run.

As mentioned in above, On January 28, 2020, we announced a cost reduction plan for the purpose of aligning our personnel needs and capital requirements as we explored strategic alternatives previously announced, while ceasing additional manufacturing of our HTS Conductus® wire. We will be winding down our efforts on this contract over the next few months.

In September 2014, STI and Robinson Research Institute entered a strategic agreement to jointly engage end customers and partners in the building of superconductor products utilizing our Conductus superconducting wire and Robinson Research Institute's superconducting device technology. The Robinson Research Institute, based at Victoria University of Wellington in New Zealand, has unique capabilities in the production of HTS Roebel cable used in superconducting machines and magnets, and in the development of HTS MRI and HTS transformers. The Robinson Research Institute has been a valuable ally as we prepare for the commercial launch of Conductus wire; Robinson's performance characterization expertise and applications knowledge are truly impressive. Robinson is an expert in the development of innovative superconducting products. Jointly, we have identified initial projects including applications such as rotating machines, transformers, scientific magnets and MRI systems. Additionally, Robinson and its partners have a strong focus on Asia and we believe our agreement will help us expand our reach into that fast-growing market. Working alongside many industry leaders, the Robinson Research Institute and its partners have built superconducting devices for the energy industry, recently completing a transformer for use in the electrical grid. In the healthcare market, Robinson has focused on applications of MRI systems where HTS wire gives a competitive advantage.

## [Table of Contents](#)

In 2007, we formed a joint venture with Hunchun BaoLi Communication Co. Ltd. (“BAOLI”) for the purpose of manufacturing and selling our SuperLink interference elimination solution in China. The joint venture was subsequently terminated prior to our joint venture partner and us providing our capital and technology contributions and our obligations were terminated.

### **Licenses**

We grant licenses for our technology to other companies. We have granted licenses to, among others, (1) Bruker for Nuclear Magnetic Resonance application, (2) General Dynamics for government applications, (3) Star Cryoelectronics for Superconducting Quantum Interference Device applications and (4) Theva for network infrastructure wireless electronic devices.

### **Government Contracts**

For 2019, 2018 and 2017, government related contracts accounted for 99%, 100% and 98%, respectively, of our revenues.

### **Manufacturing**

Our manufacturing process involved the operation of sophisticated production equipment and material handling by production technicians. We purchased inventory components and manufacture inventory based on existing customer purchase requests, and to a lesser extent, on sales forecasts. Our Austin, Texas facility addressed our growth expectations for our superconducting wire initiative. The opening of that facility coincided with the delivery of our first superconducting wire production equipment in early 2012.

On January 28, 2020, announced we were ceasing manufacturing of our Conductus wire.

Historically, a number of components used in our products were available from only a limited number of outside suppliers due to unique designs, as well as certain quality and performance requirements. We did not have guaranteed supply arrangements with any of these suppliers, did not maintain an extensive inventory of parts or components and customarily purchase sole or limited source parts and components pursuant to purchase orders. Our reliance on sole or limited source suppliers involved certain risks and uncertainties, many of which were beyond our control, and some of which were set out in our public filings, including in particular the “Risk Factors” included in Item 1A of this Report.

### **Marketing and Sales**

We utilized a direct selling model due to the concentrated customer base for superconducting wire.

### **Competition**

We faced competition in various aspects of our technology and product development. Our products competed on the basis of performance, functionality, reliability, pricing, quality and compliance with industry standards. Our primary competitors include American Superconductor (AMSC), SuperPower (Furukawa), SuNam, Bruker, Shanghai Superconductor, BASF, SuperOx, Fujikura, Sumitomo, Shanghai Creative Superconductor Technologies Co., Ltd (SCSC), Oxolutia, MetOx, THEVA, Showa Cable Systems (SWCC), and Suzhou Advanced Materials Research Institute (SAMRI).

### **Research and Development**

Our 2017 through 2019 research and development activities were focused entirely on developing our Conductus wire product. We spent a total of \$2.4 million, \$2.4 million and \$2.6 million for 2019, 2018 and 2017, respectively, on research and development.

### **Environmental Issues**

We used certain hazardous materials in our research, development and manufacturing operations. As a result, we were subject to stringent federal, state and local regulations governing the storage, use and disposal of such materials. Current or future laws and regulations could require substantial expenditures for preventative or remedial action, reduction of chemical exposure, waste treatment or disposal. Although we believe that our safety procedures for the handling and disposing of hazardous materials complied with the standards prescribed by state and federal regulations, there is always the risk of accidental contamination or injury from these materials. To date, we have not incurred substantial expenditures for preventive action with respect to hazardous materials or for remedial action with respect to any hazardous materials accident.

### **Corporate Information**

Our facilities and principal executive offices are located at 9101 Wall Street, Suite 1300, Austin, Texas 78754. Our telephone number is (512) 334-8900. We were incorporated in Delaware on May 11, 1987. After March 31, 2020, we will be located at 15511 W State HWY 71, Suite 110-105, Austin, TX 78738 and our telephone number will be (512) 650-7775. Additional information about us is available on our website at [www.suptech.com](http://www.suptech.com). The information on our web site is not incorporated herein by reference.

### **Employees**

As of December 31, 2019, we had a total of 26 full time employees. On January 28, 2020 we announced a cost reduction plan for the purpose of aligning our personnel needs and capital requirements as we explore strategic alternatives and reduced our number of employees to 7 full time employees. None of our employees are represented by a labor union, and we believe that our employee relations are good.

### **Backlog**

Our commercial backlog consists of accepted product purchase orders with scheduled delivery dates during the next twelve months. We had no commercial backlog at December 31, 2019, compared to \$151,000 at December 31, 2018. At December 31, 2019 and December 31, 2018, in addition to this commercial backlog, we had evaluation and qualification orders with unspecified delivery dates for \$306,000 and \$80,000, respectively.

## **ITEM 1A. RISK FACTORS**

The following section includes some of the material factors that may adversely affect our business and operations. This is not an exhaustive list, and additional factors could adversely affect our business and financial performance. Moreover, we operate in a very competitive and rapidly changing environment. New risk factors emerge from time to time and it is not possible for us to predict all such risk factors, nor can we assess the impact of all such risk factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements. This discussion of risk factors includes many forward-looking statements. For cautions about relying on such forward looking statements, please refer to the section entitled “Forward Looking Statements” at the beginning of this Report immediately prior to Item 1.

*We have included disclosures throughout this Report, including Risk Factors, that relate to our business as it was conducted prior to the planned Merger and asset disposition described above. Readers are cautioned that both historical and forward looking disclosures, as well as Risk Factors, regarding our business must be read in conjunction with the information regarding the planned Merger and asset dispositions, because some disclosures regarding historical operations may not be indicative of future or current operations and plans. In particular, but without limitation, the reference to our historical business operations regarding our HTS wire should not be viewed as a statement that such operations continue to this day. Please see “Our Future Business” for additional important information.*

### **Risks Related to Our Business**

***We have a history of losses and may never become profitable.***

In each of our last five years, we have experienced significant net losses and negative cash flows from operations. In 2019, we incurred a net loss of \$9.2 million and had negative cash flows from operations of \$8.8 million. In 2018, we incurred a net loss of \$8.1 million and had negative cash flows from operations of \$6.9 million. Our independent registered public accounting firm has included in its audit reports an explanatory paragraph expressing substantial doubt about our ability to continue as a going concern. Unless we can successfully implement our strategic alternatives plan including, among others, a business combination such as our merger with Clearday, or a sale of STI, we will need to raise additional capital during this fiscal year ending December 31, 2020 to maintain our viability.

***We may need to raise additional capital or complete a strategic alternative for the company. If we are unable to raise capital, our ability to implement our strategic plan and ultimately our viability as a company could be adversely affected.***

At December 31, 2019, we had \$0.7 million in cash and cash equivalents. Our current forecast is that our existing cash resources will be sufficient to fund our planned operations into the first quarter of 2020. Our cash resources will not be sufficient to fund our business through the end of the current fiscal year. Therefore we will need to raise additional capital during this fiscal year ending December 31, 2020 to maintain the viability of the Company.

***We entered a Merger Agreement and consummated various asset sales that fundamentally change our risk profile.***

On February 26, 2020 we entered into a definitive merger agreement with Allied Integral United, Inc. (“Clearday”), a privately-held company dedicated to delivering next generation longevity care and wellness services, whereby a wholly-owned subsidiary of STI will merge with and into Clearday in a stock-for-stock transaction with Clearday. Upon completion of the merger, STI will change its name to Clearday, Inc. The merged company will focus on the development of Clearday’s non-residential daily care service model as well as

## [Table of Contents](#)

the continued operation of Clearday's existing Memory Care America residential memory care facilities. As part of plans to develop and expand its assortment of innovative, non-residential daily care services, Clearday intends to leverage STI's existing Cryogenic Cooler as an enabling technology for one of its service offerings in the home healthcare market.

The completion of the Merger is subject to customary conditions, including (i) adoption of the Merger Agreement by each of STI and Clearday stockholders, (ii) Nasdaq approval of continued listing of STI Common Stock under its applicable rules, including the rules applicable to its change of control listing application, (iii) the Registration Statement being declared effective by the Securities and Exchange Commission ("SEC") and (iv) the STI officers with severance rights entering Waiver Agreements. Each party's obligation to complete the Merger is also subject to certain additional customary conditions, including (i) subject to certain exceptions, the accuracy of the representations and warranties of the other party, (ii) subject to certain exceptions, performance by the other party of its obligations under the Merger Agreement, (iii) the absence of any Material Adverse Effect (as defined in the Merger Agreement) on the other party and (iv) the absence of any law, order, injunction, decree or other legal restraint preventing the completion of the Merger or making the completion of the Merger illegal. In addition, it is a condition to closing that STI's adjusted net working capital computed in accordance with the terms of the Merger Agreement be not less than negative \$250,000 as of immediately prior to the Effective Time and that all directors of STI, other than Jeffrey Quiram, STI's current Chief Executive Officer, shall have resigned from the Board of Directors of STI; Mr. Quiram is expected to remain a member of the Board of Directors.

The Merger Agreement contains customary representations and warranties. The representations, warranties and covenants of each party set forth in the Merger Agreement have been made only for the purposes of, and were and are solely for the benefit of the parties to, the Merger Agreement, may be subject to limitations agreed upon by the contracting parties, including being qualified by confidential disclosures made for the purposes of allocating contractual risk between the parties to the Merger Agreement instead of establishing these matters as facts, and may be subject to standards of materiality applicable to the contracting parties that differ from those applicable to investors. Accordingly, the representations and warranties may not describe the actual state of affairs at the date they were made or at any other time, and investors should not rely on them as statements of fact. In addition, such representations and warranties (i) will not survive consummation of the Merger and (ii) were made only as of the date of the Merger Agreement or such other date as is specified in the Merger Agreement. Moreover, information concerning the subject matter of the representations and warranties may change after the date of the Merger Agreement, which subsequent information may or may not be fully reflected in the parties' public disclosures. Accordingly, the Merger Agreement is included with this filing only to provide investors with information regarding the terms of the Merger Agreement, and not to provide investors with any factual information regarding STI or Clearday, their respective affiliates or their respective businesses. The Merger Agreement should not be read alone, but should instead be read in conjunction with the other information regarding the STI, Clearday, their respective affiliates or their respective businesses, the Merger Agreement and the Merger that will be contained in, or incorporated by reference into, the S-4 Registration Statement, as well as this report, and Forms 10-Q and other filings that STI makes with the SEC.

Subsequent to the announcement on January 28, 2020 about our cost reduction plan, we started the process of selling, in separate transactions, assets that we deemed non-essential going forward. The latest such transaction entered into on March 5th, when considered in combination with the prior transactions since January 28, 2020, may be deemed a material definitive purchase agreement for sales of various production, R&D, and testing equipment and selected intellectual property related primarily to our superconducting wire initiative. The aggregate sales prices of the post January 28th transactions is expected to be approximately \$1,075,000, all sold to purchasers having no affiliation with us. When the transactions are completed over the next several weeks, we will continue to hold production, R&D, and testing assets for our Sapphire cryocooler business, along with the majority of our intellectual property assets. The proceeds from this series of transactions is expected to be sufficient, together with the our other capital resources, for us to complete the Merger.

## [Table of Contents](#)

As a result of these sales, we no longer have the ability to resume HTS wire operations without significant new investments and restructured operations and a new HTS wire business plan, neither of which we currently intend to pursue, as we instead focus our efforts on completing the Merger.

As of the date of this Report, the Nasdaq Hearing Panel has not ruled on our request to obtain additional time in which to cure our listing deficiencies. There is no assurance as to when or how the Nasdaq Hearing Panel will rule, or whether, even if a ruling is to provide us additional time, the amount of time will be sufficient. In addition, there is no assurance that the SEC will declare our planned Form S-4 effective at all or in a timely manner, nor is there any assurance that the various conditions to the Merger Agreement will be satisfied at all or in a timely manner. In particular, there is no assurance that the financial statements required of Clearday will be provided in a timely manner or that they will be reasonably satisfactory to us.

There is no certainty that the Merger will be completed. If the Merger is not completed our securities may become delisted from Nasdaq and quoted on the OTC Bulletin Board or OTC Pink Sheet Market, an inter-dealer automated quotation system for equity securities that is not a national securities exchange. In that case, the liquidity and price of our securities is likely to be significantly more limited than if we were quoted or listed on Nasdaq or another national securities exchange. You may be unable to sell your securities unless a market can be established or sustained.

Even if the Merger is completed, there is no certainty regarding the performance of the combined company. Clearday is a private company with limited financial data. Any financial data of Clearday will only be available to stockholders upon the filing of the registration statement on Form S-4. Completion of the Merger would highly dilute the shares of existing STI stockholders, who, together with STI warrant holders, are collectively expected to own less than 5% of the combined company.

Additionally, the price of our securities may fluctuate significantly due to the market's reaction to the Merger and general market and economic conditions. An active trading market for our securities may never develop following the Merger or, if developed, it may not be sustained. In addition, the price of our securities following the Merger may vary due to general economic conditions and forecasts, our general business condition and the release of our financial reports

***We have not yet received sufficient financial information from Clearday in order for us to request or receive a fairness opinion and we reserve the right to terminate the Merger Agreement (among other reasons) if such information is untimely or inadequate.***

As of the date of this Report, due to delays in obtaining Clearday financial information, as disclosed in the Current Report on Form 8-K filed on March 3, 2020, our Board of Directors still retains the right to terminate the Merger Agreement at no cost to us if certain material financial information regarding Clearday is not timely delivered or is not reasonably acceptable to us or if the firm we retained to provide a fairness opinion to us declines to render such opinion on account of Clearday's financial information. Although we have received valuation information that our Board of Directors deemed sufficient in order to enter into the Merger Agreement, we have not yet received a fairness opinion and do not intend to request one until sufficient financial information to support a fairness opinion is provided to us. While our Board of Directors believes that the Merger Agreement is in the best interests of our stockholders, stockholders or prospective stockholders should understand these limitations in the information that our Board of Directors has, to date, received. We intend, but are not obligated, to inform our stockholders and the market when and if our Board of Directors has received the above-mentioned Clearday financial information and, if available, affirmative fairness opinion.

***There are numerous technological challenges that must be overcome in order for our Conductus wire to become commercially successful and our ability to address such technological challenges may adversely affect our ability to gain customers.***

Our plan, prior to our announcements discussed in "Our Future Business", was for commercial production of Conductus wire following completion of qualification orders. We have experienced in the past, and may

## [Table of Contents](#)

continue to experience, delays in achieving commercial production of Conductus. Commercialization can be delayed, among other factors, by technological challenges as we seek to improve our products and processes, delays from customer qualification orders and customer analysis of those orders, and decisions made by our customers with respect to post-qualification orders. Many of the factors that affect successful commercialization of our products are affected by third party decisions.

Conductus wire was uniquely positioned to address three key technical challenges in the market: high performance, improved economics and commercial-scale capacity. To date, we, along with existing HTS wire manufacturers, have not overcome these challenges to allow for broad commercialization of HTS wire. Customers cannot purchase long-length wire with any reasonable confidence or guaranteed volume; and electric utilities lack confidence in product availability which leads to delays in their deployment roadmap. HTS wire performance is currently below what many customers require. Many power applications require high performance wire with high current carrying capacity, mechanical durability, electrical integrity with low AC losses and minimal splices. Producing high performance HTS wire has proven difficult, especially at volumes required for large scale deployment. The high demand for high performance wire available in very low volume results in a high wire price that narrows the market and limits commercial viability.

We have made significant progress in these areas, however delays in our Conductus wire development, as a result of technological challenges or other factors, may result in the introduction or commercial acceptance of our Conductus wire products later than expected.

***The commercial uses of superconducting wire and superconducting wire related products are limited today, and a broad commercial market may not develop.***

Even if the technological hurdles are overcome, there is no certainty that a robust commercial market for unproven HTS wire products will come to fruition. To date, commercial use of HTS wire has been limited to small feasibility demonstrations, and these projects are largely subsidized by government authorities. While customer demand is high and market forecasts project large revenue opportunity for superconducting wire in power applications, the market may not develop and superconducting wire might never achieve long term, broad commercialization. In such an event, we would not be able to commercialize our Conductus wire initiative and our business could be adversely impacted.

***We have limited experience marketing and selling superconducting wire products, and our failure to effectively market and sell our superconducting wire solutions would lower our revenue and cash flow.***

We have limited experience marketing and selling our Conductus wire. Once our Conductus wire is ready for commercial use, we will have to hire and develop a marketing and sales team to effectively demonstrate the advantages of our product over both more traditional products and competing superconducting products or other adjacent technologies. We may not be successful in our efforts to market this new technology.

***We expect continued customer pressures to reduce our product pricing which may adversely affect our ability to operate on a commercially viable basis.***

We expect to face pressure to reduce prices and accordingly, the average selling price of our Conductus wire. We anticipate customer pressure on our product pricing will continue for the foreseeable future. HTS wire is currently being sold at \$250/kiloampere-meter (kA-m). At this price, HTS wire represents a significant cost of the end device. A price reduction is required for long term commercialization. Cryogenic systems, including cryocoolers and cryostats, have been developed but will also need to be cost optimized as HTS wire becomes available in volume. We have plans to further reduce the manufacturing cost of our products, but there is no assurance that our future cost reduction efforts will keep pace with price erosion. We will need to further reduce our manufacturing costs through engineering improvements and economies of scale in production and purchasing in order to achieve adequate gross margins. We may not be able to achieve the required product cost savings at a

## [Table of Contents](#)

rate needed to keep pace with competitive pricing pressure. Additionally, we may be forced to discount future orders or may never reach commercial viability. If we fail to reach our cost saving objectives or we are required to offer future discounts, our business may be harmed.

### ***We face competition with respect to various aspects of our technology and product development.***

Our former wireless products compete on the basis of performance, functionality, reliability, pricing, quality, and compliance with industry standards. With respect to our Conductus wire materials, our competition includes American Superconductor (AMSC), SuperPower (Furukawa), SuNam, Bruker, Shanghai Superconductor, BASF, SuperOx, Fujikura, Sumitomo, THEVA, Showa Cable Systems (SWCC), and Suzhou Advanced Materials Research Institute (SAMRI). In addition, we previously supplied components and license technology to several companies that may eventually decide to manufacture or design their own HTS components, rather than purchasing or licensing our technology. If we are unable to compete successfully against our current or future competitors, then our business and results of operations will be adversely affected.

### ***We may not be able to compete effectively against alternative technologies.***

Our products also compete with a number of alternative approaches and technologies. Some of these alternatives may be more cost effective or offer better performance than our products and we may not succeed in competing against these alternatives.

### ***We currently rely on specific technologies and may not successfully adapt to the rapidly changing market environments.***

We must overcome technical challenges to commercialize our Conductus wire. If we are able to do so, we will need to attain customer acceptance of our Conductus wire, and we cannot ensure that such acceptance will occur. We will have to continue to develop and integrate advances to our core technologies. We will also need to continue to develop and integrate advances in complementary technologies. We cannot guarantee that our development efforts will not be rendered obsolete by research efforts and technological advances made by others. Our business success depends upon our ability to keep pace with advancing technology, including materials, processes and industry standards.

### ***We may experience significant fluctuations in sales and operating results from quarter to quarter.***

Our quarterly results may fluctuate due to a number of factors, including:

- the lack of any contractual obligation by our customers to purchase their forecasted demand for our products;
- variations in the timing, cancellation, or rescheduling of customer orders, shipments and government contracts; and
- high fixed expenses that may disproportionately impact operating expenses, especially during a quarter with a sales shortfall.

If our customers desire to purchase products in excess of the forecasted amounts or in a different product mix, there may not be enough inventory or manufacturing capacity to fill their orders. Customer backlog may not be converted in to commercial revenues.

Due to these and other factors, our past results have limited predictive value as to our Conductus wire initiative or government contract revenues. Future revenues and operating results may not meet the expectations of stock analysts and investors. In either case, the price of our common stock could be materially adversely affected.



***Any outbreak of contagious diseases, or other adverse public health developments, could have a material and adverse effect on our business operations, financial condition and results of operations.***

In December 2019, a novel strain of coronavirus was first identified in Wuhan, Hubei Province, China, and has since spread to a number of other countries, including the United States. Any outbreak of contagious diseases, or other adverse public health developments, could have a material and adverse effect on our business operations. For example, the coronavirus may impact the global economy or negatively affect various aspects of our business, including demand for our products and services. The extent to which the coronavirus may impact our business will depend on future developments, which are highly uncertain and cannot be predicted, including new information which may emerge concerning the severity of the coronavirus. A health epidemic or other outbreak could materially and adversely affect our business, financial condition and results of operations.

***Worldwide economic uncertainty may adversely affect our business, operating results and financial condition.***

The United States and global economies continue to experience a period of economic and financial uncertainty, which could result in economic volatility having direct and indirect adverse effects on our business, operating results and financial condition in a number of ways. For example, current or potential customers may delay or decrease spending with us, may delay paying us for previously purchased products, or may not pay us at all. In addition, this recent downturn has had, and may continue to have, an unprecedented negative impact on the global credit markets. If we are required to obtain financing in the near term to meet our working capital or other business needs, we may not be able to obtain that financing. Further, even if we are able to obtain the financing we need, it may be on terms that are not favorable to us, with increased financing costs and restrictive covenants.

***Our reliance on a limited number of suppliers and the long lead time of components for our products could impair our ability to manufacture and deliver our systems on a timely basis.***

A number of components used in our products are available from a limited number of outside suppliers due to unique designs as well as certain quality and performance requirements. Our reliance on sole or limited source suppliers involves certain risks and uncertainties, many of which are beyond our control. These include the possibility of a shortage or the discontinuation of certain key components. Any reduced availability of these parts or components when required could impair our ability to manufacture and deliver our systems on a timely basis and result in the delay or cancellation of orders, which could harm our business.

In addition, the purchase of some of our key components involves long lead times and, in the event of unanticipated increases in demand for our solutions, we may be unable to obtain these components in sufficient quantities to meet our customers' requirements. We do not have guaranteed supply arrangements with any of these suppliers, do not maintain an extensive inventory of parts or components and customarily purchase sole or limited source parts and components pursuant to purchase orders. Business disruptions, quality issues, production shortfalls or financial difficulties of a sole or limited source supplier could materially and adversely affect us by increasing product costs, or eliminating or delaying the availability of such parts or components. In such events, our inability to develop alternative sources of supply quickly and on a cost-effective basis could impair our ability to manufacture and deliver our systems on a timely basis and could harm our business.

***Our reliance on a limited number of suppliers exposes us to quality control issues.***

Our reliance on certain single-source and limited-source components exposes us to quality control issues if these suppliers experience a failure in their production process or otherwise fail to meet our quality requirements.

A failure in single-source or limited-source components or products could force us to repair or replace a product utilizing replacement components. If we cannot obtain comparable replacements or effectively return or redesign our products, we could lose customer orders or incur additional costs, which could have a material adverse effect on our gross margins and results of operations.

***Our ability to protect our patents and other proprietary rights is uncertain, exposing us to possible losses of competitive advantage.***

Our efforts to protect our proprietary rights may not succeed in preventing infringement by others or ensure that these rights will provide us with a competitive advantage. Pending patent applications may not result in issued patents and the validity of issued patents may be subject to challenge. Third parties may also be able to design around the patented aspects of the products. Additionally, certain of the issued patents and patent applications are owned jointly with third parties. Because any owner or co-owner of a patent can license its rights under jointly-owned patents or applications, inventions made by us jointly with others are not subject to our exclusive control. Any of these possible events could result in losses of competitive advantage.

***We depend on specific patents and licenses to technologies, and we will likely need additional technologies in the future that we may not be able to obtain.***

We utilize technologies under licenses of patents from others for our products. These patents may be subject to challenge, which may result in significant litigation expense (which may or may not be recoverable against future royalty obligations). Additionally, we continually try to develop new products, and, in the course of doing so, we may be required to utilize intellectual property rights owned by others and may seek licenses to do so. Such licenses may not be obtainable on commercially reasonable terms, or at all. It is also possible that we may inadvertently utilize intellectual property rights held by others, which could result in substantial claims.

***Intellectual property infringement claims against us could materially harm results of operations.***

Our products incorporate a number of technologies, including high-temperature superconductor technology, technology related to other materials, and electronics technologies. Our patent positions, and that of other companies using high-temperature superconductor technology, is uncertain and there is significant risk that others, including our competitors or potential competitors, have obtained or will obtain patents relating to our products or technologies or products or technologies planned to be introduced by us.

We believe that patents may be or have been issued, or applications may be pending, claiming various compositions of matter used in our products. We may need to secure one or more licenses of these patents. There can be no assurances that such licenses could be obtained on commercially reasonable terms, or at all. We may be required to expend significant resources to develop alternatives that would not infringe such patents or to obtain licenses to the related technology. We may not be able to successfully design around these patents or obtain licenses to them and may have to defend ourselves at substantial cost against allegations of infringement of third party patents or other rights to intellectual property. In those circumstances, we could face significant liabilities and also be forced to cease the use of key technology.

***Other parties may have the right to utilize technology important to our business.***

We utilize certain intellectual property rights under non-exclusive licenses or have granted to others the right to utilize certain intellectual property rights licensed from a third party. Because we may not have the exclusive rights to utilize such intellectual property, other parties may be able to compete with us, which may harm our business.

***Because competition for target employees is intense, we may be subject to claims of unfair hiring practices, trade secret misappropriation or other related claims.***

Companies in HTS wire industries whose employees accept positions with competitors frequently claim that competitors have engaged in unfair hiring practices, trade secret misappropriation or other related claims. We may be subject to such claims in the future as we seek to hire qualified personnel, and such claims may result in material litigation. If this should occur, we could incur substantial costs in defending against these claims, regardless of their merits.

***Our success depends on the attraction and retention of senior management and technical personnel with relevant expertise.***

As a competitor in a highly technical market, we depend heavily upon the efforts of our existing senior management and technical teams. The loss of the services of one or more members of these teams could slow product development and commercialization objectives. Due to the specialized nature of our products, we also depend upon our ability to attract and retain qualified technical personnel with substantial industry knowledge and expertise. Competition for qualified personnel is intense, and we may not be able to continue to attract and retain qualified personnel necessary for the development of our business.

***Regulatory changes could substantially harm our business.***

Certain regulatory agencies in the United States and other countries set standards for operations within their territories. HTS wire is subject to a regulatory regime, which may become more strictly regulated if the market grows. Any failure or delay in obtaining necessary approvals could harm our business.

***We may acquire or make investments in companies or technologies that could cause loss of value to stockholders and disruption of business.***

We may explore opportunities to acquire companies or technologies in the future. Other than the acquisition of Conductus, Inc. in 2002, we have not made any such acquisitions or investments to date and, therefore, our ability as an organization to make acquisitions or investments is unproven. An acquisition entails many risks, any of which could adversely affect our business, including:

- failure to integrate operations, services and personnel;
- the price paid may exceed the value eventually realized;
- loss of share value to existing stockholders as a result of issuing equity securities to finance an acquisition;
- potential loss of key employees from either our then current business or any acquired business;
- entering into markets in which we have little or no prior experience;
- diversion of financial resources and management's attention from other business concerns;
- assumption of unanticipated liabilities related to the acquired assets; and
- the business or technologies acquired or invested in may have limited operating histories and may be subject to many of the same risks to which we are exposed.

In addition, future acquisitions may result in potentially dilutive issuances of equity securities, or the incurrence of debt, contingent liabilities or amortization expenses or charges related to goodwill or other intangible assets, any of which could harm our business. As a result, if we fail to properly evaluate and execute acquisitions or investments, our business and prospects may be seriously harmed.

***If we are unable to implement appropriate controls and procedures to manage our potential growth, we may not be able to successfully offer our products and implement our business plan.***

Our ability to successfully offer our products and implement our business plan in a rapidly evolving market requires an effective planning and management process. Growth in future operations would place a significant strain on management systems and resources. We expect that we would need to improve our financial and managerial controls, reporting systems and procedures, and would need to expand, train and manage our work force worldwide. Furthermore, we expect that we would be required to manage multiple relationships with various customers and other third parties.

***Compliance with environmental regulations could be especially costly due to the hazardous materials used in the manufacturing process. In addition, we could incur expenditures related to hazardous material accidents.***

We are subject to a number of federal, state and local governmental regulations related to the use, storage, discharge and disposal of toxic, volatile or otherwise hazardous chemicals used in our business. Current or future laws and regulations could require substantial expenditures for preventative or remedial action, reduction of chemical exposure, waste treatment or disposal. Any failure to comply with present or future regulations could result in the imposition of fines, suspension of production or interruption of operations. In addition, these regulations could restrict our ability to expand or could require us to acquire costly equipment or incur other significant expense to comply with environmental regulations or to clean up prior discharges.

In addition, although we believe that our safety procedures for the handling and disposing of hazardous materials comply with the standards prescribed by state and federal regulations, there is always the risk of accidental contamination or injury from these materials. To date, we have not incurred substantial expenditures for preventive action with respect to hazardous materials or for remedial action with respect to any hazardous materials accident, but the use and disposal of hazardous materials involves risk that we could incur substantial expenditures for such preventive or remedial actions. If such an accident were to occur, we could be held liable for resulting damages. The liability in the event of an accident or the costs of such remedial actions could exceed our resources or otherwise have a material adverse effect on our financial condition, results of operations or cash flows.

***The reliability of market data included in our public filings is uncertain.***

Since we operate in a rapidly changing market, we have in the past, and may from time to time in the future, include market data from industry publications and our own internal estimates in some of the documents we file with the Securities and Exchange Commission. The reliability of this data cannot be assured. Industry publications generally state that the information contained in these publications has been obtained from sources believed to be reliable, but that its accuracy and completeness is not guaranteed. Although we believe that the market data used in our filings with the Securities and Exchange Commission is and will be reliable, it has not been independently verified. Similarly, internal company estimates, while believed by us to be reliable, have not been verified by any independent sources.

## **Risks Related to Our Common Stock**

***Our stock price is volatile.***

The market price of our common stock has been, and is expected to be, subject to significant volatility. The value of our common stock may decline regardless of our operating performance or prospects. Factors affecting our market price include:

- market perception as to the Merger and the information provided about Clearday when and if it becomes available, including the risks related to the Clearday business;
- our perceived prospects and liquidity;
- progress or any lack of progress (or perceptions related to progress) in timely overcoming the remaining substantial technical and commercial challenges related to our Conductus wire initiative;
- variations in our operating results and whether we have achieved key business targets;
- changes in, or our failure to meet, earnings estimates;
- changes in securities analysts' buy/sell recommendations;
- differences between our reported results and those expected by investors and securities analysts;
- announcements of new contracts by us or our competitors;

## Table of Contents

- market reaction to any acquisitions, joint ventures or strategic investments announced by us or our competitors; and
- general economic, political or stock market conditions.

Recent events have caused stock prices for many companies, including ours, to fluctuate in ways unrelated or disproportionate to their operating performance. The general economic, political and stock market conditions that may affect the market price of our common stock are beyond our control. The market price of our common stock at any particular time may not remain the market price in the future.

***If we fail to maintain the listing of our common stock with a U.S. national securities exchange, the liquidity of our common stock could be adversely affected.***

Our ability to publicly or privately sell equity securities and the liquidity of our common stock could be adversely affected if we are delisted from the Nasdaq Capital Market or if we are unable to transfer our listing to another stock market.

Our common stock is listed for trading on the Nasdaq Capital Market. Nasdaq has adopted a number of continued listing standards that are applicable to our common stock, including a requirement that the bid price of our common stock be at least \$1.00 per share. Failure to maintain the minimum bid price can result in the delisting of our common stock from the Nasdaq Capital Market.

On July 9, 2019, we received a letter from the Listing Qualifications Department of the Nasdaq Stock Market notifying us that the minimum bid price per share for our common stock fell below \$1.00 for a period of 30 consecutive business days and that therefore we did not meet the minimum bid price requirement set forth in Nasdaq Listing Rule 5550(a)(2) (the “Minimum Bid Price Requirement”). The letter also states that we will be provided 180 calendar days, or until January 6, 2020, to regain compliance with the Minimum Bid Price Requirement, which we were unable to do.

On December 2, 2019, we received a notice from the Listing Qualifications Department of the Nasdaq Stock Market indicating that we also did not meet the minimum of \$2,500,000 in stockholders’ equity required by Listing Rule 5550(b)(1) for continued listing (the “Stockholders’ Equity Requirement”), which we also were unable to remedy.

On January 7, 2020, we received a letter (the “Nasdaq Letter”) from the Staff notifying us that we had not regained compliance with the minimum bid price requirement set forth in Nasdaq Listing Rule 5550(a)(2) (the “Bid Price Requirement”) by January 6, 2020, the 180 calendar day period previously provided in the letter received from the Staff on July 9, 2019 to regain compliance. The letter also confirmed that we are not eligible for a second 180 day period to regain compliance due to us not satisfying the Stockholders’ Equity Requirement.

On January 13, 2020, we submitted a written request for a hearing before a Nasdaq Hearings Panel (the “Panel”) to appeal the determination of the staff of the Nasdaq Listing Qualifications Department (the “Staff”) relating to the previously disclosed Nasdaq Letter. The hearing before the Panel was on February 27, 2020 and no decision has been received yet. The hearing request will stay any delisting action by Nasdaq of our common stock at least until the Panel renders a decision in this matter. At the hearing, we outlined our plan to regain compliance with the Bid Price Requirement and the Stockholders’ Equity Requirement. There can be no assurance that the Panel will accept our compliance plan. Our plan of compliance is to complete the Merger with Clearday, and regain compliance based upon the combined company’s financial condition and operations and governance. The Merger will take time to complete, and the Nasdaq Hearing Panel may not, under Nasdaq’s rules, grant us beyond July 6, 2020, if they decide to grant us any time at all, in their discretion.

As of the date of this Report, the Nasdaq Hearing Panel has not ruled on our request to obtain additional time in which to cure our listing deficiencies. There is no assurance as to when or how the Nasdaq Hearing Panel

## [Table of Contents](#)

will rule, or whether, even if a ruling is to provide us additional time, the amount of time will be sufficient. In addition, there is no assurance that the SEC will declare our planned Form S-4 effective at all or in a timely manner, nor is there any assurance that the various conditions to the Merger Agreement will be satisfied at all or in a timely manner. In particular, there is no assurance that the financial statements required of Clearday will be provided in a timely manner or that they will be reasonably satisfactory to us.

If our common stock is delisted by Nasdaq, our common stock may be eligible to trade on the OTC Bulletin Board, OTC QB or another over-the-counter market. Any such alternative would likely result in it being more difficult for us to raise additional capital through the public or private sale of equity securities and for investors to dispose of, or obtain accurate quotations as to the market value of, our common stock. In addition, there can be no assurance that our common stock would be eligible for trading on any such alternative exchange or markets.

***We have a significant number of outstanding warrants and options, and future sales of the shares obtained upon exercise of these options or warrants could adversely affect the market price of our common stock.***

As of December 31, 2019, we had outstanding options exercisable for an aggregate of 137,256 shares of common stock at a weighted average exercise price of \$25.20 per share and warrants to purchase up to 16,181,232 shares of our common stock at a weighted average exercise price of \$2.60 per share. The holders may sell these shares in the public markets from time to time under a registration statement or under Rule 144, without limitations on the timing, amount or method of sale. As our stock price rises, the holders may exercise their warrants and options and sell a large number of shares. This could cause the market price of our common stock to decline.

***Our corporate governance structure may prevent our acquisition by another company at a premium over the public trading price of our shares.***

It is possible that the acquisition of a majority of our outstanding voting stock by another company could result in our stockholders receiving a premium over the public trading price for our shares. Provisions of our restated certificate of incorporation and our amended and restated bylaws, each as amended, and of Delaware corporate law could delay or make more difficult an acquisition of our company by merger, tender offer or proxy contest, even if it would create an immediate benefit to our stockholders. For example, our restated certificate of incorporation does not permit stockholders to act by written consent, and our bylaws generally require ninety days advance notice of any matters to be brought before the stockholders at an annual or special meeting.

In addition, our board of directors has the authority to issue up to 2,000,000 shares of preferred stock and to determine the terms, rights and preferences of this preferred stock, including voting rights of those shares, without any further vote or action by the stockholders. At December 31, 2019, 1,370,710 shares of preferred stock remained unissued. The rights of the holders of common stock may be subordinate to, and adversely affected by, the rights of holders of preferred stock that may be issued in the future. The issuance of preferred stock could also make it more difficult for a third party to acquire a majority of our outstanding voting stock, even at a premium over our public trading price.

Furthermore, our certificate of incorporation also provides for a classified board of directors with directors divided into three classes serving staggered terms. These provisions may have the effect of delaying or preventing a change in control of us without action by our stockholders and, therefore, could adversely affect the price of our stock or the possibility of sale of shares to an acquiring person.

***We do not anticipate declaring any cash dividends on our common stock.***

We have never declared or paid cash dividends on our common stock and do not plan to pay any cash dividends in the near future. Our current policy is to retain all funds and earnings for use in the operation and expansion of our business.

---

[Table of Contents](#)

**ITEM 1B. UNRESOLVED STAFF COMMENTS**

Not applicable.

**ITEM 2. PROPERTIES**

We lease all of our properties. All of our operations, including our manufacturing facilities, are currently located in an industrial complex in Austin, Texas comprising approximately 94,000 square feet. In December 2016, we renewed our Austin lease for an additional three year term and that lease now expires in March 31, 2020. We will not be renewing this lease as we wind down our Conductus wire manufacturing efforts and pursue strategic alternatives. See ‘*Subsequent Events*’.

**ITEM 3. LEGAL PROCEEDINGS**

From time to time, we are party to various lawsuits, claims and other legal proceedings that arise in the ordinary course of our business. Excluding ordinary, routine litigation incidental to our business, we are not currently a party to any legal proceedings that we believe would reasonably be expected to have a material adverse effect on our business, financial condition or results of operation or cash flow.

**ITEM 4. MINE SAFETY DISCLOSURES**

Not applicable.

**PART II****ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES****Market for Common Stock**

Our common stock is traded on the NASDAQ Capital Market under the symbol "SCON." The following table shows the high and low sales prices for our common stock as reported by NASDAQ for each calendar quarter in the last two fiscal years:

| <b>2019</b>                      | <b>High</b> | <b>Low</b> |
|----------------------------------|-------------|------------|
| Quarter ended December 31, 2019  | \$0.79      | \$0.12     |
| Quarter ended September 28, 2019 | \$1.07      | \$0.48     |
| Quarter ended June 29, 2019      | \$1.86      | \$0.70     |
| Quarter ended March 30, 2019     | \$2.58      | \$1.25     |
| <b>2018</b>                      | <b>High</b> | <b>Low</b> |
| Quarter ended December 31, 2018  | \$ 2.50     | \$1.03     |
| Quarter ended September 29, 2018 | \$12.88     | \$1.47     |
| Quarter ended June 30, 2018      | \$10.90     | \$8.50     |
| Quarter ended March 31, 2018     | \$14.90     | \$9.30     |

**Holders of Record**

We had 5 holders of record of our common stock on March 21, 2020. This number does not include stockholders for whom shares were held in a "nominee" or "street" name. We estimate that there are more than 4,300 beneficial owners of our common stock.

**Dividends**

We have never paid cash dividends and intend to employ all available funds in the development of our business. We have no plans to pay cash dividends in the near future.

Our ability to declare or pay dividends on shares of our common stock is subject to the requirement that we pay an equivalent dividend on each outstanding share of our Preferred Stock (on an as-converted basis).

**Sales of Unregistered Securities**

We did not conduct any offerings of equity securities during the fourth quarter of 2019 that were not registered under the Securities Act of 1933.

**Repurchases of Equity Securities**

None.



**Securities Authorized for Issuance Under Equity Compensation Plans**
**Equity Compensation Plan Information**

| <u>Plan Category</u>                                       | <u>Number of securities to be issued upon exercise of outstanding options, warrants and rights</u> | <u>Weighted-average exercise price of outstanding options, warrants and rights</u> | <u>Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a))</u> |
|--|--|--|--|
| Equity compensation plans approved by security holders     | 137,256  | \$ 25.20   | 78,452   |
| Equity compensation plans not approved by security holders | —  | —  | —  |
| <b>Total</b>   | <b>137,256</b>   | <b>\$ 25.20</b>  | <b>78,452</b>  |

**ITEM 6. SELECTED FINANCIAL DATA**

The information set forth below is not necessarily indicative of results of future operations and should be read in conjunction with our Financial Statements and Notes thereto appearing in Item 15 of Part IV of this Report and “Management’s Discussion and Analysis of Financial Condition and Results of Operations”.

|  | <u>Years Ended December 31,</u> |                  |                  |                   |                  |
|--|---------------------------------|------------------|------------------|-------------------|------------------|
|  | <u>2019</u>                     | <u>2018</u>      | <u>2017</u>      | <u>2016</u>       | <u>2015</u>      |
| <b>Statement of Operations Data:</b>           |                                 |                  |                  |                   |                  |
| Net revenues:                                  |                                 |                  |                  |                   |                  |
| Net commercial product revenues                | \$ 5                            | \$ —             | \$ 11            | \$ 131            | \$ 244           |
| Government and other contract revenues         | 540                             | 1,556            | 435              | —                 | —                |
| <b>Total net revenues</b>                      | <b>545</b>                      | <b>1,556</b>     | <b>446</b>       | <b>131</b>        | <b>244</b>       |
| Costs and expenses:                            |                                 |                  |                  |                   |                  |
| Cost of revenues                               | 3,259                           | 2,245            | 3,072            | 3,444             | 3,004            |
| Cost of government and other contract revenues | 303                             | 1,210            | 331              | —                 | —                |
| Other research and development                 | 2,353                           | 2,352            | 2,644            | 2,784             | 4,125            |
| Selling, general and administrative            | 3,918                           | 3,972            | 4,062            | 5,146             | 5,838            |
| <b>Total costs and expenses</b>                | <b>9,833</b>                    | <b>9,779</b>     | <b>10,109</b>    | <b>11,374</b>     | <b>12,967</b>    |
| Loss from operations                           | (9,288)                         | (8,223)          | (9,663)          | (11,243)          | (12,723)         |
| Other income (expense), net                    | 59                              | 92               | 136              | 127               | 4,121            |
| Net loss                                       | <u>\$(9,229)</u>                | <u>\$(8,131)</u> | <u>\$(9,527)</u> | <u>\$(11,116)</u> | <u>\$(8,602)</u> |
| Basic and diluted net loss per common share    | <u>\$(1.23)</u>                 | <u>\$(4.03)</u>  | <u>\$(9.06)</u>  | <u>\$(35.31)</u>  | <u>\$(65.97)</u> |
| Weighted average number of shares              |                                 |                  |                  |                   |                  |
| Outstanding                                    | 7,487                           | 2,017            | 1,052            | 315               | 131              |

|   | <u>Years Ended December 31,</u> |             |             |             |             |
|---|---------------------------------|-------------|-------------|-------------|-------------|
|   | <u>2019</u>                     | <u>2018</u> | <u>2017</u> | <u>2016</u> | <u>2015</u> |
| <b>Balance Sheet Data:</b>                |                                 |             |             |             |             |
| Cash and cash equivalents                 | \$ 713                          | \$5,616     | \$3,056     | \$10,452    | \$ 7,469    |
| Working capital (deficit)                 | 429                             | 4,998       | 2,562       | 9,693       | 6,900       |
| Total assets                              | 2,482                           | 7,614       | 5,996       | 15,214      | 14,365      |
| Long-term debt, including current portion | 12                              | 17          | 54          | 172         | 400         |
| Total stockholders’ equity                | \$1,503                         | \$6,745     | \$5,112     | \$14,098    | \$13,122    |

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

This Management's Discussion and Analysis of Financial Condition and Results of Operations includes many forward-looking statements. For cautions about relying on such forward looking statements, please refer to the section entitled "Forward Looking Statements" at the beginning of this Report immediately prior to Item 1. Please see "Our Future Business" for additional important information.

**General**

We are a leading company in developing and commercializing high temperature superconductor ("HTS") materials and related technologies. HTS materials can substantially improve the performance characteristics of electrical systems, reducing power loss, lowering heat generation, and decreasing electrical noise.

**Results of Operations****2019 Compared to 2018**

Total revenues decreased by \$1,011,000 or 65%, to \$545,000 in 2019 from \$1,556,000 in 2018. Government contract revenues were \$540,000 or 99% of total revenue, of our total revenue in 2019 and \$1,556,000 or 100% of total revenues in 2018.

Cost of commercial product revenues includes all direct costs, manufacturing overhead, preproduction process development and provision for excess and obsolete inventories. The cost of commercial product revenues totaled \$3.3 million for 2019 compared to \$2.2 million in 2018. Cost of government product revenues totaled \$0.3 million for 2019 compared to \$1.2 million in 2018.

Our cost of commercial product revenues includes both variable and fixed cost components. The variable component consists primarily of materials, assembly and test labor, overhead, which includes equipment and facility depreciation, transportation costs and warranty costs. The fixed component includes test equipment and facility depreciation, purchasing and procurement expenses and quality assurance costs. Given the fixed nature of such costs, the absorption of our production overhead costs into inventory decreases and the amount of production overhead variances charged to cost of sales increases as production volumes decline since we have fewer units to absorb our overhead costs against. Conversely, the absorption of our production overhead costs into inventory increases and the amount of production overhead variances expensed to cost of sales decreases as production volumes increase since we have more units to absorb our overhead costs against. As a result, our gross profit margins generally decrease as revenue and production volumes decline due to lower sales volume and higher amounts of production overhead variances expensed to cost of sales; and our gross profit margins generally increase as our revenue and production volumes increase due to higher sales volume and lower amounts of production overhead variances expensed to cost of sales.

The following is an analysis of our product gross profit margins for 2019 and 2018:

| <i>Dollars in Thousands</i>         | Years Ended<br>December 31, |                  |
|-------------------------------------|-----------------------------|------------------|
|                                     | 2019                        | 2018             |
| Commercial product revenues         | \$ 5                        | \$ —             |
| Cost of commercial product revenues | 3,259                       | 2,245            |
| Gross loss                          | <u>\$(3,254)</u>            | <u>\$(2,245)</u> |

We had a gross loss of \$3.3 million in 2019 from the sale of our commercial products compared to a gross loss of \$2.2 million in 2018. We experienced a gross loss in 2019 and 2018 due to: our increased manufacturing efforts to bring our Conductus wire production to market; our processes not yet being finalized for high yield

## [Table of Contents](#)

manufacturing and; our sales being insufficient to cover our overhead. We have not been able to improve our manufacturing processes and increasing our yields at lower than optimal capacity and have now ceased our Conductus wire manufacturing.

In June 2017, we finalized negotiations on a \$4.5 million DOE contract and have begun work on this government contract. Our first year goals under this contract are to increase current carrying capacity and reduce costs of our Conductus wire. Our 2019 government contract revenues were \$540,000 and cost of government contract revenues, which include all direct contract costs and overhead, were \$303,000. Since we have ceased manufacturing of our Conductus wire, we are now concluding our efforts on this contract.

Research and development expenses relate to development of new wire products and new wire product manufacturing processes. In 2017, we ceased research and development efforts for our wireless commercial products. Research and development expenses totaled \$2.4 million in 2019 compared to \$2.4 million in 2018.

Selling, general and administrative expenses totaled \$3.9 million in 2019 compared to \$4.0 million in 2018, a decrease of \$0.1 million, or 3%. The lower expenses in 2019 were primarily the result cost reductions.

Other income of \$59,000 and \$64,000 in 2019 and 2018, respectively, was interest income.

Net loss totaled \$9.2 million in 2019, compared to \$8.1 million in 2018, an increase of \$1.1 million, or 14%. The increase in net loss principally resulted from \$1.0 million lower 2019 government revenues.

The net loss available to common stockholders totaled \$1.23 per common share in 2019, compared to a net loss of \$4.03 per common share in 2018, a decrease of \$2.80, or 69%. The decreased loss per common share in 2019 principally resulted from a greater number of common shares outstanding at December 31, 2019 compared to December 31, 2018.

### ***2018 Compared to 2017***

Total revenues increased by \$1,110,000 or 249%, to \$1,556,000 in 2018 from \$446,000 in 2017. Government contract revenues were \$1,556,000 or 100% of total revenue, of our total revenue in 2018 and \$435,000 or 98% of total revenues in 2017. Sales of our Conductus wire are expected to increase as we reach commercial production of Conductus wire.

Cost of commercial product revenues includes all direct costs, manufacturing overhead, preproduction process development and provision for excess and obsolete inventories. The cost of commercial product revenues totaled \$2.2 million for 2018 compared to \$3.1 million in 2017. Cost of government product revenues totaled \$1.2 million for 2018 compared to \$0.3 million in 2017.

Our cost of commercial product revenues includes both variable and fixed cost components. The variable component consists primarily of materials, assembly and test labor, overhead, which includes equipment and facility depreciation, transportation costs and warranty costs. The fixed component includes test equipment and facility depreciation, purchasing and procurement expenses and quality assurance costs. Given the fixed nature of such costs, the absorption of our production overhead costs into inventory decreases and the amount of production overhead variances charged to cost of sales increases as production volumes decline since we have fewer units to absorb our overhead costs against. Conversely, the absorption of our production overhead costs into inventory increases and the amount of production overhead variances expensed to cost of sales decreases as production volumes increase since we have more units to absorb our overhead costs against. As a result, our gross profit margins generally decrease as revenue and production volumes decline due to lower sales volume and higher amounts of production overhead variances expensed to cost of sales; and our gross profit margins generally increase as our revenue and production volumes increase due to higher sales volume and lower amounts of production overhead variances expensed to cost of sales.

## [Table of Contents](#)

The following is an analysis of our product gross profit margins for 2018 and 2017:

| <i>Dollars in Thousands</i>         | Years Ended<br>December 31, |                  |
|-------------------------------------|-----------------------------|------------------|
|                                     | 2018                        | 2017             |
| Commercial product revenues         | \$ —                        | \$ 11            |
| Cost of commercial product revenues | 2,245                       | 3,072            |
| Gross loss                          | <u>\$(2,245)</u>            | <u>\$(3,061)</u> |

We had a gross loss of \$2.2 million in 2018 from the sale of our commercial products compared to a gross loss of \$3.1 million in 2017. We experienced a gross loss in 2018 and 2017 due to: our increased manufacturing efforts to bring our Conductus wire production to market; our processes not yet being finalized for high yield manufacturing and; our sales being insufficient to cover our overhead. As we emphasize improving manufacturing processes and increasing our yields at lower than optimal capacity, we expect gross losses to continue in 2019.

In June 2017, we finalized negotiations on a \$4.5 million DOE contract and have begun work on this government contract. Our first year goals under this contract are to increase current carrying capacity and reduce costs of our Conductus wire. Our 2018 government contract revenues were \$1,556,000 and cost of government contract revenues, which include all direct contract costs and overhead, were \$1,210,000.

Research and development expenses relate to development of new wire products and new wire product manufacturing processes. In 2017, we ceased research and development efforts for our wireless commercial products. Research and development expenses totaled \$2.4 million in 2018 compared to \$2.6 million in 2017, a decrease of \$0.2 million, or 8%. Our 2018 expenses were lower compared to 2017 as a result of our efforts moving from research and development to manufacturing of our new Conductus wire products.

Selling, general and administrative expenses totaled \$4.0 million in 2018 compared to \$4.1 million in 2017, a decrease of \$0.1 million, or 3%. The lower expenses in 2018 were primarily the result of lower stock-based compensation expense.

We had a gain from the decreased fair value of warrant derivatives of \$52,000 in 2018 compared to a gain of \$99,000 in 2017. The primary reason for the gains was the drop in our stock price offset by the resulting effect of the reduction in the exercise price of certain warrants. This warrant liability is adjusted to fair value each reporting period, and any change in value is recognized in the statement of operations. In 2018, we also had a \$24,000 warrant price revaluation expense due to our March 2018 financing. There was no price revaluation in 2017. See Note 5 — Stockholders' Equity: *Warrants*.

Other income of \$64,000 and \$37,000 in 2018 and 2017, respectively, was interest income.

Net loss totaled \$8.1 million in 2018, compared to \$9.5 million in 2017, a decrease of \$1.4 million, or 15%. The decrease in net loss principally resulted from \$1.1 million higher 2018 government revenues and \$0.3 million lower expenses.

The net loss available to common stockholders totaled \$4.03 per common share in 2018, compared to a net loss of \$9.06 per common share in 2017, a decrease of \$5.03, or 56%. The decreased loss per common share in 2018 principally resulted from a greater number of common shares outstanding at December 31, 2018 compared to December 31, 2017.

## **Liquidity and Capital Resources**

### ***Cash Flow Analysis***

As of December 31, 2019, we had net working capital of \$429,000, including \$713,000 in cash and cash equivalents, compared to net working capital of \$5.0 million at December 31, 2018, which included \$5.6 million in cash and cash equivalents. We currently invest our excess cash in short-term, investment-grade, money-market instruments with maturities of three months or less. Our investments have no exposure to the auction rate securities market. From March 3, 2020 through March 16, 2020, 5,551,7136 warrants were exercised for common shares of our stock in connection with our October 2019 financing, providing us with \$1.4 million. Our cash resources may therefore not be sufficient to fund our business through the end of the current fiscal year. Therefore, unless we can successfully implement our strategic alternatives plan including, among others, a business combination such as our merger with Clearday, or a sale of STI, we will need to raise additional capital during this fiscal year ending December 31, 2020 to maintain our viability. Additional financing may not be available on acceptable terms or at all. If we issue additional equity securities to raise funds, the ownership percentage of our existing stockholders would be reduced. New investors may demand rights, preferences or privileges senior to those of existing holders of common stock. These factors raise substantial doubt about our ability to continue as a going concern.

Cash and cash equivalents decreased by \$4.9 million from \$5.6 million at December 31, 2018 to \$0.7 million at December 31, 2019. In 2019, \$8.8 million cash was used in operations, while \$3.9 million was provided by financing activities.

In 2019 and 2018, net cash used in investing activities was zero and \$189,000, respectively. Our 2018 investing activities were for the purchase of property and equipment.

In 2019, net cash provided by two financing activities: (1) the May 2019 offering of our common stock, provided gross proceeds of \$1.7 million and, after deducting the placement agent fees and our offering expenses, net proceeds of \$1.4 million; (2) the October 2019 offering of our common stock and warrants provided gross proceeds of \$3.0 million and, after deducting the placement agent fees and our offering expenses, net proceeds of \$2.4 million.

In 2018, net cash provided by two financing activities: (1) the March 2018 offering of our common stock, common stock equivalents and warrants provided gross proceeds of \$2.0 million and, after deducting the placement agent fees and our offering expenses, net proceeds of \$1.7 million; (2) the July 2018 offering of our common stock, Series E Convertible Preferred Stock and warrants provided gross proceeds of \$9.0 million and, after deducting the placement agent fees and our offering expenses, net proceeds of \$7.98 million.

In 2017, net cash provided by financing activities was \$200,000 from the exercise of outstanding warrants.

### ***Financing Activities***

We have historically financed our operations through a combination of cash on hand, equipment lease financings, available borrowings under bank lines of credit and both private and public equity offerings.

From March 3, 2020 through March 16, 2020, 5,551,716 warrants were exercised for common shares of our stock in connection with our October 2019 financing, providing us with \$1.4 million.

On October 10, 2019 we completed a public offering of an aggregate of 11,834,000 shares of our common stock (or common stock equivalents) and warrants to purchase an aggregate of 11,834,000 shares of common stock with gross proceeds to us of approximately \$3.0 million. The warrants are exercisable for five years at an exercise price equal to the public offering price. The offering was priced at \$0.25 per share of common stock. The net proceeds to us from the offering, after deducting the placement agent fees and our estimated offering expenses, was approximately \$2.4 million. The October 10, 2019 offering did not raise sufficient proceeds for us to execute on our planned business operations over the next 12-months. Our current forecast is that our existing cash and cash equivalents resources will be sufficient to fund our planned operations into the first quarter of 2020 (See “*Future Liquidity*” below).

## [Table of Contents](#)

On May 23, 2019 we completed a public offering of an aggregate of 1,700,000 shares of our common stock with gross proceeds to us of \$1.7 million. The net proceeds to us from the offering, after deducting the placement agent fees and our estimated offering expenses, was \$1.4 million.

On July 30, 2018 we completed a public offering of an aggregate of 2,571,429 shares of our common stock (or common stock equivalents) and warrants to purchase an aggregate of 2,571,429 shares of common stock with gross proceeds to us of \$9.0 million. The net proceeds to us from the offering, after deducting the placement agent fees and our estimated offering expenses, was \$7.98 million.

On March 9, 2018, we completed a registered offering of common stock (and common stock equivalents) with total gross proceeds of approximately \$2 million. The net proceeds to us from the registered offering, after deducting the placement agent fees and our estimated offering expenses, was approximately \$1.7 million.

In 2017, we had no private or public offerings.

We currently intend to use the net proceeds of these offerings for working capital and general corporate purposes. General corporate purposes may include capital expenditures. In addition, we may use a portion of any net proceeds to acquire complementary products, technologies, or businesses.

### **Contractual Obligations and Commercial Commitments**

We incur various contractual obligations and commercial commitments in our normal course of business. They consist of the following:

*Operating Lease Obligations.* Our operating lease obligations consist of facilities leases in Austin, Texas, as well as several smaller equipment leases.

*Patents and Licenses.* We have entered into a licensing agreement requiring royalty payments ranging from 0.5% to 1.0% of specified product sales. The agreement contains a provision for the payment of guaranteed or minimum royalty amounts. Typically, the licensor can terminate our license if we fail to pay minimum annual royalties.

*Purchase Commitments.* In the normal course of business, we incur purchase obligations with vendors and suppliers for the purchase of inventory, as well as other goods and services. These obligations are generally evidenced by purchase orders that contain the terms and conditions associated with the purchase arrangements. We are committed to accept delivery of such material pursuant to the purchase orders subject to various contract provisions that allow us to delay receipt of such orders or cancel orders beyond certain agreed upon lead times. Cancellations may result in cancellation costs payable by us.

*Tabular Disclosure of Contractual Obligations.* At December 31, 2019, we had the following contractual obligations and commercial commitments:

| <b>Contractual Obligations</b>                 | <b>Payments Due by Period</b> |                  |                      |                      | <b>2025 and beyond</b> |
|--|-------------------------------|------------------|----------------------|----------------------|------------------------|
|  | <b>Total</b>                  | <b>2020</b>      | <b>2021 and 2022</b> | <b>2023 and 2024</b> |                        |
| Operating leases                               | \$152,000                     | \$148,000        | \$ 4,000             | \$ —                 | \$ —                   |
| Minimum license commitment                     | 60,000                        | 10,000           | 20,000               | 20,000               | 10,000                 |
| Fixed asset and inventory purchase commitments | 25,000                        | 25,000           | —                    | —                    | —                      |
| Total contractual cash obligations             | <u>\$237,000</u>              | <u>\$183,000</u> | <u>\$ 24,000</u>     | <u>\$ 20,000</u>     | <u>\$10,000</u>        |

### **Capital Expenditures**

We do not plan to invest in fixed assets during 2020.

***Future Liquidity***

In 2019, we incurred a net loss of \$9.2 million and had negative cash flows from operations of \$8.8 million. In 2018, we incurred a net loss of \$8.1 million and had negative cash flows from operations of \$6.9 million. At December 31, 2019 we had \$713,000 in cash. The October 10, 2019 offering did not raise sufficient proceeds for us to execute on our planned business operations over the next 12-months. Our cash resources were, therefore, not sufficient to fund our business through the end of the current fiscal year.

Therefore, on October 29, 2019, we announced that we had commenced a process to explore strategic alternatives focused on maximizing shareholder value. Strategic alternatives to consider would include, among others, a strategic investment financing which would allow the company to pursue its current business plan to continue to commercialize the Conductus wire platform, a business combination such as a merger with another party, or a sale of the company.

On February 26, 2020, Superconductor Technologies Inc. (“STI”), AIU Special Merger Company, Inc., a Delaware corporation and wholly-owned subsidiary of STI (“Merger Sub”), and Allied Integral United, Inc., a Delaware corporation (“Clearday”), entered into an Agreement and Plan of Merger (the “Merger Agreement”), pursuant to which, among other matters, and subject to the satisfaction or waiver of the conditions set forth in the Merger Agreement, Merger Sub will merge with and into Clearday, with Clearday continuing as a wholly-owned subsidiary of STI (the “Merger”), and STI would amend its certificate to effect a reverse stock split of its shares of common stock, par value \$0.001 per share (“STI Common Stock”) and change its name to Clearday, Inc. The Merger is intended to qualify as a tax-free reorganization for U.S. federal income tax purposes and has been approved by the boards of directors of STI and Clearday, respectively.

The Merger Agreement provides among other things, during the period from the date of the Merger Agreement until the Effective Time, each of STI and Clearday will be subject to certain restrictions on its ability to solicit alternative acquisition proposals from third parties, to provide non-public information to third parties and to engage in discussions with third parties regarding alternative acquisition proposals, subject to customary exceptions. Each of STI and Clearday are required to hold a meeting of its stockholders to vote upon the adoption of the Merger Agreement and, subject to certain exceptions, to recommend that its stockholders vote to adopt the Merger Agreement.

The completion of the Merger is subject to customary conditions, including (i) adoption of the Merger Agreement by each of STI and Clearday stockholders, (ii) Nasdaq approval of continued listing of STI Common Stock under its applicable rules, including the rules applicable to its change of control listing application, (iii) the registration statement on Form S-4 being declared effective by the Securities and Exchange Commission (“SEC”) and (iv) the STI officers with severance rights entering Waiver Agreements. Each party’s obligation to complete the Merger is also subject to certain additional customary conditions, including (i) subject to certain exceptions, the accuracy of the representations and warranties of the other party, (ii) subject to certain exceptions, performance by the other party of its obligations under the Merger Agreement, (iii) the absence of any Material Adverse Effect (as defined in the Merger Agreement) on the other party and (iv) the absence of any law, order, injunction, decree or other legal restraint preventing the completion of the Merger or making the completion of the Merger illegal. In addition, it is a condition to closing that STI’s adjusted net working capital computed in accordance with the terms of the Merger Agreement be not less than negative \$250,000 as of immediately prior to the Effective Time and that all directors of STI, other than Jeffrey Quiram, STI’s current Chief Executive Officer, shall have resigned from the Board of Directors of STI; Mr. Quiram is expected to remain a member of the Board of Directors.

The Merger Agreement can be terminated (i) at any time with the mutual consent of the parties, (ii) by either of STI and Clearday if any governmental consent or approval required for Closing is not obtained, or any governmental entity issues a final non-appealable order or similar decree preventing the Merger, (iii) by either of STI and Clearday if the Merger shall not have been consummated on or before July 6, 2020, (iv) by STI and

## Table of Contents

Clearday, upon the breach by the other of a term of the Merger Agreement, which is not cured within 15 days of the date of written notice thereof by the other; (v) by STI if Clearday is unable to obtain the affirmative vote of its stockholders for approval of the Merger; (vi) by Clearday if STI is unable to obtain the affirmative vote of its stockholders required pursuant to the terms of the Merger Agreement; (vii) by STI or Clearday if the other party's directors change their recommendation to their stockholders to approve the Merger in the manner contemplated by the Merger Agreement, or if there is a knowing and material breach by the other party thereto to seek such stockholder approval or to mail the Registration Statement to its stockholders ("Change of Recommendation/Meeting Breach") and (viii) by STI if it has delivered a Superior Notice (as defined in the Merger Agreement). STI also has specified additional termination rights discussed below.

Except as otherwise agreed in writing by the parties, all out-of-pocket costs and expenses incurred in connection with this Agreement, the Merger and the other transactions contemplated hereby and by this Agreement shall be paid by the party incurring such cost or expense; provided, that Clearday shall reimburse, as incurred, up to \$175,000 of STI reasonable, documented, out of pocket legal and accounting expenses incurred by STI in connection with the preparation, filing and clearing of SEC comments with respect to the Registration Statement.

STI agreed that if the Merger Agreement shall be terminated because it has delivered a Superior Notice or because of a Change of Recommendation/Meeting Breach, then STI will pay to Clearday a break-up fee (described below). STI also agreed that if the Merger Agreement is terminated due to a failure to obtain approval from STI's stockholders and, after the date of the Merger Agreement and prior to such termination, STI were to consummate certain competing transactions within a 12 month period, then STI would also pay Clearday a break-up fee.

Clearday agreed that if the Merger Agreement shall be terminated because of a Change of Recommendation/Meeting Breach, then Clearday will pay to STI a break-up fee (described below). Clearday also agreed that if the Merger Agreement is terminated due to a failure to obtain approval from Clearday's stockholders, then Clearday would also pay STI a break-up fee.

Any break-up fee payable by STI would equal to three percent (3%) of the STI Value, as would be calculated at the time such fee is due. Any break-up fee payable by Clearday would be equal to (A) \$300,000 if the Merger Agreement were terminated because of a failure of Clearday to obtain the approval from its stockholders, less the amount of STI expenses related to the transactions contemplated hereby that are payment obligations of Clearday under the Merger Agreement and (B) \$1,850,000, plus STI reasonable, documented, out of pocket expenses incurred directly in connection with the negotiation, preparing and consummation of the Merger Agreement and the transactions contemplated hereby, if the Merger Agreement is terminated because of a Clearday Change of Recommendation/Meeting Breach.

STI also has several rights to terminate the Merger Agreement without paying or receiving a break-up fee, including if (i) Clearday's financial statements for the fiscal years ended December 31, 2018 and December 31, 2019 have either (A) not been delivered to STI on or prior to close of business on March 31, 2020 or such other date that is agreed by STI and Clearday, or (B) not been audited by a PCAOB registered audit firm that is reasonably acceptable to STI and who provides an unqualified audit opinion with respect to such financial statements and such accounting firm provides their consent as experts with respect to such audited financial statements for inclusion in the Registration Statement, or (C) are not, in form or substance, reasonably satisfactory to STI and (ii) if the firm that STI has retained for the purposes of delivering a fairness opinion qualifies its report or analysis, or is unwilling to provide an affirmative opinion as to fairness from a financial point of view, on the basis of the financial information that is delivered by Clearday. The parties also have rights to terminate without paying a break-up fee if their respective disclosure schedules are not timely delivered and are acceptable.

The Merger Agreement contains customary representations and warranties. The representations, warranties and covenants of each party set forth in the Merger Agreement have been made only for the purposes of, and



## [Table of Contents](#)

were and are solely for the benefit of the parties to, the Merger Agreement, may be subject to limitations agreed upon by the contracting parties, including being qualified by confidential disclosures made for the purposes of allocating contractual risk between the parties to the Merger Agreement instead of establishing these matters as facts, and may be subject to standards of materiality applicable to the contracting parties that differ from those applicable to investors. Accordingly, the representations and warranties may not describe the actual state of affairs at the date they were made or at any other time, and investors should not rely on them as statements of fact. In addition, such representations and warranties (i) will not survive consummation of the Merger and (ii) were made only as of the date of the Merger Agreement or such other date as is specified in the Merger Agreement. Moreover, information concerning the subject matter of the representations and warranties may change after the date of the Merger Agreement, which subsequent information may or may not be fully reflected in the parties' public disclosures. Accordingly, the Merger Agreement is included with this filing only to provide investors with information regarding the terms of the Merger Agreement, and not to provide investors with any factual information regarding STI or Clearday, their respective affiliates or their respective businesses. The Merger Agreement should not be read alone, but should instead be read in conjunction with the other information regarding the STI, Clearday, their respective affiliates or their respective businesses, the Merger Agreement and the Merger that will be contained in, or incorporated by reference into, the Registration Statement, as well as in the Forms 10-K, Forms 10-Q and other filings that STI makes with the SEC.

From March 3, 2020 through March 16, 2020, 5,551,716 warrants were exercised for common shares of our stock in connection with our October 2019 financing, providing us with \$1.4 million.

Subsequent to the announcement on January 28, 2020 about our cost reduction plan, we started the process of selling, in separate transactions, assets that we deemed non-essential going forward. The latest such transaction entered into on March 5th, when considered in combination with the prior transactions since January 28, 2020, may be deemed a material definitive purchase agreement for sales of various production, R&D, and testing equipment and selected intellectual property related primarily to our superconducting wire initiative. The aggregate sales prices of the post January 28th transactions is expected to be approximately \$1,075,000, all sold to purchasers having no affiliation with us. When the transactions are completed over the next several weeks, we will continue to hold production, R&D, and testing assets for our Sapphire cryocooler business, along with the majority of our intellectual property assets. The proceeds from this series of transactions is expected to be sufficient, together with our other capital resources, for us to complete the Merger, although the Merger is still subject to various material conditions and contingencies.

Our independent registered public accounting firm has included in their audit reports for 2018 through 2019 an explanatory paragraph expressing substantial doubt about our ability to continue as a going concern.

### **Net Operating Loss Carryforward**

As of December 31, 2019, we had net operating loss carryforwards for federal and state income tax purposes of approximately \$342.4 million of which \$325 million expire in the years 2020 through 2038. Of these amounts, \$66.9 million resulted from the acquisition of Conductus. We also had \$8.4 million of Federal net operating losses from the 2018 tax year and \$3.5 million from the 2019 tax year which do not expire, but are subject to an annual limitation under section 382 as discussed below. We had \$17.9 million of federal net operating losses from post 2017 years which do not expire. Under the Internal Revenue Code change of control limitations, a maximum of \$17.9 million will be available for reduction of future taxable income.

Due to the uncertainty surrounding their realization, we have recorded a full valuation allowance against our net deferred tax assets. Accordingly, no deferred tax asset has been recorded in the accompanying consolidated balance sheets.

Section 382 of the Internal Revenue Code imposes an annual limitation on the utilization of net operating loss carryforwards based on a statutory rate of return (usually the "applicable federal funds rate", as defined in

## [Table of Contents](#)

the Internal Revenue Code) and the value of the corporation at the time of a “change of ownership” as defined by Section 382. We had changes in ownership in August 1999, December 2002, June 2009, August 2013, December 2016 and May 2019. In addition, we acquired the right to Conductus’ net operating losses, which are also subject to the limitations imposed by Section 382. Conductus underwent seven ownership changes, for purpose of this rule, which occurred in February 1999, February 2001, December 2002, June 2009, August 2013, December 2016 and May 2019. Therefore, our net operating loss carryforwards of \$337 million which were incurred prior to the 2019 ownership changes, will be subject in future periods to annual limitations of \$115,000. Net operating losses released from this limitation and/or incurred by us subsequent to the ownership changes and therefore not subject to this limitation totaled \$5.9 million. An additional \$71,000 in losses were released from limitation during the year under Section 382.

### **Market Risk**

We are exposed to various market risks, including changes in interest rates. Market risk is the potential loss arising from adverse changes in market rates and prices. We do not enter into derivatives or other financial instruments for trading or speculation purposes. Our money market investments have no exposure to the auction rate securities market.

At December 31, 2019, we had approximately \$0.5 million invested in a money market account yielding approximately 0.5%. Assuming no yield on this money market account and no liquidation of principal for the year, our total interest income would decrease by less than \$3,000 per annum.

### **Inflation**

We do not foresee any material impact on our operations from inflation.

### **Critical Accounting Policies and Estimates**

Our discussion and analysis of our financial condition and results of operations are based upon our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States of America. The preparation of these consolidated financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses, and related disclosure of contingent assets and liabilities. We continually evaluate our estimates, including those related to bad debts, inventories, recovery of long-lived assets, income taxes, warranty obligations, contract revenue and contingencies. We base our estimates on historical experience and on various other assumptions that we believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Any future changes to these estimates and assumptions could cause a material change to our reported amounts of revenues, expenses, assets and liabilities. Actual results may differ from these estimates under different assumptions or conditions.

On July 24, 2018, we effected a 1-for-10 reverse stock split of our common stock, or the Second Reverse Stock Split. As a result of the Second Reverse Stock Split, every ten shares of our pre-Second Reverse Stock Split common stock were combined and reclassified into one share of our common stock. The Second Reverse Stock Split did not change the authorized number of shares or the par value of our common stock.

Share and per share data included in this Item 7 have been retroactively adjusted, as applicable, for the effect of the reverse stock splits. Certain of the information contained in the documents incorporated by reference herein and therein present information on our common stock on a pre-reverse stock split basis.

We identified certain critical accounting policies which affect certain of our more significant estimates and assumptions used in preparing our consolidated financial statements in this Annual Report on Form 10-K for 2019. We have not made any material changes to these policies.

## [Table of Contents](#)

We believe the following critical accounting policies affect our more significant judgments and estimates used in the preparation of the consolidated financial statements. We maintain allowances for doubtful accounts for estimated losses resulting from the inability of our customers to make required payments. If the financial condition of our customers were to deteriorate, resulting in an impairment of their ability to make payments, additional allowances may be required. We write down our inventory for estimated obsolescence or unmarketable inventory equal to the difference between the cost of inventory and the estimated net realizable value based upon assumptions about future demand and market conditions. If actual market conditions are less favorable than those projected by management, additional inventory write-downs may be required.

Our inventory is valued at the lower of its actual cost or net realizable value of the inventory. We review inventory quantities on hand and on order and record, on a quarterly basis, a provision for excess and obsolete inventory and/or vendor cancellation charges related to purchase commitments. If the results of the review determine that a write-down is necessary, we recognize a loss in the period in which the loss is identified, whether or not the inventory is retained. Our inventory reserves establish a new cost basis for inventory and are not reversed until we sell or dispose of the related inventory. Such provisions are established based on historical usage, adjusted for known changes in demands for such products, or the estimated forecast of product demand and production requirements. We recognize all manufacturing preproduction process development expenses as cost of revenues in the period they are incurred. Our business is characterized by rapid technological change, frequent new product development and rapid product obsolescence that could result in an increase in the amount of obsolete inventory quantities on hand. Demand for our products can fluctuate significantly. Our estimates of future product demand may prove to be inaccurate, and we may understate or overstate the provision required for excess and obsolete inventory.

Commercial product revenues consist of revenue from sales of products, net of trade discounts and allowances. We recognize revenue when evidence of an arrangement exists, contractual obligations have been satisfied, title and risk of loss have been transferred to the customer and collection of the resulting receivable is reasonably assured. At the time revenue is recognized, we provide for the estimated cost of product warranties if allowed for under contractual arrangements and return products. Our warranty obligation is affected by product failure rates and service delivery costs incurred in correcting a product failure. Should such failure rates or costs differ from these estimates, accrued warranty costs would be adjusted.

We indemnify, without limit or term, our customers against all claims, suits, demands, damages, liabilities, expenses, judgments, settlements and penalties arising from actual or alleged infringement or misappropriation of any intellectual property relating to our products or other claims arising from our products. We have no known losses and we cannot reasonably develop an estimate of the maximum potential amount of payments that might be made under our indemnities because of the uncertainty as to whether a claim might arise and how much it might total.

Government contract revenues are principally generated under research and development contracts. Contract revenues are derived primarily from research contracts with agencies of the United States Government. Credit risk related to accounts receivable arising from such contracts is considered minimal. These contracts may include cost-plus, fixed price and cost sharing arrangements and are generally short-term in nature.

All payments to us for work performed on contracts with agencies of the U.S. Government are subject to adjustment upon audit by the Defense Contract Audit Agency. Based on historical experience and review of current projects in process, we believe that the audits will not have a significant effect on our financial position, results of operations or cash flows. The Defense Contract Audit Agency has audited us through 2018.

We periodically evaluate the realizability of long-lived assets as events or circumstances indicate a possible inability to recover the carrying amount. Long-lived assets that will no longer be used in our business are written off in the period identified since they will no longer generate any positive cash flows for us. Such evaluation is based on various analyses, including cash flow and profitability projections, as well as alternative uses, such as

## Table of Contents

government contracts or awards. The analyses necessarily involve significant management judgment. In the event the projected undiscounted cash flows are less than net book value of the assets, the carrying value of the assets will be written down to their estimated fair value. Our future cash flows may vary from estimates.

The fair value of our warrant liabilities was determined using the binomial lattice valuation model, including an equal probabilities tree and an early exercise factor. These derivative liabilities were adjusted to reflect fair value at each period end, with any increase or decrease in the fair value recognized in our consolidated statement of operations. These warrants expired on August 9, 2018 and had no value at December 31, 2018 and December 31, 2019.

Stock-based employee compensation cost is recognized using the fair-value based method for all awards granted. We issue stock option awards and restricted share awards to employees and to non-employee directors under our stock-based incentive plans. The fair value of each option grant is estimated on the date of grant using the Black-Scholes option pricing model. Compensation cost related to restricted share awards is recorded based on the market price of our common stock on the grant date. We recognize compensation expense over the expected service period, generally the vesting period on a straight-line basis from the grant date.

Our valuation allowance against the deferred tax assets is based on our assessments of historical losses and projected operating results in future periods. If and when we generate future taxable income in the U.S. against which these tax assets may be applied, some portion or all of the valuation allowance would be reversed and an increase in net income would consequently be reported in future years.

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

See “*Management’s Discussion and Analysis of Financial Condition and Results of Operations — Market Risk.*”

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

All information required by this item is listed in the Index to Financial Statements in Part IV, Item 15(a)1 of this Report.

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

Not applicable.

### **ITEM 9A. CONTROLS AND PROCEDURES**

#### **Disclosure Controls and Procedures; Changes in Internal Control Over Financial Reporting**

We have established disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended). As of the end of the period covered by this report we carried out an evaluation under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures pursuant to Rule 13a-15 of the Securities and Exchange Act of 1934, as amended. Based upon that evaluation, the Chief Executive Officer and Chief Financial Officer concluded, as of that time, that our disclosure controls and procedures are effective.

There were no changes in our internal controls over financial reporting during the fourth quarter of the year ended December 31, 2019 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

## [Table of Contents](#)

We do not expect that our disclosure controls and procedures or our internal controls will prevent all error and all fraud. A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are 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, have been detected.

### **Management's Report on Internal Control Over Financial Reporting**

Our management is responsible for establishing and maintaining adequate internal control over our financial reporting (as defined in Rule 13a-15(f) under the Securities Exchange Act of 1934, as amended). Our management assessed the effectiveness of our internal controls over financial reporting as of December 31, 2019. In making its assessment of the effectiveness of our internal controls over financial reporting, our management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission in Internal Control-Integrated Framework (2013). Based on these criteria, our management has concluded that, as of December 31, 2019, our internal control over financial reporting is effective.

This Report does not include an attestation report of our registered public accounting firm regarding internal control over financial reporting. This Report was not subject to attestation by our registered public accounting firm pursuant to the rules of the Securities and Exchange Commission.

### **ITEM 9B. OTHER INFORMATION**

None.

## **PART III**

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

#### **Directors and Executive Officers**

The following table sets forth certain information regarding those individuals currently serving as our directors (or nominated to serve as a director) and executive officers as of March 15, 2020:

| <u>Name</u>                      | <u>Age</u> | <u>Position</u>  |
|----------------------------------|------------|--|
| Lynn J. Davis(1)(2)(3)(4)        | 73         | Director   |
| David W. Vellequette(1)(2)(3)(5) | 63         | Director   |
| Julia S. Johnson(1)(2)(3)(5)     | 53         | Director   |
| Jeffrey A. Quiram(4)(5)          | 59         | President, Chief Executive Officer and Director                      |
| William J. Buchanan              | 71         | Chief Financial Officer (Principal Financial and Accounting Officer) |
| Robert L. Johnson                | 69         | Senior Vice President, Operations                                    |
| Adam L. Shelton                  | 53         | Vice President, Product Management and Marketing                     |

- (1) Member of our Audit Committee.
- (2) Member of our Compensation Committee.
- (3) Member of our Governance and Nominating Committee.
- (4) Member of our Stock Option Committee.
- (5) Member of our Transaction Committee.

Each of our directors, including our current nominee, was nominated based on the assessment of our Nominating Committee and our Board that he has demonstrated: an ability to make meaningful contributions to our Board; independence; strong communication and analytical skills; and a reputation for honesty and ethical

## [Table of Contents](#)

conduct. Our Board consists of, and seeks to continue to include, persons whose diversity of skills, experience and background are complementary to those of our other directors.

**Lynn J. Davis** has served on our Board since 2005. He served as President, Chief Operating Officer and director of August Technology, a manufacturer of inspection equipment for the semiconductor fabrication industry from 2005 to 2006. From 2002 to 2004, he was a partner at Tate Capital Partners Fund, LLC, a private investment firm he co-founded. Prior to Tate, Mr. Davis was an employee of ADC Telecommunications for 28 years, serving in 14 management positions, including Corporate President, Group President and Chief Operating Officer. In December 2016, he retired as Chairman of the Board of Directors of Flexsteel Industries Inc., a furniture manufacturer. Mr. Davis holds a B.S. in electrical engineering from Iowa State University and an M.B.A. from the University of Minnesota. Our Board has determined that Mr. Davis is qualified to serve as a director because he has extensive knowledge in various management roles in the telecommunications industry, including manufacturing, sales and marketing. In addition, as a venture capitalist, Mr. Davis has worked with smaller companies and brings a valuable entrepreneurial approach to management and compensation issues.

**David W. Vellequette** rejoined our Board in December 2017. Mr. Vellequette previously served on our Board from January 2007 until March 2014. Mr. Vellequette most recently served as senior vice president of finance of Avaya, a global provider of business collaboration and communications solutions, which emerged in December 2017 from a nearly year-long financial restructuring under Chapter 11. Previously, Mr. Vellequette served as Avaya's senior vice president and chief financial officer from October 1, 2012 through October 23, 2017. From 2005 to 2012, he was chief financial officer of JDS Uniphase, Inc., a telecommunications equipment company. He joined JDS Uniphase as vice president and operations controller in 2004. From 2002 to 2004, Mr. Vellequette served as vice president of Worldwide Sales and Service Operations at Openwave Systems, Inc., an independent provider of software solutions for the mobile communications and media industries. Mr. Vellequette began his finance career as an auditor with Ernst & Young. He holds a B.S. in Accounting from the University of California, Berkeley, and is a CPA. Our Board has determined that Mr. Vellequette is qualified to serve as a director because he has extensive knowledge about public and financial accounting matters.

**Julia S. Johnson** has served on our Board since October 2018. She is also a board member of Lumentum Inc. (NASDAQ: LITE). Ms. Johnson has been a global technology business leader for 29 years, creating growth and value in product lines and new market segments for the consumer electronics, enterprise, and Fintech/payment markets. Ms. Johnson was the Senior Vice President Product Management and Marketing at Verifone, a global provider of technology that enables electronic payment transactions. Prior to Verifone, Ms. Johnson was Corporate Vice President Product Management at Lenovo, Corporate Vice President Product Management at Google, and Vice President of Product Management at Motorola. She holds a M.S. in Business Administration and a M.S. in Materials Science & Engineering from the Massachusetts Institute of Technology. She also has a B.S. in Math and Physics from Albion College. Our Board has determined that Ms. Johnson is qualified to serve as a director because she has extensive knowledge in business planning and in various management roles.

**Jeffrey A. Quiram** has served on our Board, and has been our President and Chief Executive Officer, since 2005. From 1991 to 2004, Mr. Quiram served ADC Telecommunications in a variety of management roles, including Vice President of its wireless business unit. Mr. Quiram has a B.S. in Quantitative Methods and Computer Science from College of St. Thomas, and an M.B.A. from University of Minnesota. Our Board has determined that Mr. Quiram is qualified to serve as a director because he has extensive knowledge about product development, business planning, and complex manufacturing. In addition, he has extensive knowledge about our corporate operations and market activities from serving as our Chief Executive Officer.

**William J. Buchanan** has been our Chief Financial Officer since May 2010. Mr. Buchanan joined us in 1998 and served as our Controller from 2000 to May 2010. For 16 years prior to joining us, he was a self-employed private investor and investment advisor. For the nine years prior to that, he served in various executive and accounting positions with Applied Magnetics Corp and Raytheon Co. Mr. Buchanan holds a B.A. in Economics from California State University, Fresno.

## [Table of Contents](#)

**Robert L. Johnson** has been our Senior Vice President, Operations since 2004. Mr. Johnson joined us in 2000 as Vice President of Wireless Manufacturing. From 1996 to 2000, Mr. Johnson was the Director and General Manager of Schlumberger ATE. From 1990 to 1996, he served as Vice President and General Manager of Harman International Industries. Mr. Johnson studied industrial engineering at Arizona State University.

**Adam L. Shelton** has been our Vice President, Product Management and Marketing since 2006. From 2005 to 2006, Mr. Shelton was the Senior Director of Marketing for Motorola. From 2003 to 2005, he was the Senior Director of Marketing for Advanced Fibre Communications (AFC), now Tellabs. Mr. Shelton also held various management and executive management positions with Mahi Networks, ATU Communications and Bell Canada. Mr. Shelton graduated with dean's honors as a Civil Engineering Technologist from Seneca College in Toronto, Canada.

### **Corporate Governance Policies and Practices**

The following is a summary of our corporate governance policies and practices:

- Our Board has determined that all of our directors, other than Mr. Quiram, are independent as defined by the rules of the SEC and The Nasdaq Stock Market. Our Audit Committee, Compensation Committee and Governance and Nominating Committee each consists entirely of independent directors under the rules of the SEC and Nasdaq.
- We have a Code of Business Conduct and Ethics for all of our employees, including our Chief Executive Officer and Chief Financial Officer. If we amend any provision of our Code of Business Conduct and Ethics that applies to our Chief Executive Officer or Chief Financial Officer (or any persons performing similar functions), or if we grant any waiver (including an implicit waiver) from any provision of our Code of Business Conduct and Ethics to our Chief Executive Officer or Chief Financial Officer (or any persons performing similar functions), we will disclose those amendments or waivers on our website at [www.suptech.com/Investors/CorporateGovernance/Amendments and Waivers to the Code of Conduct](http://www.suptech.com/Investors/CorporateGovernance/AmendmentsandWaivers-to-theCodeofConduct) within four business days following the date of the amendment or waiver.
- Our Audit Committee reviews and approves all related-party transactions.
- As part of our Code of Business Conduct and Ethics, we have made a “whistleblower” hotline available to all employees for anonymous reporting of financial or other concerns. Our Audit Committee receives directly, without management participation, all hotline activity reports concerning accounting, internal controls or auditing matters.

### **Board Leadership Structure and Role in Risk Oversight**

Our Board's current policy is to separate the role of Chairman of our Board and Chief Executive Officer. Our Board believes that this structure combines accountability with effective oversight. This structure also allows us to benefit from the experience and knowledge of our Chairman, who has been on our Board since 2002, while reflecting the responsibilities and contributions of our Chief Executive Officer. In addition, we believe that the independence of our Chairman provides additional oversight over the decisions of our management and places additional control in the hands of our independent directors.

Our Board is actively involved in overseeing our risk management through our Audit Committee. Under its charter, our Audit Committee is responsible for inquiring of management and our independent auditors about significant areas of risk or exposure and assessing the steps management has taken to minimize such risks. Our Board's role in risk oversight has not affected our Board's determination that the separation of roles of Chairman and Chief Executive Officer is most appropriate for our company.

## **Stockholder Communications with Directors**

Stockholders who want to communicate with our Board or with a particular director or committee may send a letter to our Secretary at Superconductor Technologies Inc., 9101 Wall Street, Austin, Texas 78754. After March 31, 2020, we will be located at 15511 W State Hwy 71, Suite 110-115, Austin, TX 78738. The mailing envelope should contain a clear notation indicating that the enclosed letter is a “Board Communication” or “Director Communication.” All such letters should state whether the intended recipients are all members of our Board or just certain specified individual directors or a specified committee. The Secretary will circulate the communications (with the exception of commercial solicitations) to the appropriate director or directors. Communications marked “Confidential” will be forwarded unopened.

## **Attendance at Annual Meetings of Stockholders**

We expect that all of our Board members attend our annual meetings of stockholders in the absence of a showing of good cause for failure to do so. All of the members of our Board attended our 2019 annual meeting of stockholders in person or by telephone.

## **Board Meetings and Committees**

During 2019, each of our directors attended at least 75% of the aggregate of (i) the total number of Board meetings and (ii) the total number of meetings of the committees on which the director served.

### ***Board of Directors***

Our Board held a total of nine meetings during 2019. Our Board has three standing committees — an Audit Committee established in accordance with section 3(a)(58)(A) of the Securities Exchange Act of 1934 (our “**Audit Committee**”), a Compensation Committee (our “**Compensation Committee**”) and a Governance and Nominating Committee (our “**Nominating Committee**”). Our Audit Committee, Compensation Committee and Nominating Committee each have a charter, which is available at the “Corporate Governance” section under the “Investors” tab on our website at [www.suptech.com](http://www.suptech.com).

Our Board created the Transaction Committee (our “**Transaction Committee**”) consisting of three members—our Audit Committee Chairman, Ms. Johnson and the Chief Executive Officer. The purpose of our Transaction Committee is to facilitate the timely review of all proposals with regard to our strategic alternatives and make recommendations to our Board. The Transaction Committee met two times during 2019. Our Board retains exclusive authority over all proposals. The current members of our Transaction Committee are Messrs. Vellequette, Quiram and Ms. Johnson.

### ***Audit Committee***

The principal functions of our Audit Committee are to hire our independent public auditors, to review the scope and results of the year-end audit with management and the independent auditors, to review our accounting principles and our system of internal accounting controls and to review our annual and quarterly reports before filing them with the SEC. Our Audit Committee met six times during 2019. The current members of our Audit Committee are Messrs. Vellequette (Chairman), Davis and Ms. Johnson.

Our Board has determined that all members of our Audit Committee are “independent” as defined under the rules of the SEC and the listing standards of Nasdaq. Our Board has determined that Mr. Vellequette is an “audit committee financial expert.”

### ***Compensation Committee***

Our Compensation Committee reviews and approves salaries, bonuses and other benefits payable to our executive officers and administers our management incentive plan. Our Compensation Committee makes all



## [Table of Contents](#)

compensation decisions with respect to our Chief Executive Officer and makes recommendations to our Board regarding non-equity compensation and equity awards to our other named executive officers (set forth below under “Executive Compensation—Summary Compensation Table”) and all other elected officers. In doing so, with respect to named executive officers other than the Chief Executive Officer, our Compensation Committee generally receives a recommendation from our Chief Executive Officer and other officers as appropriate. Our Chief Executive Officer also generally recommends the number of options or other equity awards to be granted to executive officers, within a range associated with the individual executive’s salary level, and presents this to our Compensation Committee for its review and approval.

Our Compensation Committee uses available data to review and compare our compensation levels to market compensation levels, taking into consideration the other companies’ size, the industry, and the individual executive’s level of responsibility, as well as anecdotal data regarding the compensation practices of other employers. We do not annually benchmark our executive compensation against a defined peer group, since we believe that defining such a group is difficult and would not materially affect our decisions. Our Compensation Committee does not generally hire an outside consulting firm to assist with compensation, as we believe that the value of doing so is exceeded by the costs. No compensation consultant was engaged to provide advice or recommendations on our executive or director compensation for 2019.

Our Compensation Committee also reviews the compensation of directors and recommends to our Board the amounts and types of cash to be paid and equity awards to be granted to our directors.

Our Compensation Committee met two times during 2019. The current members of our Compensation Committee are Messrs. Davis (Chairman), Vellequette and Ms. Johnson. Our Board has determined that all members of our Compensation Committee are “independent” as defined under the rules of the SEC and the listing standards of Nasdaq. Our Compensation Committee will only delegate its authority to the extent consistent with our certificate of incorporation and bylaws and applicable laws, regulations and listing standards.

Our Compensation Committee created the Stock Option Committee (our “**Stock Option Committee**”) consisting of two members—our Compensation Committee Chairman and the Chief Executive Officer. The purpose of our Stock Option Committee is to facilitate the timely granting of stock options in connection with hiring, promotions and other special situations, and therefore our Stock Option Committee meets only periodically as certain events occur. Our Stock Option Committee is empowered to grant options to non-executive employees up to a preset annual aggregate limit. The Stock Option Committee did not meet during 2019. Our Compensation Committee supervises these grants and retains exclusive authority for all executive officer grants and the annual employee grants. The current members of our Stock Option Committee are Messrs. Davis (Chairman) and Quiram.

### *Governance and Nominating Committee*

Our Nominating Committee is responsible for overseeing and, as appropriate, making recommendations to our Board regarding, membership and constitution of our Board and its role in overseeing our affairs. Our Nominating Committee is responsible for proposing a slate of directors for election by the stockholders at each annual meeting and for proposing candidates to fill any vacancies. Our Nominating Committee is also responsible for the corporate governance practices and policies of our Board and its committees. The current members of our Nominating Committee are Messrs. Davis, Vellequette and Ms. Johnson. Our Nominating Committee met two times in 2019. Our Board has determined that all members of our Nominating Committee are “independent” as defined under the rules of the SEC and the listing standards of Nasdaq.

Our Nominating Committee manages the process for evaluating current Board members at the time they are considered for re-nomination. After considering the appropriate skills and characteristics required on our Board, the current makeup of our Board, the results of the evaluations, and the wishes of our Board members to be re-nominated, our Nominating Committee recommends to our Board whether those individuals should be re-nominated.

## [Table of Contents](#)

Our Nominating Committee periodically reviews with our Board whether it believes our Board would benefit from adding a new member(s), and if so, the appropriate skills and characteristics required for the new member(s). If our Board determines that a new member would be beneficial, our Nominating Committee solicits and receives recommendations for candidates and manages the process for evaluating candidates. All potential candidates, regardless of their source (including candidates recommended by security holders), are reviewed under the same process. Our Nominating Committee (or its chair) screens the available information about the potential candidates. Based on the results of the initial screening, interviews with viable candidates are scheduled with Nominating Committee members, other members of our Board and senior members of management. Upon completion of these interviews and other due diligence, our Nominating Committee may recommend to our Board the election or nomination of a candidate.

Candidates for independent Board members have typically been found through recommendations from directors or others associated with us. Our stockholders may also recommend candidates by sending the candidate's name and resume to our Nominating Committee under the provisions set forth above for communication with our Board. No such suggestions from our stockholders were received in time for our Annual Meeting.

Our Nominating Committee has no predefined minimum criteria for selecting Board nominees, although it believes that (i) all directors should share qualities such as: an ability to make meaningful contributions to our board; independence; strong communication and analytical skills; and a reputation for honesty and ethical conduct; and (ii) independent directors should share qualities such as: experience at the corporate, rather than divisional level, in multi-national organizations as large as or larger than us; and relevant, non-competitive experience. Our Nominating Committee does not have a formal policy with respect to diversity. However, our Nominating Committee and our Board believe that it is important that we have Board members whose diversity of skills, experience and background are complementary to those of our other Board members. In considering candidates for our Board, our Nominating Committee considers the entirety of each candidate's credentials. In any given search, our Nominating Committee may also define particular characteristics for candidates to balance the overall skills and characteristics of our Board and our perceived needs. However, during any search, our Nominating Committee reserves the right to modify its stated search criteria for exceptional candidates.

## AUDIT COMMITTEE REPORT

*The information contained in this Audit Committee Report shall not be deemed incorporated by reference in any filing under the Securities Act of 1933 or the Securities Exchange Act of 1934, whether made before or after the date hereof and irrespective of any general incorporation language in any such filing (except to the extent that we specifically incorporate this information by reference) and shall not otherwise be deemed “soliciting material” or “filed” with the SEC or subject to Regulation 14A or 14C, or to the liabilities of Section 18 of the Securities Exchange Act of 1934 (except to the extent that we specifically request that this information be treated as soliciting material or specifically incorporate this information by reference).*

Our Audit Committee reviews our financial reporting process on behalf of our Board. Management has the primary responsibility for the financial statements and the reporting process, including the system of internal controls. Our Audit Committee has reviewed and discussed the audited financial statements with management. In addition, our Audit Committee has discussed with our independent registered public accounting firm the matters required to be discussed by Statements on Public Company Accounting Oversight Board Auditing Standard No. 16 “*Communications with Audit Committees*”.

Our Audit Committee has also received the written disclosures and the letter from our independent registered public accounting firm required by applicable requirements of the Public Company Accounting Oversight Board regarding their communications with the audit committee concerning independence, and has discussed with them their independence, including whether their provision of other non-audit services to us is compatible with maintaining their independence.

Our Audit Committee discussed with our independent registered public accounting firm the overall scope and plans for the audit. Our Audit Committee meets with them, with and without management present to discuss the results of their examinations, the evaluation of our internal controls and the overall quality of our reporting.

Based upon the review and discussions referred to in the foregoing paragraphs, our Audit Committee recommended to our Board that the audited financial statements be included in our Annual Report on Form 10-K for 2019 for filing with the Securities and Exchange Commission.

### AUDIT COMMITTEE

David W. Vellequette (*Chairman*)

Lynn J. Davis

Julia S. Johnson

**ITEM 11. EXECUTIVE COMPENSATION****Summary Compensation Table**

The following table sets forth for 2019, 2018 and 2017 the base salary and other compensation of our (i) President and Chief Executive Officer and (ii) our other two most highly compensated officers for 2019 (our “named executive officers”):

| <u>Name and Principal Position</u> | <u>Year</u> | <u>Salary<br/>(\$)</u> | <u>Stock<br/>Awards<br/>(\$)(1)</u> | <u>Option<br/>Awards<br/>(\$)(1)</u> | <u>Non-equity<br/>Incentive Plan<br/>Compensation<br/>(\$)</u> | <u>All Other<br/>Compensation<br/>\$(2)</u> | <u>Total<br/>(\$)</u> |
|------------------------------------|-------------|------------------------|-------------------------------------|--------------------------------------|--|---|-----------------------|
| <b>Jeffrey A. Quiram</b>           | 2019        | 324,450                | —                                   | —                                    | —  | 35,153                                      | 359,603               |
| President, Chief                   | 2018        | 324,450                | —                                   | 43,431                               | —  | 45,461                                      | 413,342               |
| Executive Officer, Director        | 2017        | 324,450                | —                                   | —                                    | —  | 39,003                                      | 363,453               |
| <b>Robert L. Johnson</b>           | 2019        | 242,462                | —                                   | —                                    | —  | 66,114                                      | 308,576               |
| Senior Vice President,             | 2018        | 242,462                | —                                   | 24,611                               | —  | 57,046                                      | 324,119               |
| Operations                         | 2017        | 242,462                | —                                   | —                                    | —  | 49,755                                      | 292,217               |
| <b>Adam L. Shelton</b>             | 2019        | 247,200                | —                                   | —                                    | —  | 6,975                                       | 254,175               |
| Vice President Product             | 2018        | 247,200                | —                                   | 24,611                               | —  | 6,375                                       | 278,186               |
| Management and Marketing           | 2017        | 247,200                | —                                   | —                                    | —  | 6,315                                       | 253,515               |

- (1) The Option Awards and Stock Awards amounts represent the aggregate grant date fair value of the options to purchase common stock or shares of restricted common stock (as applicable) calculated in accordance with ASC 718, under the assumptions included in Note 5 to our audited financial statements for the year ended December 31, 2019 included in our Annual Report on Form 10-K.
- (2) The All Other Compensation amounts shown reflect the value attributable to term life insurance premiums, certain tax payments and company 401(k) matching for each named executive officer, if applicable, as well as other perquisites described below. Each named executive officer is responsible for paying income tax on such amounts. Pursuant to the terms of his employment agreement, Mr. Quiram received \$29,413, \$39,721 and \$33,313 in 2019, 2018 and 2017, respectively, for travel expenses from his home in Minnesota, temporary housing near our Santa Barbara and Austin facilities, the use of an automobile, and special indemnity payments to cover the taxes resulting from the payment or reimbursement of such travel and housing expenses.

**Narrative Disclosure To Summary Compensation Table****Employment Agreement**

We entered into an employment agreement with Mr. Quiram in 2005, which was amended in 2007. The employment agreement provides for the following:

- Appointment as our President, Chief Executive Officer and a member of our Board;
- A base salary, which was \$315,000 per year for 2008-2009 and increased to \$324,450 during 2010;
- A bonus of up to 100% of his base salary based upon achievement of annual performance goals to be developed by our Compensation Committee and Mr. Quiram;
- Accelerated vesting of all his equity grants in the event of an “Involuntary Termination” or “Change of Control” (both as defined in his employment agreement);
- A severance payment equal to one year’s salary and continued benefits for one year in the event of “Involuntary Termination”;
- In the event of a “Change of Control,” whether or not he is terminated, Mr. Quiram is entitled to (i) payment of two times his annual base salary, (ii) 24 months of benefits coverage, and (iii) accelerated vesting of all of his outstanding equity grants;

## [Table of Contents](#)

- Payment or reimbursement of travel expenses from his present home in Minnesota and the lease of an apartment for Mr. Quiram near our Santa Barbara headquarters; and a special indemnity payment for any taxes resulting from the payment or reimbursement of such expenses; and
- Lease of an automobile.

### **Change of Control Agreements**

We also have “change of control” agreements with Mr. Shelton and Mr. Johnson. The change of control agreement generally provides that, if the employee’s employment is terminated within twenty-four months of a “Change of Control” (as defined in the change of control agreements) either (i) by us for any reason other than death, “Cause” or “Disability” (as both terms are defined in the change of control agreements) or (ii) by the employee for “Good Reason” (as defined in the change of control agreements), then the terminated employee will be entitled to severance benefits salary continuation payments and continuation of health/life insurance benefits for 18 months and accelerated vesting for all outstanding unvested stock options and other equity securities held by the employee. Any payments or distributions made to or for the benefit of the named employees under these change of control agreements will be reduced, if necessary, to an amount that would result in no excise taxes being imposed under Internal Revenue Code Section 4999.

### **Merger Agreement.**

The Merger Agreement contemplates that material changes will be made to the change of control benefits to Mr. Quiram and all other beneficiaries of Change of Control Agreements, subject to their agreeing to such modifications. The following terms are subject to change until all parties have agreed, but the following represents the Company’s current expectations. Generally, in exchange for waivers of their existing entitlements, valued at approximately \$2.3 million in cash if there were a change of control and (except for Mr. Quiram) certain terminations of employment, Mr. Quiram and such other beneficiaries are expected to agree that they will instead receive “Stock Consideration” and contingent “Warrant Consideration,” as described below.

“Executive Percentage” means the amount a given officer would receive under his employment or change of control agreement at the Effective Time of the Merger (“Individual CiC Amount”), divided by the Gross CiC Payments.

“Executive Pool” means a number of shares of the Company’s common stock, rounded down to the nearest whole share, determined by dividing \$1 million by the official simple average of the closing price of the Company’s common stock on the Nasdaq Capital Market for the three (3) Nasdaq trading days ending immediately prior to the Effective Date (as defined in the Merger Agreement).

“Gross CiC Payments” means the sum of a given Individual CiC Amount plus the amount of Other CiC Amounts.

“Other CiC Amounts” means that amount that the Listed Executives (as defined in the Merger Agreement) other than any given Individual CiC Amount, would be entitled to receive under their individual employment or change in control agreements with the Company as in effect on the date hereof, assuming (if applicable) that they are each terminated without cause at the Effective Time.

“Stock Consideration” means a number of new shares of the Company’s common stock, that are fully vested and not subject to any repurchase or forfeiture rights, determined by multiplying the Executive Percentage (as defined below) by Executive Pool (as defined below), rounded down to the nearest whole share.

“Warrant Consideration” means an amount of cash equal to the Executive Percentage multiplied by 50% multiplied by the Warrant Proceeds.

## [Table of Contents](#)

“Warrant Proceeds” means (a) the gross amount of cash the Company actually receives or received from the proper exercise of any Company warrant to purchase common stock of the Company exercised between February 26, 2020 and the Effective Date, inclusive minus (b) the amount the Board of Directors of the Company, as in effect prior to the Effective Date, sets aside as necessary to pay expenses in order to both satisfy any conditions to closing to the Merger Agreement and pay such other expenses that the Board deems to be prudent or appropriate, in its sole discretion (“Company Expenses”).

### Non-Equity Incentive Compensation

We maintain a bonus plan for executive officers and selected other members of senior management. Under the plan, our Compensation Committee establishes financial and other pertinent objectives for the period and assigns each executive officer an annual target bonus amount based on a percentage of his or her base salary, which ranges from 20% to 100%. Our Compensation Committee also retains the authority to award discretionary bonuses for performance in other aspects of the business not covered by the established goals. In December 2017, our Compensation Committee decided, based on then-current economic conditions, to not establish financial performance targets under this plan for 2019 and to not award cash bonuses based on financial objectives in 2019. Our Compensation Committee did reserve its right to award discretionary bonuses if appropriate; however no bonuses were awarded for 2019.

### Equity Grants

For 2019, we made the no grants of restricted stock awards and options to our named executive officers. See “Merger Agreement” above.

### Outstanding Equity Awards at Fiscal Year-End

The following table sets forth certain information with respect to outstanding options and unvested shares of restricted stock on December 31, 2019:

| Name             | Option Awards   |   |                            |                        | Stock Awards  |  |
|------------------|---|---|----------------------------|------------------------|---|--|
|                  | Number of Securities Underlying Unexercised Options (#) Exercisable (1) | Number of Securities Underlying Unexercised Options (#) Unexercisable | Option Exercise Price (\$) | Option Expiration Date | Number of Shares or Units of Stock That Have Not Vested | Market Value of Shares or Units of Stock That Have Not Vested (\$) |
| Jeffrey A Quiram | 18  | —   | 4,716.00                   | 5/6/2020               | —   | —  |
|                  | 59  | —   | 2,844.00                   | 1/25/2021              | —   | —  |
|                  | 25  | —   | 2628.00                    | 2/9/2022               | —   | —  |
|                  | 62  | —   | 378.00                     | 3/7/2023               | —   | —  |
|                  | 1,800   | —   | 318.00                     | 12/5/2023              | —   | —  |
|                  | 1,333   | —   | 33.00                      | 11/9/2025              | —   | —  |
|                  | 15,000  | 15,000  | 1.92                       | 10/16/2028             | —   | —  |
| Robert L Johnson | 10  | —   | 4,716.00                   | 5/6/2020               | —   | —  |
|                  | 33  | —   | 2,844.00                   | 1/25/2021              | —   | —  |
|                  | 14  | —   | 2628.00                    | 2/9/2022               | —   | —  |
|                  | 35  | —   | 378.00                     | 3/7/2023               | —   | —  |
|                  | 1,000   | —   | 318.00                     | 12/5/2023              | —   | —  |
|                  | 733   | —   | 33.00                      | 11/9/2025              | —   | —  |
|                  | 8,500   | 8,500   | 1.92                       | 10/16/2028             | —   | —  |

| Name           | Option Awards  |  |                            |                        | Stock Awards  |  |
|----------------|--|--|----------------------------|------------------------|---|--|
|                | Number of Securities Underlying Unexercised Options(#) Exercisable (1) | Number of Securities Underlying Unexercised Options(#) Unexercisable | Option Exercise Price (\$) | Option Expiration Date | Number of Shares or Units of Stock That Have Not Vested | Market Value of Shares or Units of Stock That Have Not Vested (\$) |
| Adam L Shelton | 10   | —  | 4,716.00                   | 5/6/2020               | —   | —  |
|                | 33   | —  | 2,844.00                   | 1/25/2021              | —   | —  |
|                | 14   | —  | 2628.00                    | 2/9/2022               | —   | —  |
|                | 35   | —  | 378.00                     | 3/7/2023               | —   | —  |
|                | 1,000  | —  | 318.00                     | 12/5/2023              | —   | —  |
|                | 733  | —  | 33.00                      | 11/9/2025              | —   | —  |
|                | 8,500  | 8,500  | 1.92                       | 10/16/2028             | —   | —  |

(1) These options are fully vested.

### Non-employee Director Compensation Table

The following table summarizes the compensation paid to our non-employee directors for 2019:

| Name                 | Fees earned or paid in cash (\$) | Stock Awards (\$ (1)) | Option Awards (\$ (1)) | Total (\$) |
|----------------------|----------------------------------|-----------------------|------------------------|------------|
| Martin A. Kaplan(2)  | 35,669                           | —                     | —                      | 35,669     |
| Lynn J. Davis        | 40,000                           | —                     | —                      | 40,000     |
| David W. Vellequette | 45,000                           | —                     | —                      | 45,000     |
| Julia S. Johnson     | 37,500                           | —                     | —                      | 37,500     |

- (1) The amounts in this column represent the aggregate grant date fair value of the options to purchase common stock calculated in accordance with Accounting Standards Codification (“ASC”) 718, under the assumptions included in Note 5 to our audited financial statements for the year ended December 31, 2019 included in this Annual Report on Form 10-K. As of December 31, 2019: (i) Mr. Kaplan had no options to purchase common stock and no unvested shares of restricted common stock; (ii) Mr. Davis had 2,934 options to purchase common stock and 333 unvested shares of restricted common stock; (iii) Mr. Vellequette had 2,500 options to purchase common stock and no unvested shares of restricted common stock; (vi) Ms. Johnson had 2,500 options to purchase common stock and no unvested shares of restricted common stock.
- 2) Mr. Kaplan, our former Chairman of the Board, died August 3, 2019 and received a prorata cash payment.

### ITEM 12. SECURITIES OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

The following table sets forth the beneficial ownership of our common stock as of March 15, 2020 by (i) each person known by us to be the beneficial owner of more than 5% of our outstanding common stock, (ii) each of our directors, (iii) each of our executive officers named in the table under “Executive Compensation — Summary Compensation Table,” and (iv) all of our directors and executive officers as a group. Except as otherwise indicated in the footnotes to the table, (i) the persons and entities named in the table have sole voting and investment power with respect to all shares beneficially owned, subject to community property

## Table of Contents

laws where applicable, and (ii) the address of each person is c/o Superconductor Technologies Inc., 9101 Wall Street, Austin, Texas 78754.

| <u>Name</u>   | <u>Number of Shares(1)</u> | <u>Percentage Ownership</u> |
|---|----------------------------|-----------------------------|
| Jeffrey A. Quiram   | 20,017                     | *                           |
| William J. Buchanan   | 10,916                     | *                           |
| Robert L. Johnson   | 11,304                     | *                           |
| Adam L. Shelton   | 11,309                     | *                           |
| Lynn J. Davis   | 3,111                      | *                           |
| David W. Vellequette  | 1,250                      | *                           |
| Julia S. Johnson  | 1,250                      | *                           |
| All executive officers and directors as a group (7 persons) | 59,157                     | *                           |

\* Less than 1%.

- (1) Includes shares issuable upon the exercise of stock options that are exercisable within 60 days of March 15, 2020 as follows: Mr. Quiram, 18,297 shares; Mr. Buchanan 10,117 shares; Mr. Johnson 10,325 shares; Mr. Shelton, 10,327 shares; Mr. Davis, 1,683 shares; Mr. Vellequette, 1,250 shares and Ms. Johnson, 1,250 shares; and all executive officers and directors as a group, 53,249 shares.

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

None.

### **ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES**

Our Audit Committee regularly reviews and determines whether specific non-audit projects or expenditures with our independent registered public accounting firm, Marcum LLP, potentially affects its independence. Our Audit Committee's policy is to pre-approve all audit and permissible non-audit services provided by Marcum LLP. Pre-approval is generally provided by our Audit Committee for up to one year, as detailed as to the particular service or category of services to be rendered, and is generally subject to a specific budget. Our Audit Committee may also pre-approve additional services of specific engagements on a case-by-case basis.

The following table sets forth the aggregate fees billed to us by Marcum LLP for 2019 and 2018, all of which were pre-approved by our Audit Committee:

|                   | <u>Year Ended December 31,</u> |                   |
|-------------------|--------------------------------|-------------------|
|                   | <u>2019</u>                    | <u>2018</u>       |
| Audit fees(1)     | \$ 175,000                     | \$ 199,000        |
| All other fees(2) | 55,000                         | 62,000            |
| Total             | <u>\$ 230,000</u>              | <u>\$ 261,000</u> |

- (1) Includes fees for professional services rendered for the audit of our annual consolidated financial statements and review of our annual report on Form 10-K and for reviews of the condensed consolidated financial statements included in our quarterly reports on Form 10-Q for the first three quarters of 2019 and 2018.
- (2) These fees related to services rendered for our registration statements.



**PART IV**

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

(a) The following documents are filed as part of this Report:

1. Index to Financial Statements. Our consolidated financial statements and the Report of Marcum LLP, Independent Registered Public Accounting Firm are included in Part IV of this Report on the pages indicated:

|  | <u>Page</u> |
|--|-------------|
| <a href="#">Report of Independent Registered Public Accounting Firm</a>  | F-1         |
| <a href="#">Consolidated Balance Sheets as of December 31, 2019 and 2018</a>   | F-2         |
| <a href="#">Consolidated Statements of Operations for the years ended December 31, 2019, 2018 and 2017</a>           | F-3         |
| <a href="#">Consolidated Statements of Stockholders' Equity for the years ended December 31, 2019, 2018 and 2017</a> | F-4         |
| <a href="#">Consolidated Statements of Cash Flows for the years ended December 31, 2019, 2018 and 2017</a>           | F-5         |
| <a href="#">Notes to Consolidated Financial Statements</a>   | F-6         |

2. Financial Statement Schedule Covered by the Foregoing Report of Independent Registered Public Accounting Firm.

|   |      |
|---|------|
| <a href="#">Schedule II—Valuation and Qualifying Accounts</a> | F-27 |
|---|------|

All other schedules are omitted because they are not applicable or the required information is shown in the financial statements or the notes thereto.

3. Exhibits

| <u>Number</u> | <u>Description of Document</u>  |
|---------------|---|
| 3.1           | <a href="#">Restated Certificate of Incorporation of Registrant as amended through March 1, 2006. (14)</a>  |
| 3.2           | <a href="#">Certificate of Amendment of Restated Certificate of Incorporation of Registrant, filed March 11, 2013. (18)</a>   |
| 3.3           | <a href="#">Certificate of Amendment of Restated Certificate of Incorporation of Registrant, filed July 18, 2016. (25)</a>  |
| 3.4           | <a href="#">Certificate of Amendment of Restated Certificate of Incorporation of Registrant, filed July 19, 2018, effective July 24, 2018. (29)</a>                   |
| 3.4           | <a href="#">Amended and Restated Bylaws of Registrant. (14)</a>   |
| 3.5           | <a href="#">Amendment adopted March 29, 2010 to Amended and Restated Bylaws of Registrant. (15)</a>   |
| 3.6           | <a href="#">Amendment adopted October 28, 2013 to Amended and Restated Bylaws of Registrant. (19)</a>   |
| 4.1           | <a href="#">Form of Common Stock Certificate. (13)</a>  |
| 4.2           | <a href="#">Form of Series B Preferred Stock Certificate. (24)</a>  |
| 4.3           | <a href="#">Form of Series C Preferred Stock Certificate. (26)</a>  |
| 4.4           | <a href="#">Form of Series D Preferred Stock Certificate. (27)</a>  |
| 4.5           | <a href="#">Form of Series E Preferred Stock Certificate. (38)</a>  |
| 4.6           | <a href="#">Certificate of Designation of Preferences, Rights and Limitations of Series A Convertible Preferred Stock of Registrant filed November 13, 2007. (12)</a> |

## Table of Contents

| <b>Number</b> | <b>Description of Document</b>  |
|---------------|---|
| 4.7           | <a href="#"><u>Certificate of Designation of Preferences, Rights and Limitations of Series B Convertible Preferred Stock of Registrant and form of Series B Convertible Preferred Stock Certificate. (24)</u></a> |
| 4.8           | <a href="#"><u>Certificate of Designation of Preferences, Rights and Limitations of Series C Convertible Preferred Stock of Registrant and form of Series C Convertible Preferred Stock Certificate. (26)</u></a> |
| 4.9           | <a href="#"><u>Certificate of Designation of Preferences, Rights and Limitations of Series D Convertible Preferred Stock of Registrant and form of Series D Convertible Preferred Stock Certificate. (27)</u></a> |
| 4.10          | <a href="#"><u>Certificate of Designation of Preferences, Rights and Limitations of Series E Convertible Preferred Stock of Registrant. (29)</u></a>  |
| 4.11          | <a href="#"><u>Form of Warrant to Purchase Common Stock issued by Registrant on March 25, 2015, pursuant to the Purchase Agreement. (21)</u></a>  |
| 4.12          | <a href="#"><u>Form of Placement Agent Warrant to Purchase Common Stock issued by Registrant on March 25, 2015. (21)</u></a>  |
| 4.13          | <a href="#"><u>Form of Series [A][B] Common Stock Purchase Warrant issued by Registrant on October 14, 2015. (22)</u></a>   |
| 4.14          | <a href="#"><u>Form of Placement Agent Warrant to Purchase Common Stock issued by Registrant on October 14, 2015. (22)</u></a>  |
| 4.15          | <a href="#"><u>Form of Warrant to Purchase Common Stock issued by Registrant on August 2, 2016. (26)</u></a>  |
| 4.16          | <a href="#"><u>Form of Placement Agent Warrant to Purchase Common Stock issued by Registrant on August 2, 2016. (26)</u></a>  |
| 4.17          | <a href="#"><u>Form of Warrant to Purchase Common Stock issued by Registrant on December 14, 2016. (27)</u></a>   |
| 4.18          | <a href="#"><u>Form of Pre-Funded Common Stock Purchase Warrant issued by Registrant on March 9, 2018. (28)</u></a>   |
| 4.19          | <a href="#"><u>Form of Placement Agent Common Stock Purchase Warrant issued by Registrant on March 9, 2018. (28)</u></a>  |
| 4.20          | <a href="#"><u>Form of Series A Common Stock Purchase Warrant issued by Registrant on March 9, 2018. (28)</u></a>   |
| 4.21          | <a href="#"><u>Registration Rights Agreement dated March 6, 2018. (28)</u></a>  |
| 4.22          | <a href="#"><u>Form of Common Stock Purchase Warrant issued by Registrant on July 30, 2018. (29)</u></a>  |
| 4.23          | <a href="#"><u>Form of Placement Agent Common Stock Purchase Warrant issued by Registrant on July 30, 2018. (29)</u></a>  |
| 4.24          | <a href="#"><u>Description of Securities (31)</u></a>   |
| 10.1          | <a href="#"><u>Form of Change in Control Agreement dated March 28, 2003. (1)***</u></a>   |
| 10.2          | <a href="#"><u>Form of Amendment No. 1 to Change in Control Agreement dated as of May 24, 2005. (7)***</u></a>  |
| 10.3          | <a href="#"><u>Form of Amendment No. 2 to Change in Control Agreement dated as of December 31, 2006. (9)***</u></a>   |
| 10.4          | <a href="#"><u>Patent License Agreement by and between Registrant and Lucent Technologies GRL LLC. (2)**</u></a>  |
| 10.5          | <a href="#"><u>License Agreement between Registrant and Sunpower dated May 2, 2005. (3)**</u></a>   |
| 10.6          | <a href="#"><u>Employment Agreement between Registrant and Jeffrey Quiram dated as of February 14, 2005. (4)***</u></a>   |
| 10.7          | <a href="#"><u>Amendment to Employment Agreement between Registrant and Jeffrey Quiram dated as of December 31, 2006. (9)***</u></a>  |

## Table of Contents

| <b>Number</b> | <b>Description of Document</b>  |
|---------------|---|
| 10.8          | <a href="#"><u>2003 Equity Incentive Plan As Amended May 25, 2005. (6)***</u></a>   |
| 10.9          | <a href="#"><u>Form of Notice of Grant of Stock Options and Option Agreement for 2003 Equity Incentive Plan. (4)***</u></a>   |
| 10.10         | <a href="#"><u>Management Incentive Plan (July 24, 2006). (8)***</u></a>  |
| 10.11         | <a href="#"><u>Compensation Policy for Non-Employee Directors dated March 18, 2005. (5)***</u></a>  |
| 10.12         | <a href="#"><u>Form of Director and Officer Indemnification Agreement. (20)***</u></a>  |
| 10.13         | <a href="#"><u>Lease Agreement between the Registrant and Prologis Texas III LLC dated December 5, 2011. (16)</u></a>   |
| 10.14         | <a href="#"><u>First Amendment to Lease Agreement between the Registrant and Prologis Texas III LLC dated August 23, 2012. (17)</u></a>   |
| 10.15         | <a href="#"><u>Second Amendment to Lease Agreement between Registrant and Prologis Texas III LLC dated July 18, 2014. (20)</u></a>  |
| 10.16         | <a href="#"><u>Agreement between Registrant and Hunchun BaoLi Communication Co., Ltd. (“BAOLI”) dated August 17, 2007. (10)</u></a>   |
| 10.17         | <a href="#"><u>First Amendment to Agreement between Registrant and BAOLI dated November 1, 2007. (11)</u></a>   |
| 10.18         | <a href="#"><u>Second Amendment to Agreement between Registrant and BAOLI dated January 7, 2008. (11)</u></a>   |
| 10.19         | <a href="#"><u>2013 Equity Incentive Plan adopted October 25, 2013, and forms of Award Agreements. (23) ***</u></a>   |
| 10.20         | <a href="#"><u>Agreement and Plan of Merger, dated February 26, 2020, by and among Superconductor Technologies Inc., AIU Special Merger Company, Inc. and Allied Integral United, Inc. (30)</u></a> |
| 10.21         | <a href="#"><u>Form of Sales Invoice for Equipment Sales (31)</u></a>   |
| 14            | <a href="#"><u>Code of Business Conduct and Ethics. (7)</u></a>   |
| 21            | <a href="#"><u>List of Subsidiaries. (31)</u></a>   |
| 23.1          | <a href="#"><u>Consent of Marcum, LLP, Independent Registered Public Accounting Firm. (31)</u></a>  |
| 31.1          | <a href="#"><u>Statement of CEO Pursuant to 302 of the Sarbanes-Oxley Act of 2002. (31)</u></a>   |
| 31.2          | <a href="#"><u>Statement of CFO Pursuant to 302 of the Sarbanes-Oxley Act of 2002. (31)</u></a>   |
| 32.1          | <a href="#"><u>Statement of CEO Pursuant to 906 of the Sarbanes-Oxley Act of 2002. (31) *</u></a>   |
| 32.2          | <a href="#"><u>Statement of CFO Pursuant to 906 of the Sarbanes-Oxley Act of 2002. (31) *</u></a>   |
| 101           | Financials provided in XBRL format. (38)  |
| (1)           | Incorporated by reference from Registrant’s Quarterly Report on Form 10-Q for the quarter ended March 29, 2003, filed May 13, 2003.   |
| (2)           | Incorporated by reference from Registrant’s Annual Report on Form 10-K for the year ended December 31, 2003, filed March 11, 2004.  |
| (3)           | Incorporated by reference from Registrant’s Quarterly Report on Form 10-Q for the quarter ended October 2, 2004, filed November 10, 2004.   |
| (4)           | Incorporated by reference from Registrant’s Annual Report on Form 10-K for the year ended December 31, 2004, filed March 16, 2005.  |
| (5)           | Incorporated by reference from Registrant’s Quarterly Report on Form 10-Q for the quarter ended April 2, 2005, filed May 6, 2005.   |
| (6)           | Incorporated by reference from Registrant’s Current Report on Form 8-K filed May 27, 2005.  |
| (7)           | Incorporated by reference from Registrant’s Annual Report on Form 10-K for the year ended December 31, 2005, filed March 8, 2006.   |
| (8)           | Incorporated by reference from Registrant’s Current Report on Form 8-K filed July 28, 2006.   |

## Table of Contents

- (9) Incorporated by reference from Registrant's Annual Report on Form 10-K for the year ended December 31, 2006, filed April 2, 2007.
- (10) Incorporated by reference from Registrant's Quarterly Report on Form 10-Q for the quarter ended September 29, 2007, filed November 13, 2007.
- (11) Incorporated by reference from Registrant's Annual Report on Form 10-K for the year ended December 31, 2007, filed March 27, 2008.
- (12) Incorporated by reference from Registrant's Current Report on Form 8-K/A filed February 25, 2008.
- (13) Incorporated by reference from Registrant's Form 10-K filed March 28, 2014.
- (14) Incorporated by reference from Registrant's Annual Report on Form 10-K for the year ended December 31, 2009, filed March 17, 2010.
- (15) Incorporated by reference from Registrant's Current Report on Form 8-K filed April 2, 2010.
- (16) Incorporated by reference from Registrant's Annual Report on Form 10-K for the year ended December 31, 2011, filed March 30, 2012.
- (17) Incorporated by reference from Registrant's Quarterly Report on Form 10-Q for the quarter ended September 29, 2012, filed November 13, 2012.
- (18) Incorporated by reference from Registrant's Current Report on Form 8-K filed March 14, 2013.
- (19) Incorporated by reference from Registrant's Current Report on Form 8-K filed October 31, 2013.
- (20) Incorporated by reference from Registrant's Annual Report on Form 10-K for the year ended December 31, 2014, filed March 12, 2015.
- (21) Incorporated by reference from Registrant's Current Report on Form 8-K filed March 24, 2015.
- (22) Incorporated by reference from Registrant's Form S-1/A filed October 6, 2015.
- (23) Incorporated by reference as Exhibit A to Registrant's Schedule 14A filed October 31, 2013.
- (24) Incorporated by reference from Registrant's Current Report on Form 8-K filed October 13, 2015.
- (25) Incorporated by reference from Registrant's Current Report on Form 8-K filed July 18, 2016.
- (26) Incorporated by reference from Registrant's Current Report on Form 8-K filed August 2, 2016.
- (27) Incorporated by reference from Registrant's Form S-1/A filed December 6, 2016.
- (28) Incorporated by reference from Registrant's Current Report on Form 8-K filed March 9, 2018.
- (29) Incorporated by reference from Registrant's Amendment No. 1 to Registration Statement on Form S-1, filed July 24, 2018.
- (30) Incorporated by reference from Registrant's Current Report on Form 8-K filed March 3, 2020.
- (31) Filed herewith.

\* Furnished, not filed.

\*\* Confidential treatment has been previously granted for certain portions of these exhibits.

\*\*\* This exhibit is a management contract or compensatory plan or arrangement.

- (b) Exhibits. See Item 15(a) above.

### **ITEM 16. FORM 10-K SUMMARY**

None.

**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

To the Shareholders and Board of Directors of  
**Superconductor Technologies Inc.**

**Opinion on the Financial Statements**

We have audited the accompanying consolidated balance sheets of Superconductor Technologies Inc. (the “Company”) as of December 31, 2019 and 2018, the related consolidated statements of operations, stockholders’ equity and cash flows for each of the three years in the period ended December 31, 2019, and the related notes and Schedule II — valuation and qualifying accounts (collectively referred to as the “financial statements”). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2019 and 2018, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2019, in conformity with accounting principles generally accepted in the United States of America.

**Explanatory Paragraph — Change in Accounting Principle**

As discussed in Note 2 to the consolidated financial statements, the Company changed its method of accounting for leases in 2019 due to the adoption of ASU No. 2016-02, Leases (Topic 842), as amended, effective January 1, 2019, using the modified retrospective approach.

**Explanatory Paragraph — Going Concern**

The accompanying financial statements have been prepared assuming that the Company will continue as a going concern. As more fully described in Note 2, the Company has a significant working capital deficiency, has incurred significant losses and needs to raise additional funds to meet its obligations and sustain its operations. These conditions raise substantial doubt about the Company’s ability to continue as a going concern. Management’s plans in regard to these matters are also described in Note 2. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

**Basis for Opinion**

These financial statements are the responsibility of the Company’s management. Our responsibility is to express an opinion on the Company’s financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (“PCAOB”) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company’s internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ Marcum LLP

Marcum LLP

We have served as the Company’s auditor since 2009.

Los Angeles, CA

March 30, 2020

**SUPERCONDUCTOR TECHNOLOGIES INC.  
CONSOLIDATED BALANCE SHEETS**

|   | <u>December 31,<br/>2019</u> | <u>December 31,<br/>2018</u> |
|---|------------------------------|------------------------------|
| <b>ASSETS</b>   |                              |                              |
| <b>Current Assets:</b>  |                              |                              |
| Cash and cash equivalents   | \$ 713,000                   | \$ 5,616,000                 |
| Accounts receivable, net  | 344,000                      | —                            |
| Inventory, net  | 263,000                      | 173,000                      |
| Prepaid expenses and other current assets   | 76,000                       | 61,000                       |
| Total Current Assets  | 1,396,000                    | 5,850,000                    |
| Property and equipment, net of accumulated depreciation of \$12,948,000 and \$12,172,000, respectively                              | 233,000                      | 1,009,000                    |
| Patents, licenses and purchased technology, net of accumulated amortization of \$1,071,000 and \$1,026,000, respectively            | 641,000                      | 686,000                      |
| Operating lease assets  | 152,000                      |                              |
| Other assets  | 60,000                       | 69,000                       |
| Total Assets  | <u>\$ 2,482,000</u>          | <u>\$ 7,614,000</u>          |
| <b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>   |                              |                              |
| <b>Current Liabilities:</b>   |                              |                              |
| Accounts payable  | \$ 527,000                   | \$ 313,000                   |
| Accrued expenses  | 292,000                      | 539,000                      |
| Current lease liabilities   | 148,000                      |                              |
| Total Current Liabilities   | 967,000                      | 852,000                      |
| Long term lease liabilities   | 4,000                        |                              |
| Other long term liabilities   | 8,000                        | 17,000                       |
| Total Liabilities   | 979,000                      | 869,000                      |
| <b>Commitments and contingencies (Notes 7 and 8)</b>  |                              |                              |
| <b>Stockholders' Equity:</b>  |                              |                              |
| Preferred stock, \$.001 par value, 2,000,000 shares authorized, 328,925 and 330,787 issued and outstanding, respectively            | —                            | —                            |
| Common stock, \$.001 par value, 250,000,000 shares authorized, 17,731,893 and 3,270,609 shares issued and outstanding, respectively | 18,000                       | 3,000                        |
| Capital in excess of par value  | 330,458,000                  | 326,486,000                  |
| Accumulated deficit   | (328,973,000)                | (319,744,000)                |
| Total Stockholders' Equity  | 1,503,000                    | 6,745,000                    |
| Total Liabilities and Stockholders' Equity  | <u>\$ 2,482,000</u>          | <u>\$ 7,614,000</u>          |

See accompanying notes to the consolidated financial statements.

**SUPERCONDUCTOR TECHNOLOGIES INC.**  
**CONSOLIDATED STATEMENTS OF OPERATIONS**

|  | Years Ended December 31 |                       |                       |
|--|-------------------------|-----------------------|-----------------------|
|  | 2019                    | 2018                  | 2017                  |
| Commercial product revenues  | \$ 5,000                | \$ —                  | \$ 11,000             |
| Government contract revenues   | 540,000                 | 1,556,000             | 435,000               |
| Total revenues   | <u>545,000</u>          | <u>1,556,000</u>      | <u>446,000</u>        |
| Costs and expenses:  |                         |                       |                       |
| Cost of commercial product revenues                                    | 3,259,000               | 2,245,000             | 3,072,000             |
| Cost of government contract revenues                                   | 303,000                 | 1,210,000             | 331,000               |
| Research and development   | 2,353,000               | 2,352,000             | 2,644,000             |
| Selling, general and administrative                                    | 3,918,000               | 3,972,000             | 4,062,000             |
| Total costs and expenses   | <u>9,833,000</u>        | <u>9,779,000</u>      | <u>10,109,000</u>     |
| Loss from operations   | (9,288,000)             | (8,223,000)           | (9,663,000)           |
| Other Income and Expense   |                         |                       |                       |
| Adjustments to fair value of warrant derivatives                       | —                       | 52,000                | 99,000                |
| Adjustment to warrant exercise price                                   | —                       | (24,000)              | —                     |
| Other income   | 59,000                  | 64,000                | 37,000                |
| Net loss   | <u>\$ (9,229,000)</u>   | <u>\$ (8,131,000)</u> | <u>\$ (9,527,000)</u> |
| Basic and diluted net loss per common share                            | <u>\$ (1.23)</u>        | <u>\$ (4.03)</u>      | <u>\$ (9.06)</u>      |
| Basic and diluted weighted average number of common shares outstanding | <u>7,486,584</u>        | <u>2,016,869</u>      | <u>1,052,473</u>      |

See accompanying notes to the consolidated financial statements.

**SUPERCONDUCTOR TECHNOLOGIES INC.**  
**CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY**

|   | Convertible Preferred Stock |        | Common Stock |           | Capital in Excess of Par Value | Accumulated Deficit | Total         |
|---|-----------------------------|--------|--------------|-----------|--------------------------------|---------------------|---------------|
|   | Shares                      | Amount | Shares       | Amount    |                                |                     |               |
| Balance at December 31, 2016  | 333,767                     | \$ —   | 735,371      | \$ 1,000  | \$ 316,183,000                 | \$ (302,086,000)    | \$ 14,098,000 |
| Issuance of common stock (net of costs) from exercise of outstanding warrants |                             |        | 13,333       |           | 200,000                        |                     | 200,000       |
| Stock-based compensation  |                             |        | 3,167        |           | 341,000                        |                     | 341,000       |
| Conversion of Series D preferred stock to common stock                        | (4,842)                     | —      | 322,788      |           |                                |                     |               |
| Net loss  |                             |        |              |           |                                | (9,527,000)         | (9,527,000)   |
| Balance at December 31, 2017  | 328,925                     | —      | 1,074,659    | 1,000     | 316,724,000                    | (311,613,000)       | 5,112,000     |
| Issuance of Series E preferred  | 4,135                       |        |              |           |                                |                     |               |
| Conversion of Series E preferred stock to common stock                        | (2,273)                     |        | 649,429      |           |                                |                     |               |
| Issuance of common stock (net of costs)                                       |                             |        | 1,509,000    | 2,000     | 9,678,000                      |                     | 9,680,000     |
| Stock-based compensation  |                             |        |              |           | 84,000                         |                     | 84,000        |
| Warrant Exercises   |                             |        | 38,720       |           |                                |                     |               |
| Cancellation of shares from reverse stock split                               |                             |        | (1,199)      |           |                                |                     |               |
| Net Loss  |                             |        |              |           |                                | (8,131,000)         | (8,131,000)   |
| Balance at December 31, 2018  | 330,787                     | —      | 3,270,609    | 3,000     | 326,486,000                    | (319,744,000)       | 6,745,000     |
| Conversion of Series E preferred stock to common stock                        | (1,862)                     |        | 532,000      | 1,000     | (1,000)                        |                     |               |
| Conversion of prefunded warrants to common stock                              |                             |        | 3,900,000    | 4,000     | (4,000)                        |                     |               |
| Issuance of common stock (net of costs)                                       |                             |        | 9,634,000    | 10,000    | 3,791,000                      |                     | 3,801,000     |
| Stock-based compensation  |                             |        |              |           | 87,000                         |                     | 87,000        |
| Warrant Exercises   |                             |        | 395,284      |           | 99,000                         |                     | 99,000        |
| Net Loss  |                             |        |              |           |                                | (9,229,000)         | (9,229,000)   |
| Balance at December 31, 2019  | 328,925                     | \$ —   | 17,731,893   | \$ 18,000 | \$ 330,458,000                 | \$ (328,973,000)    | \$ 1,503,000  |

See accompanying notes to the consolidated financial statements.



**SUPERCONDUCTOR TECHNOLOGIES INC.**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**

|   | Years Ended December 31, |                     |                     |
|---|--------------------------|---------------------|---------------------|
|   | 2019                     | 2018                | 2017                |
| <b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>                                |                          |                     |                     |
| Net loss  | \$ (9,229,000)           | \$ (8,131,000)      | \$ (9,527,000)      |
| Adjustments to reconcile net loss to net cash used in operating activities: |                          |                     |                     |
| Depreciation and amortization   | 820,000                  | 1,015,000           | 1,885,000           |
| Stock-based compensation expense  | 87,000                   | 84,000              | 341,000             |
| Adjustments to fair value of warrant derivatives                            | —                        | (52,000)            | (99,000)            |
| Adjustments to warrant exercise price                                       | —                        | 24,000              | —                   |
| Changes in assets and liabilities:  |                          |                     |                     |
| Accounts receivable   | (343,000)                | 151,000             | (143,000)           |
| Inventory   | (90,000)                 | (70,000)            | (34,000)            |
| Prepaid expenses and other current assets                                   | (16,000)                 | 22,000              | 26,000              |
| Patents and licenses  | —                        | 14,000              | 212,000             |
| Other assets  | 9,000                    | —                   | 27,000              |
| Accounts payable, accrued expenses and other liabilities                    | (41,000)                 | 12,000              | (132,000)           |
| Net cash used in operating activities                                       | <u>(8,803,000)</u>       | <u>(6,931,000)</u>  | <u>(7,444,000)</u>  |
| <b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>                                |                          |                     |                     |
| Purchase of property and equipment  | —                        | (189,000)           | (152,000)           |
| Net cash used in investing activities                                       | <u>—</u>                 | <u>(189,000)</u>    | <u>(152,000)</u>    |
| <b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>                                |                          |                     |                     |
| Net proceeds from sale of common, prefunded warrants and preferred stock    | 3,801,000                | 9,680,000           | —                   |
| Net proceeds from exercise of warrants                                      | 99,000                   | —                   | 200,000             |
| Net cash provided by financing activities                                   | <u>3,900,000</u>         | <u>9,680,000</u>    | <u>200,000</u>      |
| Net increase (decrease) in cash and cash equivalents                        | (4,903,000)              | 2,560,000           | (7,396,000)         |
| Cash and cash equivalents at beginning of year                              | 5,616,000                | 3,056,000           | 10,452,000          |
| Cash and cash equivalents at end of year                                    | <u>\$ 713,000</u>        | <u>\$ 5,616,000</u> | <u>\$ 3,056,000</u> |

See accompanying notes to the consolidated financial statements.

**SUPERCONDUCTOR TECHNOLOGIES INC.**

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

**Note 1 — The Company**

Superconductor Technologies Inc. (together with our subsidiaries, “we” or “us”) was incorporated in Delaware on May 11, 1987. We developed and produced high temperature superconducting (HTS) materials and associated technologies. We have generated more than 100 patents as well as proprietary trade secrets and manufacturing expertise. We are now leveraging our key enabling technologies in HTS materials and cryogenics, to pursue emerging opportunities in the electrical grid and in equipment platforms that utilize electrical circuits. In January 2012, we took possession of a facility in Austin, Texas and have moved our HTS wire processes and our research and development to Austin.

Our initial superconducting products were completed in 1998, and we began delivery to a number of wireless network providers. In the following 13 years, our cost reducing efforts led to the invention of our proprietary, high-yield and high throughput HTS material deposition manufacturing process.

Since 2010 we have focused our research and development efforts on adapting our successful HTS materials deposition techniques to the production of our HTS Conductus® wire for next generation power applications. While most of our current commercial product revenues come from the sale of high performance wireless communications infrastructure products, production of our Conductus wire is our principal opportunity to grow our future revenue.

Historically, we used research and development contracts as a source of funds for our commercial technology development. Although we are not currently involved as either a contractor or subcontractor on contracts with the U.S. government, in November 2016, we were selected as the prime recipient of a \$4.5 million program award provided by the U.S. Department of Energy and, in June 2017, the related contract was finalized and we have now commenced work under that contract.

On October 29, 2019, we announced that our Board of Directors, supported by its management team, had commenced a process to explore strategic alternatives focused on maximizing shareholder value.

Strategic alternatives considered included, among others, a strategic investment financing which would allow the company to pursue its current business plan to commercialize the Conductus wire platform, a business combination such as a merger with another party, or a sale of STI.

On January 28, 2020, we announced a cost reduction plan for the purpose of aligning our personnel needs and capital requirements as we explored strategic alternatives previously announced. We will maintain operations of our Sapphire Cryocooler cryogenics initiatives while ceasing additional manufacturing of our HTS Conductus® wire. The plan also included a 70% employee workforce reduction.

On February 26, 2020, we entered into a definitive merger agreement with Allied Integral United, Inc. (“Clearday”), a privately-held company dedicated to delivering next generation longevity care and wellness services, whereby a wholly-owned subsidiary of STI will merge with and into Clearday in a stock-for-stock transaction with Clearday.

Upon completion of the merger, we will change our name to Clearday, Inc. The merged company will focus on the development of Clearday’s non-residential daily care service model as well as the continued operation of Clearday’s existing Memory Care America residential memory care facilities. As part of plans to develop and expand its assortment of innovative, non-residential daily care services, Clearday intends to leverage STI’s existing Cryogenic Cooler as an enabling technology for one of its service offerings in the home healthcare market.

## Note 2 — Summary of Significant Accounting Policies

### *Basis of Presentation*

We have incurred significant net losses since our inception and have an accumulated deficit of \$329 million. In 2019, we incurred a net loss of \$9.2 million and had negative cash flows from operations of \$8.8 million. In 2018, we had an accumulated deficit of \$319.7 million, a net loss of \$8.1 million and negative cash flows from operations of \$6.9 million. At December 31, 2019, we had \$0.7 million in cash. From March 3, 2020 through March 16, 2020, 5,551,716 warrants were exercised for common shares of our stock in connection with our October 2019 financing, providing us with \$1.4 million. Our cash resources may therefore not be sufficient to fund our business through the end of the current fiscal year. Therefore, unless we can successfully implement our strategic alternatives plan including, among others, a business combination such as our merger with Clearday, or a sale of STI, we will need to raise additional capital during this fiscal year ending December 31, 2020 to maintain our viability. Additional financing may not be available on acceptable terms or at all. If we issue additional equity securities to raise funds, the ownership percentage of our existing stockholders would be reduced. New investors may demand rights, preferences or privileges senior to those of existing holders of common stock. These factors raise substantial doubt about our ability to continue as a going concern.

Our plans regarding improving our future liquidity will require us to successfully implement our strategic plan to explore strategic alternatives focused on maximizing shareholder value. Strategic alternatives considered included, among others, a strategic investment financing which would allow the company to pursue its current business plan to commercialize the Conductus wire platform, a business combination such as a merger with another party, or a sale of STI. On January 28, 2020, we announced a cost reduction plan for the purpose of aligning our personnel needs and capital requirements as we explored strategic alternatives previously announced. We will maintain operations of our Sapphire Cryocooler cryogenics initiatives while ceasing additional manufacturing of our HTS Conductus® wire. The plan also included a 70% employee workforce reduction.

On February 26, 2020, we entered into a definitive merger agreement with Allied Integral United, Inc. (“Clearday”), a privately-held company dedicated to delivering next generation longevity care and wellness services, whereby a wholly-owned subsidiary of STI will merge with and into Clearday in a stock-for-stock transaction with Clearday. Upon completion of the merger, we will change our name to Clearday, Inc. The merged company will focus on the development of Clearday’s non-residential daily care service model as well as the continued operation of Clearday’s existing Memory Care America residential memory care facilities. As part of plans to develop and expand its assortment of innovative, non-residential daily care services, Clearday intends to leverage STI’s existing Cryogenic Cooler as an enabling technology for one of its service offerings in the home healthcare market.

The accompanying consolidated financial statements do not include any adjustments that may result from the outcome of the uncertainties set forth above.

In 2019, we undertook steps to reduce our ongoing operating costs and we raised net cash proceeds of \$3.9 million from the sale of our common and preferred shares and warrants.

On July 24, 2018, we effected a 1-for-10 reverse stock split of our common stock, or the Second Reverse Stock Split. As a result of the Second Reverse Stock Split, every ten shares of our pre-Second Reverse Stock Split common stock were combined and reclassified into one share of our common stock. The Second Reverse Stock Split did not change the authorized number of shares or the par value of our common stock.

On July 19, 2016, we effected a 1-for-15 reverse stock split of our common stock, or the Reverse Stock Split. As a result of the Reverse Stock Split, every fifteen shares of our pre-Reverse Stock Split common stock were combined and reclassified into one share of our common stock. The Reverse Stock Split did not change the authorized number of shares or the par value of our common stock.

Share and per share data included in the Notes to Consolidated Financial Statements have been retroactively adjusted, as applicable, for the effect of the reverse stock splits. Certain of the information contained in the documents incorporated by reference herein and therein present information on our common stock on a pre-reverse stock split basis.

### **Recent Accounting Pronouncements**

Effective January 1, 2018, we adopted the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) No. 2014-09, *Revenue from Contracts with Customers (Topic 606)*. The amended guidance establishes a single comprehensive model for companies to use in accounting for revenue arising from contracts with customers and superseded most of the existing revenue recognition guidance, including industry-specific guidance. There was no impact from adopting the standard on our financial statements and related disclosures.

In February 2016, the FASB issued ASU 2016-02, *Leases (Topic 842)*, which supersedes all existing guidance on accounting for leases in ASC Topic 840. ASU 2016-02 is intended to provide enhanced transparency and comparability by requiring lessees to record right-of-use assets and corresponding lease liabilities on the balance sheet. ASU 2016-02 will continue to classify leases as either finance or operating, with classification affecting the pattern of expense recognition in the statement of income. ASU 2016-02 is effective for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. Early adoption is permitted. We applied this guidance at January 1, 2019 and recorded our leases on our consolidated balance sheets as right-of-use assets and lease liabilities. We also elected this new standard’s available transition practical expedients. Consequently, financial information will not be updated and disclosures required under the new standard will not be provided for dates and periods before January 1, 2019. We have reviewed our leases and other agreements in order to determine the effects of the new guidance on our consolidated financial statements. We have determined that we have leases that meet the criteria for recognition of right-of-use assets and lease liabilities on the balance sheet under the new guidance. We are not party to any leases for which we are the lessor.

Effective January 1, 2018, the Company adopted the FASB issued ASU No. 2016-15, *Statement of Cash Flows (Topic 230): Classification of Certain Cash Receipts and Cash Payments*, which provides guidance on eight specific cash flow classification issues. Prior to this ASU, GAAP did not include specific guidance on these eight cash flow classification issues. The adoption of this ASU did not have a material impact on our consolidated financial statements and disclosures.

In July 2017, the FASB issued ASU 2017-11, *Earnings Per Shares (Topic 260), Distinguishing Liabilities from Equity (Topic 480) and Derivatives and Hedging (Topic 815): Part I, Accounting for Certain Financial Instruments with Down Round Features*. ASU 2017-11 changes the classification analysis of certain equity-linked financial instruments, such as warrants and embedded conversion features, such that a down round feature is disregarded when assessing whether the instrument is indexed to an entity’s own stock under Subtopic 815-40. As a result, a down round feature — by itself — no longer requires an instrument to be remeasured at fair value through earnings each period, although all other aspects of the indexation guidance under Subtopic 815-40 continue to apply. ASU 2017-11 is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2018. Early adoption is permitted. The adoption of this ASU did not have a material impact on our consolidated financial statements and disclosures.

In August 2018, the FASB issued ASU 2018-13, *Disclosure Framework — Changes to the Disclosure Requirements for Fair Value Measurements* which eliminates, adds and modifies certain disclosure requirements for fair value measurements as part of the FASB’s disclosure framework project. Adoption of this guidance is required for fiscal years and interim periods within those fiscal years, beginning after December 15, 2019. We are evaluating the impact of adopting this new standard on our financial statements.

### ***Principles of Consolidation***

The consolidated financial statements include the accounts of Superconductor Technologies Inc. and its wholly owned subsidiaries. All significant intercompany transactions have been eliminated from the consolidated financial statements.

### ***Cash and Cash Equivalents***

Cash and cash equivalents consist of highly liquid investments with original maturities of three months or less. Cash and cash equivalents are maintained with what management believes to be quality financial institutions and exceed FDIC limits. Historically, we have not experienced any losses due to such concentration of credit risk.

### ***Accounts Receivable***

We grant uncollateralized credit to our customers. We perform usual and customary credit evaluations of our customers before granting credit. Trade accounts receivable are recorded at the invoiced amount and do not bear interest. The allowance for doubtful accounts is our best estimate of the amount of probable credit losses in our existing accounts receivable. We determine the allowance based on historical write-off experience. Past due balances are reviewed for collectability. Account balances are charged off against the allowance when we deem it is probable the receivable will not be recovered. We do not have any off-balance-sheet credit exposure related to our customers.

### ***Revenue Recognition***

On January 1, 2018, we adopted ASC Topic 606, *Revenue from Contracts with Customers*, and all of the related amendments and applied it to all contracts. The adoption ASC topic 606 has had no effect to our consolidated financial statements.

Commercial and government contract revenues are recognized once all of the following conditions have been met: a) an authorized purchase order has been received in writing, b) the customer's credit worthiness has been established, c) shipment of the product has occurred, d) title has transferred, and e) if stipulated by the contract, customer acceptance has occurred and all significant vendor obligations, if any, have been satisfied.

Government contract revenues are principally generated under research and development contracts. Revenues from research-related activities are derived from contracts with agencies of the U.S. Government. Credit risk related to accounts receivable arising from such contracts is considered minimal. All payments to us for work performed on contracts with agencies of the U.S. Government are subject to adjustment upon audit by the Defense Contract Audit Agency. Based on historical experience and review of our current project in process, we believe that adjustments from open audits will not have a significant effect on our financial position, results of operations or cash flows.

### ***Shipping and Handling Fees and Costs***

Shipping and handling fees billed to customers are included in net commercial product revenues. Shipping and handling fees associated with freight are generally included in cost of commercial product revenues.

### ***Warranties***

We offer warranties generally ranging from one to five years, depending on the product and negotiated terms of purchase agreements with our customers. Such warranties require us to repair or replace defective product returned to us during such warranty period at no cost to the customer. Our estimate for warranty related costs is recorded at the time of sale based on our actual historical product return rates and expected repair costs. Such costs have been within our expectations.

### ***Indemnities***

In connection with the sales and manufacturing of our commercial products, we indemnify, without limit or term, our customers and contract manufacturers against all claims, suits, demands, damages, liabilities, expenses, judgments, settlements and penalties arising from actual or alleged infringement or misappropriation of any intellectual property relating to our products or other claims arising from our products. We cannot reasonably develop an estimate of the maximum potential amount of payments that might be made under our indemnities because of the uncertainty as to whether a claim might arise and how much it might total. Historically, we have not incurred any expenses related to these indemnities.

### ***Research and Development Costs***

Research and development costs are charged to expense as incurred and include salary, facility, depreciation and material expenses. Research and development costs are charged to research and development expense.

### ***Inventories***

Inventories are stated at the lower of cost or net realizable value, with costs primarily determined using standard costs, which approximate actual costs utilizing the first-in, first-out method. We review inventory quantities on hand and on order and record, on a quarterly basis, a provision for excess and obsolete inventory and/or vendor cancellation charges related to purchase commitments. If the results of the review determine that a write-down is necessary, we recognize a loss in the period in which the loss is identified, whether or not the inventory is retained. Our inventory reserves establish a new cost basis for inventory and are not reversed until we sell or dispose of the related inventory. Such provisions are established based on historical usage, adjusted for known changes in demands for such products, or the estimated forecast of product demand and production requirements. Costs associated with idle capacity are charged to operations immediately.

### ***Property and Equipment***

Property and equipment are recorded at cost. Equipment is depreciated using the straight-line method over their estimated useful lives ranging from three to five years. Leasehold improvements and assets financed under capital leases are amortized over the shorter of their useful lives or the lease term. Furniture and fixtures are depreciated over seven years. Expenditures for additions and major improvements are capitalized. Expenditures for minor tooling, repairs and maintenance and minor improvements are charged to operations as incurred. When property or equipment is retired or otherwise disposed of, the related cost and accumulated depreciation are removed from the accounts. There were no disposals in 2018 or 2019.

### ***Patents, Licenses and Purchased Technology***

Patents and licenses are recorded at cost and are amortized using the straight-line method over the shorter of their estimated useful lives or approximately seventeen years.

### ***Long-Lived Assets***

The realizability of long-lived assets is evaluated periodically as events or circumstances indicate a possible inability to recover the carrying amount. Long-lived assets that will no longer be used in the business are written off in the period identified since they will no longer be used in operations and generate any positive cash flows for us. Periodically, long-lived assets that will continue to be used by us will need to be evaluated for recoverability. Such evaluation is based on various analyses, including cash flow and profitability projections, as well as alternative uses, such as government contracts or awards. The analyses necessarily involve significant management judgment. In the event the projected undiscounted cash flows are less than net book value of the assets, the carrying value of the assets will be written down to their estimated fair value. We tested our long lived assets for recoverability in each of the last three years and did not believe there was any impairment.

## [Table of Contents](#)

The accompanying consolidated financial statements do not include any adjustments that may result from the outcome of these uncertainties.

### ***Income Taxes***

We recognize deferred tax liabilities and assets based on the differences between the financial statement carrying amounts and the tax bases of assets and liabilities, using enacted tax rates in effect in the years the differences are expected to reverse. Deferred income tax benefit (expense) results from the change in net deferred tax assets or deferred tax liabilities. A valuation allowance is recorded when it is more likely than not that some or all deferred tax assets will not be realized.

The guidance further clarifies the accounting for uncertainty in income taxes and sets a consistent framework to determine the appropriate level of tax reserve to maintain for uncertain tax positions. This interpretation uses a two-step approach wherein a tax benefit is recognized if a position is more-likely-than-not to be sustained. The amount of the benefit is then measured to be the highest tax benefit that is greater than 50% likely to be realized and sets out disclosure requirements to enhance transparency of our tax reserves.

Unrecognized tax positions, if ever recognized in the consolidated financial statements, are recorded in the statement of operations as part of the income tax provision. Our policy is to recognize interest and penalties accrued on uncertain tax positions, if any, as part of the income tax provision.

No liabilities for uncertain tax positions were recorded in the current year. No interest or penalties on uncertain tax positions have been expensed to date. We are not under examination by any taxing authorities. The federal statute of limitations for examination of us is open for 2016 and subsequent filings. Additionally, the statute of limitations for examination of our net operating loss carryforwards is open for a 20 year period subsequent to each loss year.

We implemented ASU 2016-09 during the first quarter of 2017 as stipulated in the FASB guidance for publicly traded entities. To account for the implementation of ASU 2016-09, we accounted for previously unrecognized excess tax benefits by recognizing those benefits. Due to our full valuation allowance, this recognition has no effect on the net accrual after the valuation allowance.

### ***Marketing Costs***

All costs related to marketing and advertising our products are charged to operations as incurred or at the time the advertising takes place. Advertising costs were not material in each of the three years in the period ended December 31, 2019.

### ***Net Loss Per Share***

Basic and diluted net loss per share is computed by dividing net loss available to common stockholders by the weighted average number of common shares outstanding in each year. Net loss available to common stockholders is computed after deducting accumulated dividends on cumulative preferred stock, deemed dividends and accretion of redemption value on redeemable preferred stock for the period and beneficial conversion features on issuance of convertible preferred stock. Potential common shares are not included in the calculation of diluted loss per share because their effect is anti-dilutive.

### ***Stock-based Compensation Expense***

We have in effect several equity incentive plans under which stock options and awards have been granted to employees and non-employee members of the Board of Directors. We are required to estimate the fair value of share-based awards on the date of grant. The value of the award is principally recognized as expense ratably over

## [Table of Contents](#)

the requisite service periods. We have estimated the fair value of stock options as of the date of grant using the Black-Scholes option pricing model. The Black-Scholes model considers, among other factors, the expected life of the award and the expected volatility of our stock price. We evaluate the assumptions used to value stock options on a quarterly basis. The fair values generated by the Black-Scholes model may not be indicative of the actual fair values of our equity awards, as they do not consider other factors important to those awards to employees, such as continued employment and periodic vesting.

The following table presents details of total stock-based compensation expense that is included in each functional line item on our consolidated statements of operations:

|                                     | <u>2019</u>     | <u>2018</u>     | <u>2017</u>      |
|-------------------------------------|-----------------|-----------------|------------------|
| Cost of Commercial product revenues | \$ 3,000        | \$ 3,000        | \$ 1,000         |
| Research and development            | 10,000          | 12,000          | 47,000           |
| Selling, general and administrative | 74,000          | 69,000          | 293,000          |
|                                     | <u>\$87,000</u> | <u>\$84,000</u> | <u>\$341,000</u> |

The impact to the consolidated statements of operations for 2019, 2018 and 2017 on basic and diluted earnings per share was \$0.01, \$0.04 and \$0.32, respectively. No stock compensation cost was capitalized during the three year period ended December 31, 2019.

### *Use of Estimates*

The preparation of consolidated financial statements in conformity with generally accepted accounting principles in the United States of America requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting periods. The significant estimates in the preparation of the consolidated financial statements relate to the assessment of the carrying amount of accounts receivable, inventory, fixed assets, intangibles, fair value of options and warrants, estimated provisions for warranty costs, accruals for restructuring and lease abandonment costs, contract revenues, income taxes and disclosures related to the litigation. Actual results could differ from those estimates and such differences may be material to the consolidated financial statements.

### *Fair Value of Financial Instruments*

We have estimated the fair value amounts of our financial instruments using the available market information and valuation methodologies considered appropriate. We determined the book value of our cash and cash equivalents, accounts receivable, and other current assets and other current liabilities as of December 31, 2019 and December 31, 2018 approximate fair value.

The fair value of our warrant derivative liability was estimated using the Binomial Lattice option valuation model.

Fair value for financial reporting purposes is defined as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date, ASC 820, "Fair Value Measurement and Disclosures", also establishes a fair value hierarchy which requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. ASC 820 describes three levels of inputs that may be used to measure fair value:

Level 1 — quoted prices in active markets for identical assets or liabilities

Level 2 — quoted prices for similar assets and liabilities in active markets or inputs that are observable

Level 3 — inputs that are unobservable (for example cash flow modeling inputs based on assumptions)



## [Table of Contents](#)

The fair value of our warrant liabilities was determined based on level 3 inputs. These derivative liabilities, which expired in August 2018 and had no value at December 31, 2018 or December 31, 2019, were adjusted to reflect fair value at each period end, with any increase or decrease in the fair value being recorded in results of operations as Adjustment to Fair Value of Derivatives. See Note 5 — *Stockholders Equity — Warrants*.

### ***Comprehensive Income***

We have no items of other comprehensive income in any period and consequently have not included a Statement of Comprehensive Income.

### ***Segment Information***

We have historically operated in a single business segment: the research, development, manufacture and marketing of high performance products used in cellular base stations. We derived net commercial product revenues primarily from the sales of our AmpLink and SuperPlex products which we sold directly to wireless network operators in the United States. Net revenues derived principally from government contracts are presented separately on the consolidated statements of operations for all periods presented. As discussed in this Report, we are adapting our unique HTS material deposition techniques to produce our energy efficient, cost-effective and high performance Conductus wire.

### ***Certain Risks and Uncertainties***

Our long-term prospects are dependent upon the successful commercialization and market acceptance of our Conductus wire products. We do not currently have a customer buying significant amounts of our wire products. With respect to our Conductus wire business, we expect to also have some customer concentration in that business as we continue to commercialize our wire product. The loss of or reduction in sales, or the inability to collect outstanding accounts receivable, from any significant customer could have a material adverse effect on our business, financial condition, results of operations and cash flows.

We currently rely on a limited number of suppliers for key components of our products. The loss of any of these suppliers could have material adverse effect on our business, financial condition, results of operations and cash flows.

In connection with the sales of our commercial products, we indemnify, without limit or term, our customers against all claims, suits, demands, damages, liabilities, expenses, judgments, settlements and penalties arising from actual or alleged infringement or misappropriation of any intellectual property relating to our products or other claims arising from our products. We cannot reasonably develop an estimate of the maximum potential amount of payments that might be made under our indemnities because of the uncertainty as to whether a claim might arise and how much it might total.

For more risks of our business, see Item 1A, “Risk Factors” in this Report and other filings with the Securities and Exchange Commission.

### **Note 3 — Short Term Borrowings**

None

### **Note 4 — Income Taxes**

We incurred a net loss in each year of operation since inception resulting in no current or deferred tax expense for 2019, 2018 or 2017.

## [Table of Contents](#)

Due to our operating losses, the 2017 Tax Act did not impact our 2018 operating results or income tax expense. The primary impact of the 2017 Tax Act was the re-measurement of our deferred tax assets, based upon the new U.S. statutory corporate tax rate of 21% and the required change to the related valuation allowance. The deferred tax assets decreased by \$300,000 as a result of the change in tax rates.

As of December 31, 2019, the Company's foreign subsidiaries had negative earnings and profits. As a result, no income tax provision was required for the deemed repatriation tax or the global intangible low tax income (GILTI) tax.

The benefit for income taxes differs from the amount obtained by applying the federal statutory income tax rate to loss before benefit for income taxes for 2019, 2018 and 2017 as follows:

|  | <u>2019</u>   | <u>2018</u>   | <u>2017</u>   |
|--|---------------|---------------|---------------|
| Tax benefit computed at federal statutory rate | 21.0%         | 21.0%         | 34.0%         |
| Increase (decrease) in taxes due to:           |               |               |               |
| Change in tax rate under tax reform            | —             | —             | (13.0)        |
| Change in valuation allowance                  | <u>(21.0)</u> | <u>(21.0)</u> | <u>(21.0)</u> |
|  | <u>— %</u>    | <u>— %</u>    | <u>— %</u>    |

The significant components of deferred tax assets (liabilities) at December 31 are as follows:

|                             | <u>2019</u>        | <u>2018</u>        |
|-----------------------------|--------------------|--------------------|
| Loss carryforwards          | \$ 3,662,000       | \$ 4,355,000       |
| Depreciation & Amortization | 684,000            | 826,000            |
| Stock Option Compensation   | 394,000            | 376,000            |
| Other                       | 132,000            | 127,000            |
| Less: valuation allowance   | <u>(4,872,000)</u> | <u>(5,686,000)</u> |
|                             | <u>\$ —</u>        | <u>\$ —</u>        |

As of December 31, 2019, we had net operating loss carryforwards for federal and state income tax purposes of approximately \$342.4 million which of which \$325 million expire in the years 2020 through 2038. Of these amounts, \$66.9 million resulted from the acquisition of Conductus. We also had \$8.4 million of Federal net operating losses from the 2018 tax year and \$3.5 million from the 2019 tax year which do not expire, but are subject to an annual limitation under section 382 discussed below. We also had \$17.9 million of Federal net operating losses from post 2017 years which do not expire. Under the Internal Revenue Code change of control limitations, a maximum of \$17.9 million will be available for reduction of future taxable income.

Due to the uncertainty surrounding their realization, we have recorded a full valuation allowance against our net deferred tax assets. Accordingly, no deferred tax asset has been recorded in the accompanying balance sheet. The valuation allowance decreased by \$814,000 in 2019 and increased by \$1,780,000 in 2018.

Section 382 of the Internal Revenue Code imposes an annual limitation on the utilization of net operating loss carryforwards based on a statutory rate of return (usually the "applicable federal funds rate," as defined in the Internal Revenue Code) and the value of the corporation at the time of a "change of ownership" as defined by Section 382. We had changes in ownership in August 1999, December 2002, June 2009, August 2013, December 2016 and May 2019. In addition, we acquired the right to Conductus' net operating losses, which are also subject to the limitations imposed by Section 382. Conductus underwent seven ownership changes, which occurred in February 1999, February 2001, December 2002, June 2009, August 2013, December 2016 and May 2019. Therefore, the ability to utilize Conductus' and our net operating loss carryforwards of \$337 million which were incurred prior to the 2019 ownership changes, will be subject in future periods to annual limitations of

## [Table of Contents](#)

\$115,000. Net operating losses released from this limitation and/or incurred by us subsequent to the ownership changes and therefore not subject to this limitation totaled \$5.9 million. An additional \$71,000 in losses were released from limitation during the year under Section 382.

### **Note 5 — Stockholders' Equity**

#### ***Public Offerings***

We have historically financed our operations through a combination of cash on hand, cash provided from operations, equipment lease financings, available borrowings under bank lines of credit and both private and public equity offerings.

On October 10, 2019 we completed a public offering of an aggregate of 11,834,000 shares of our common stock (or common stock equivalents) and warrants to purchase an aggregate of 11,834,000 shares of common stock with gross proceeds to us of approximately \$3.0 million. The warrants are exercisable for five years at an exercise price equal to the public offering price. The offering was priced at \$0.25 per share of common stock. The net proceeds to us from the offering, after deducting the placement agent fees and our estimated offering expenses, was approximately \$2.4 million.

On May 23, 2019 we completed a public offering of an aggregate of 1,700,000 shares of our common stock with gross proceeds to us of \$1.7 million. The offering was priced at \$1.00 per share of common stock. The net proceeds to us from the offering, after deducting the placement agent fees and our estimated offering expenses, was approximately \$1.4 million.

On July 30, 2018 we completed a public offering of an aggregate of 2,571,429 shares of our common stock (or common stock equivalents) and warrants to purchase an aggregate of 2,571,429 shares of common stock with gross proceeds to us of \$9.0 million. The net proceeds to us from the offering, after deducting the placement agent fees and our estimated offering expenses, was \$7.98 million. The offering was priced at \$3.50 per share of common stock (or common stock equivalent), with each share of common stock (or common stock equivalent) sold with one five-year warrant to purchase one share of common stock, at an exercise price of \$3.50 per share.

In connection with the offering, we issued 1,390,000 shares of our common stock at a price of \$3.50 per share, with each share of common stock coupled with a five year warrant to purchase one share of common stock, at an exercise price of \$3.50 (the "Warrants"). These securities were offered in the form of a Class A Unit but were immediately separable and were issued separately at the closing.

For certain investors who would otherwise hold more than 4.99% (or at the election of a purchaser, 9.99%) of our common stock following the registered offering, we issued to such investors an aggregate of 4,135.0015 Class B Units (equivalent to 1,181,429 shares of our common stock), consisting of shares of a new class of preferred stock designated Series E Convertible Preferred Stock with a stated value of \$1,000 and which are convertible into our common stock at a conversion price equal to \$3.50 per share of common stock, together with an equivalent number of Warrants in the same form and economic terms based on the related purchase price as the purchasers of the Class A Units (the "Class B Units" and together with the "Class A Units", the "Units"). These securities offered in the form of a Class B Unit were immediately separable and were issued separately at the closing. At September 29, 2018, 1,573.0015 Series E Convertible Preferred Stock had been converted into 449,429 shares of common stock and 2,562 Series E Convertible Preferred Stock, convertible into 732,000 shares of common stock, remained unconverted. From September 29, 2018 through December 31, 2018, an additional 700 Series E Convertible Preferred Stock had been converted into 200,000 shares of common stock and 1,862 Series E Convertible Preferred Stock, convertible into 532,000 shares of common stock, remained unconverted. On March 21, 2019, the remaining 1,862 Series E Convertible Preferred Stock, were converted into 532,000 shares of common stock.

## [Table of Contents](#)

On March 9, 2018, we issued a total of 158,100 shares of common stock (or common stock equivalents) in the form of 119,000 shares of our common stock at a price of \$12.65 per share and, for investors who would otherwise hold more than 9.99% of the Company's common stock following the registered offering, we agreed to issue to such investors pre-funded warrants to purchase 39,100 shares of the Company's common stock at a price of \$12.55 per warrant subject to payment of an additional \$0.10 upon exercise, which are common stock equivalents. This registered offering of common stock (and common stock equivalents) provided gross proceeds to us of \$2.0 million, and net proceeds to us, after deducting the placement agent fees and our estimated offering expenses, of \$1.7 million. In a concurrent private placement, we issued to the investor unregistered warrants to purchase 158,100 shares of common stock. The warrants have an exercise price of \$11.40 per share, and are exercisable immediately and will expire five years and nine months from the date of issuance.

On April 4, 2018, the 39,100 pre-funded warrants issued in connection with our March 2018 financing noted above were exercised, on a cashless basis, and we issued 38,720 shares of our common stock.

We did not conduct any offerings in 2017.

### ***Preferred Stock***

Pursuant to our Certificate of Incorporation, the Board of Directors is authorized to issue up to 2,000,000 shares of preferred stock (par value \$.001 per share) in one or more series and to fix the rights, preferences, privileges, and restrictions, including the dividend rights, conversion rights, voting rights, redemption price or prices, liquidation preferences, and the number of shares constituting any series or the designation of such series. There is no beneficial conversion feature related to the conversion or liquidation of any of our preferred shares.

In February 2008, we issued to Hunchun BaoLi Communication Co. Ltd. ("BAOLI") and two related purchasers a total of (a) 3,101,361 shares of our common stock and (b) 611,523 shares of our Series A Preferred Stock. Subject to the terms and conditions of our Series A Preferred Stock and to customary adjustments to the conversion rate, each share of our Series A Preferred Stock was initially convertible into ten shares of our common stock with any conversion subject to the number of shares of our common stock beneficially owned by BAOLI and affiliates following such conversion not exceeding 9.9% of our outstanding common stock. At December 31, 2018, 328,925 shares of our Series A Preferred Stock were outstanding which, subject to the foregoing restrictions, are convertible into 1,827 shares of common stock. Except for a preference on liquidation of \$.001 per share, each share of Series A Preferred Stock is the economic equivalent of the number of shares of common stock into which it is convertible. Except as required by law, the Series A Preferred Stock does not have any voting rights.

As of December 31, 2018, all of our issued Series B, C and D Preferred Stock had been converted into our common stock.

In late July 2018, we issued 4,135.0015 Series E Convertible Preferred Stock with a stated value of \$1,000 and which are convertible into our common stock at a conversion price equal to \$3.50 per share of common stock (see *Public Offerings* above). At December 31, 2018, 2,273.0015 Series E Convertible Preferred Stock had been converted into 649,429 shares of common stock and 1,862 Series E Convertible Preferred Stock, convertible into 532,000 shares of common stock, remained unconverted. On March 21, 2019, the remaining 1,862 Series E Convertible Preferred Stock, were converted into 532,000 shares of common stock.

### ***Common Stock***

On October 10, 2019 we issued 11,834,000 shares of our common stock (or common stock equivalents) and coupled with a five year warrant to purchase one share of common stock at an exercise price of \$0.25.

On May 23, 2019 we issued 1,700,000 shares of our common stock at a price of \$1.00 per share. The offering was priced at \$1.00 per share of common stock.

## [Table of Contents](#)

On July 30, 2018 we issued 1,390,000 shares of common stock at a price of \$3.50 per share, with each share of common stock coupled with a five year warrant to purchase one share of common stock, at an exercise price of \$20. For certain investors who would otherwise hold more than 4.99% of our common stock following the registered offering, we agreed to issue to such investors in the form of Class A Units, 4,435.0015 shares of a new class of preferred stock designated Series E Convertible Preferred Stock with a stated value of \$1,000 and which are convertible into 1,181,429 shares of our common stock at a conversion price equal to \$3.50 per share.

On April 4, 2018, 39,100 pre-funded warrants issued in connection with our March 9, 2018 financing noted below were exercised, on a cashless basis, and we issued 38,720 shares of our common stock.

On March 9, 2018, we issued a total of 158,100 shares of common stock (or common stock equivalents) in the form of 119,000 shares of our common stock at a price of \$12.65 per share and, for investors who would otherwise hold more than 9.99% of the Company's common stock following the registered offering, we agreed to issue to such investors pre-funded warrants to purchase 39,100 shares of the Company's common stock at a price of \$12.55 per warrant subject to payment of an additional \$0.10 upon exercise, which are common stock equivalents.

### **Equity Awards**

At December 31, 2019, we had two equity award option plans, the 2003 Equity Incentive Plan and the 2013 Equity Incentive Plan (collectively, the "Stock Option Plans") although we can only grant new options under the 2013 Equity Incentive Plan. Under the Stock Option Plans, stock awards may be made to our directors, key employees, consultants, and non-employee directors and may consist of stock options, stock appreciation rights, restricted stock awards, performance awards, and performance share awards. Stock options must be granted at prices no less than the market value on the date of grant.

There were no stock option exercises in the last three years.

No stock options were granted in 2017 or 2019, but stock options were granted in 2018. The weighted average fair value of options has been estimated at the date of the grant using the Black-Scholes option-pricing model. The following are the significant weighted average assumptions used for estimating the fair value under our stock option plans:

|                                    | <u>2019</u> | <u>2018</u> | <u>2017</u> |
|------------------------------------|-------------|-------------|-------------|
| Per share fair value at grant date | —           | \$1.45      | —           |
| Risk free interest rate            | —           | 3.0%        | —           |
| Expected volatility                | —           | 224.9%      | —           |
| Dividend yield                     | —           | 0%          | —           |
| Expected life in years             | —           | 4.0         | —           |

The expected life was based on the contractual term of the options and the expected employee exercise behavior. Typically, options to our employees and Board Members have a 2 year vesting term and a 10 year contractual term and vest at 50% after one year and 50% after two years. The risk-free interest rate is based on the U. S. Treasury zero-coupon issues with a remaining term equal to the expected option life assumed at the grant date. The future volatility is based on our 4 year historical volatility. We used an expected dividend yield of 0% because we have never paid a dividend and do not anticipate paying dividends. We assumed aggregate forfeiture rates of 10% to 20% based on historical stock option cancellation rates over the last 4 years.

## [Table of Contents](#)

At December 31, 2019, common stock totaling 78,452 shares were available for future grants and options covering 137,256 shares were outstanding but not yet exercised. Option activity during the three years ended December 31, 2019 was as follows:

|                                  | <u>Number of Shares</u> | <u>Weighted<br/>Average<br/>Exercise Price</u> |
|----------------------------------|-------------------------|--|
| Outstanding at December 31, 2016 | 13,116                  | \$ 360.30                                      |
| Granted                          | —                       | —  |
| Canceled                         | (503)                   | 45.10  |
| Exercised                        | —                       | —  |
| Outstanding at December 31, 2017 | 12,613                  | 370.30   |
| Granted                          | 128,000                 | 1.92   |
| Canceled                         | (290)                   | 4,723.90                                       |
| Exercised                        | —                       | —  |
| Outstanding at December 31, 2018 | 140,323                 | 25.29  |
| Granted                          | —                       | —  |
| Canceled                         | (3,067)                 | 29.11  |
| Exercised                        | —                       | —  |
| Outstanding at December 31, 2019 | <u>137,256</u>          | <u>\$ 25.20</u>                                |

The following table summarizes information concerning currently outstanding and exercisable stock options at December 31, 2019:

| <u>Range of<br/>Exercise Prices</u> | <u>Number<br/>Outstanding</u> | <u>Weighted<br/>Average<br/>Remaining<br/>Contractual<br/>Life in Years</u> | <u>Weighted<br/>Average<br/>Exercise Price</u> | <u>Exercisable</u>            |  |
|-------------------------------------|-------------------------------|---|--|-------------------------------|--|
|                                     |                               |   |  | <u>Number<br/>Exercisable</u> | <u>Weighted<br/>Average<br/>Exercise<br/>Price</u> |
| \$1.92 – \$1.92                     | 125,500                       | 8.8   | \$ 1.92  | 62,750                        | \$ 1.92  |
| 33.00 – 33.00                       | 4,867                         | 5.9   | 33.00  | 4,867                         | 33.00  |
| 318.00 – 318.00                     | 6,217                         | 3.9   | 318.00   | 6,217                         | 318.00   |
| 378.00 – 2,844.00                   | 610                           | 3.1   | 1,289.50                                       | 610                           | 1,289.50   |
| \$3,150.00 – \$5,148.00             | 62                            | 0.5   | 4,722.63                                       | 62                            | 4,722.63   |
|                                     | <u>137,256</u>                | 8.4   | \$ 25.20                                       | <u>74,507</u>                 | <u>\$ 44.81</u>                                    |

Our outstanding options expire on various dates through October 2028. The weighted-average contractual term of outstanding options was 8.4 years and the weighted-average contractual term of currently exercisable stock options was 5.6 years. There were no exercisable options at December 31, 2019, December 31, 2018 or December 31, 2017 with a price less than the then market value.

The grant date fair value of each share of our restricted stock awards is equal to the fair value of our common stock at the grant date. Shares of restricted stock under awards all have service conditions and vest over

## Table of Contents

one to four years. The following is a summary of our restricted stock award transactions for the year ended December 31, 2019:

|  | Number of Shares | Weighted<br>Average Grant<br>Date Fair Value |
|--|------------------|--|
| Balance nonvested at December 31, 2018 | 2,000            | \$ 10.68                                     |
| Granted                                | —                | —  |
| Vested                                 | (667)            | 11.05  |
| Forfeited                              | (1,000)          | 10.50  |
| Balance nonvested at December 31, 2019 | <u>333</u>       | <u>\$ 10.50</u>                              |

The weighted-average grant date fair value of our restricted stock awards, their total fair value and the fair value of all shares that have vested during each of the past three years is as follows:

|   | Year ended December 31 |      |          |
|---|------------------------|------|----------|
|   | 2019                   | 2018 | 2017     |
| Weight-average grant date fair value          | —                      | —    | \$ 10.70 |
| Fair value of restricted stock awards granted | —                      | —    | \$48,000 |
| Fair value of restricted stock awards vested  | —                      | —    | \$23,000 |

For the majority of restricted stock awards granted, the number of shares issued on the date the restricted stock awards vest may be net of the minimum statutory withholding requirements that we pay in cash to the appropriate taxing authorities on behalf of our employees. For the three years presented here, there was no such withholding.

No stock compensation cost was capitalized during the periods. At December 31, 2019, the total compensation cost related to non-vested option awards not yet recognized was \$80,000 and the weighted-average period over which the cost is expected to be recognized is 7 months. The total compensation cost related to non-vested stock awards not yet recognized was \$3,000, and the weighted-average period over which the cost is expected to be recognized is 6 months.

### Warrants

The following is a summary of outstanding warrants at December 31, 2019:

|   | Common Shares |                          | Price per<br>Share | Expiration Date    |
|---|---------------|--------------------------|--------------------|--------------------|
|   | Total         | Currently<br>Exercisable |                    |                    |
| Warrants related to February 2015 agreement | 306           | 306                      | \$ 450.45          | February 13, 2020  |
| Warrants related to March 2015 financing    | 10,209        | 10,209                   | \$ 244.88          | September 24, 2020 |
| Warrants related to March 2015 financing    | 1,021         | 1,021                    | \$ 306.09          | March 20, 2020     |
| Warrants related to October 2015 financing  | 135,517       | 135,517                  | \$ 60.00           | October 14, 2020   |
| Warrants related to October 2015 financing  | 9,034         | 9,034                    | \$ 65.63           | October 14, 2020   |
| Warrants related to August 2016 financing   | 53,506        | 53,506                   | \$ 30.00           | February 2, 2022   |
| Warrants related to August 2016 financing   | 4,994         | 4,994                    | \$ 38.55           | August 2, 2021     |
| Warrants related to December 2016 financing | 685,667       | 685,667                  | \$ 20.00           | December 14, 2021  |
| Warrants related to March 2018 financing    | 158,100       | 158,100                  | \$ 11.40           | September 9, 2023  |
| Warrants related to March 2018 financing    | 11,067        | 11,067                   | \$ 15.80           | March 6, 2023      |
| Warrants related to July 2018 financing     | 2,571,429     | 2,571,429                | \$ 3.50            | July 25, 2023      |
| Warrants related to July 2018 financing     | 154,286       | 154,286                  | \$ 4.38            | July 25, 2023      |
| Warrants related to May 2019 financing      | 119,000       | 119,000                  | \$ 1.25            | May 23, 2024       |
| Warrants related to October 2019 financing  | 11,438,716    | 11,438,716               | \$ 0.25            | October 10, 2024   |
| Warrants related to October 2019 financing  | 828,380       | —                        | \$ 0.31            | October 8, 2024    |

## [Table of Contents](#)

On October 10, 2019 we completed a public offering of an aggregate of 11,834,000 shares of our common stock (or common stock equivalents) and warrants to purchase an aggregate of 11,834,000 shares of common stock with gross proceeds to us of approximately \$3.0 million. The warrants are exercisable for five years at an exercise price equal to the public offering price. The offering was priced at \$0.25 per share of common stock. The net proceeds to us from the offering, after deducting the placement agent fees and our estimated offering expenses, was approximately \$2.4 million. The placement agent received warrants to purchase 828,380 shares of common stock, at an exercise price of \$0.3125, that will expire October 8, 2024 and are subject to a six month lock-up. In the quarter ended December 31, 2019, 395,284 of these warrants were exercised, providing us with proceeds of \$99,000. From March 3, 2020 to March 16, 2020, an additional 5,551,716 of these warrants were exercised, providing us with proceeds of \$1.4 million.

On May 23, 2019 we completed a public offering of an aggregate of 1,700,000 shares of our common stock with gross proceeds to us of \$1.7 million. The offering was priced at \$1.00 per share of common stock. The net proceeds to us from the offering, after deducting the placement agent fees and our estimated offering expenses, was approximately \$1.4 million. The placement agent received warrants to purchase 119,000 shares of common stock, at an exercise price of \$1.25, that are subject to a nine month lock-up and will expire May 23, 2024.

On July 30, 2018 we completed a public offering of an aggregate of 2,571,429 shares of our common stock (or common stock equivalents initially in the form of Series E Preferred Stock) and warrants to purchase an aggregate of 2,571,429 shares of common stock with gross proceeds to us of \$9.0 million. The net proceeds to us from the offering, after deducting the placement agent fees and our estimated offering expenses, was \$7.98 million. The offering was priced at \$3.50 per share of common stock (or common stock equivalent), with each share of common stock (or common stock equivalent) sold with one five-year warrant to purchase one share of common stock, at an exercise price of \$3.50 per share. The placement agent also received warrants to purchase 154,286 shares of common stock, at an exercise price of \$4.375, that are subject to a six month lock-up and will expire July 25, 2023.

On March 7, 2018, we announced the pricing of a registered offering of common stock (and common stock equivalents) with total gross proceeds of approximately \$2 million. The closing of the registered public offering was completed on March 9, 2018. The net proceeds to us from the registered offering, after deducting the placement agent fees and our estimated offering expenses, was \$1.7 million. In a concurrent private placement, we issued to the investor in the registered offering, an unregistered warrant (the "Warrants") to purchase one share of common stock for each share of common stock or Pre-funded Warrants purchased in the registered offering. The Warrants have an exercise price of \$11.40 per share, shall be exercisable immediately and will expire five years and six months from the date of issuance. The Warrants are exercisable for cash or, solely in the absence of an effective registration statement or prospectus, by cashless exercise. The exercise price of the Warrants is not subject to a "price-based" anti-dilution adjustment.

Our warrants are exercisable by paying cash or, solely in the absence of an effective registration statement or prospectus, by cashless exercise for unregistered shares of common stock. The exercise price of the warrants is subject to standard antidilutive provision adjustment in the case of stock dividends or other distributions on shares of common stock or any other equity or equity equivalent securities payable in shares of common stock, stock splits, stock combinations, reclassifications or similar events affecting our common stock, and also, subject to limitations, upon any distribution of assets, including cash, stock or other property to our stockholders. The exercise price of the warrants is not subject to "price-based" anti-dilution adjustment. We have determined that these warrants related to issuance of common stock are subject to equity treatment because the warrant holder has no right to demand cash settlement and there are no unusual anti-dilution rights.

Certain warrants that expired on August 9, 2018 were not considered indexed to our common shares under ASC 815-40, and required separate accounting as derivative instruments with changes in fair value recognized in earnings each period. The warrants contained a provision whereby the warrant exercise price would be decreased in the event that future common stock issuances were made at a price less than the then exercise price. Due to the



## [Table of Contents](#)

potential variability of their exercise price, these warrants do not qualify for equity treatment, and therefore were recognized as a liability. The warrant liability was adjusted to fair value each reporting period, and any change in value was recognized in the statement of operations. Using the binomial lattice valuation model, including an equal probabilities tree and early exercise factor of 30%, the significant weighted average assumptions for these expired warrants at December 31, 2017 was as follows: expected life of 8 months; risk free interest rates of 1.5% expected volatility of 69% and; dividend yield of 0% and the December 31, 2017 fair value of these warrants was estimated to be \$28,000. Due to their expiration these warrants had no value at December 31, 2019 or December 31, 2018. The fair value of warrants accounted for as derivative liabilities was decreased by \$28,000 from December 31, 2017 to December 31, 2018.

Using the binomial lattice valuation model, including an equal probabilities tree and early exercise factor of 30%, the significant weighted average assumptions for estimating the fair value of these warrant liabilities at December 31, 2017 as follows: expected life of 8 months; risk free interest rates of 1.5%; expected volatility of 69% and; dividend yield of 0%. The December 31, 2017 fair value of these warrants was estimated to be \$28,000. The fair value was reduced by \$99,000 from December 31, 2016 to December 31, 2017 principally due to our reduced market stock price.

### **Note 6 — Employee Savings Plan**

In December 1989, the Board of Directors approved a 401(k) savings plan (the “401(k) Plan”) for our employees that became effective in 1990. Eligible employees may elect to make contributions under the terms of the 401(k) Plan; however, contributions by us are made at the discretion of management. We made a contribution of \$79,000 to the 401(k) plan in 2019, and \$72,000 and \$66,000 in 2018 and 2017, respectively.

### **Note 7 — Commitments and Contingencies**

#### ***Operating Leases***

We adopted ASU No. 2016-02, Leases (Topic 842), as amended, effective January 1, 2019, using the modified retrospective approach.

We lease our offices and production facilities under non-cancelable operating leases. All of our operations, including our manufacturing facilities, are located in an industrial complex in Austin, Texas. We occupy approximately 94,000 square feet in Austin, Texas under a long-term lease that expires in April 2020. Our Austin lease contains a renewal option and also requires us to pay utilities, insurance, taxes and other operating expenses. Although we currently have excess capacity, we believe this facility can be managed in a flexible and cost effective manner and is adequate to meet current and reasonably anticipated needs for approximately the next two years.

For 2019, 2018 and 2017, rent expense was \$579,000, \$387,000, and \$385,000, respectively.

#### ***Patents and Licenses***

We have entered into various licensing agreements requiring royalty payments ranging from 0.13% to 2.5% of specified product sales. Certain of these agreements contain provisions for the payment of guaranteed or minimum royalty amounts. In the event that we fail to pay any minimum annual royalties, these licenses may automatically be terminated. These royalty obligations terminate in 2026. Royalty expenses totaled \$45,000 in 2019, \$45,000 in 2018 and \$45,000 in 2017. Under the terms of certain royalty agreements, royalty payments made may be subject to audit. There have been no audits to date and we do not expect any possible future audit adjustments to be significant.

The minimum lease payments under operating leases and license obligations are as follows:

| <u>Years Ended December 31,</u> | <u>Licenses</u>  | <u>Operating<br/>Leases</u> |
|---------------------------------|------------------|-----------------------------|
| 2020                            | \$ 10,000        | \$ 148,000                  |
| 2021                            | 10,000           | 2,000                       |
| 2022                            | 10,000           | 2,000                       |
| 2023                            | 10,000           | —                           |
| 2024                            | 10,000           | —                           |
| Thereafter                      | 10,000           | —                           |
| Total payments                  | <u>\$ 60,000</u> | <u>\$ 152,000</u>           |

#### **Note 8 — Contractual Guarantees and Indemnities**

During our normal course of business, we make certain contractual guarantees and indemnities pursuant to which we may be required to make future payments under specific circumstances.

##### ***Warranties***

We establish reserves for future product warranty costs that are expected to be incurred pursuant to specific warranty provisions with our customers. Our warranty reserves are established at the time of sale and updated throughout the warranty period based upon numerous factors including historical warranty return rates and expenses over various warranty periods.

##### ***Intellectual Property Indemnities***

We indemnify certain customers and our contract manufacturers against liability arising from third-party claims of intellectual property rights infringement related to our products. These indemnities appear in development and supply agreements with our customers as well as manufacturing service agreements with our contract manufacturers, are not limited in amount or duration and generally survive the expiration of the contract. Given that the amount of any potential liabilities related to such indemnities cannot be determined until an infringement claim has been made, we are unable to determine the maximum amount of losses that we could incur related to such indemnifications.

##### ***Director and Officer Indemnities and Contractual Guarantees***

We have entered into indemnification agreements with our directors and executive officers, which require us to indemnify such individuals to the fullest extent permitted by Delaware law. Our indemnification obligations under such agreements are not limited in amount or duration. Certain costs incurred in connection with such indemnifications may be recovered under certain circumstances under various insurance policies. Given that the amount of any potential liabilities related to such indemnities cannot be determined until a lawsuit has been filed against a director or executive officer, we are unable to determine the maximum amount of losses that we could incur relating to such indemnities. Historically, any amounts payable pursuant to such director and officer indemnities have not had a material negative effect on our business, financial condition or results of operations.

We have also entered into severance and change in control agreements with certain of our executives. These agreements provide for the payment of specific compensation benefits to such executives upon the termination of their employment with us.

**General Contractual Indemnities/Products Liability**

During the normal course of business, we enter into contracts with customers where we agree to indemnify the other party for personal injury or property damage caused by our products. Our indemnification obligations under such agreements are not generally limited in amount or duration. Given that the amount of any potential liabilities related to such indemnities cannot be determined until a lawsuit has been filed, we are unable to determine the maximum amount of losses that we could incur relating to such indemnities. Historically, any amounts payable pursuant to such indemnities have not had a material negative effect our business, financial condition or results of operations. We maintain general and product liability insurance as well as errors and omissions insurance, which may provide a source of recovery to us in the event of an indemnification claim.

**Note 9 — Legal Proceedings**

From time to time, we are party to various lawsuits, claims and other legal proceedings that arise in the ordinary course of our business. We are not currently a party to any legal proceedings that we believe would reasonably be expected to have a material adverse effect on our business, financial position or results of operations or cash flows.

**Note 10 — Loss Per Share**

Loss per share is based on the weighted-average number of common shares outstanding and diluted earnings (loss) per share was based on the weighted-average number of common shares outstanding plus all potentially dilutive common shares outstanding.

Since their impact would be anti-dilutive, our loss per common share does not include the effect of the assumed exercise or vesting of any of the following shares:

|                                  | <u>2019</u>       | <u>2018</u>      | <u>2017</u>    |
|----------------------------------|-------------------|------------------|----------------|
| Outstanding stock options        | 137,256           | 140,323          | 12,613         |
| Unvested restricted stock awards | 333               | 2,000            | 3,166          |
| Outstanding warrants             | <u>16,181,232</u> | <u>3,796,849</u> | <u>929,416</u> |
| Total                            | 16,318,821        | 3,939,172        | 945,195        |

Also, the convertible preferred stock, which is convertible into 1,827 and 533,827 and 1,827 shares of common stock at December 31, 2019 and 2018 and 2017, respectively, was not included since their impact would be anti-dilutive.

**Note 11 — Details of Certain Financial Statement Components and Supplemental Disclosures of Cash Flow Information and Non-Cash Activities***Balance Sheet Data:*

|                                       | <u>December 31,<br/>2019</u> | <u>December 31,<br/>2018</u> |
|---------------------------------------|------------------------------|------------------------------|
| Accounts receivable:                  |                              |                              |
| Accounts receivable-trade             | \$ 347,000                   | \$ 3,000                     |
| Less: allowance for doubtful accounts | <u>(3,000)</u>               | <u>(3,000)</u>               |
|                                       | <u>\$ 344,000</u>            | <u>\$ —</u>                  |

[Table of Contents](#)

|                             | December 31,<br>2019 | December 31,<br>2018 |
|-----------------------------|----------------------|----------------------|
| <b>Inventories:</b>         |                      |                      |
| Raw materials               | \$ 152,000           | \$ 161,000           |
| Reserve for raw materials   | —                    | —                    |
| Work-in-process             | 111,000              | 12,000               |
| Reserve for work-in-process | —                    | —                    |
| Finished goods              | —                    | —                    |
| Reserve for finished goods  | —                    | —                    |
|                             | <u>\$ 263,000</u>    | <u>\$ 173,000</u>    |

|   | December 31,<br>2019 | December 31,<br>2018 |
|---|----------------------|----------------------|
| <b>Property and Equipment:</b>                  |                      |                      |
| Equipment                                       | \$ 11,911,000        | \$ 11,911,000        |
| Leasehold improvements                          | 1,065,000            | 1,065,000            |
| Furniture and fixtures                          | 205,000              | 205,000              |
|   | <u>13,181,000</u>    | <u>13,181,000</u>    |
| Less: accumulated depreciation and amortization | (12,948,000)         | (12,172,000)         |
|   | <u>\$ 233,000</u>    | <u>\$ 1,009,000</u>  |

Depreciation and amortization expense amounted to \$820,000, \$1,015,000, and \$1,885,000 in 2019, 2018, 2017, respectively.

|  | December 31,<br>2019 | December 31,<br>2018 |
|--|----------------------|----------------------|
| <b>Patents, Licenses and Purchased Technology:</b> |                      |                      |
| Patents pending                                    | \$ —                 | \$ —                 |
| Patents issued                                     | 1,712,000            | 1,712,000            |
| Less accumulated amortization                      | (1,071,000)          | (1,026,000)          |
| Net patents issued                                 | <u>641,000</u>       | <u>686,000</u>       |
|  | <u>\$ 641,000</u>    | <u>\$ 686,000</u>    |

Amortization expense related to these items totaled \$45,000, \$43,000 and, \$36,000 in 2019, 2018, and 2017, respectively. Amortization expenses related to these items are expected to total \$40,000 in 2020 and \$40,000 in 2021.

|  | December 31,<br>2019 | December 31,<br>2018 |
|--|----------------------|----------------------|
| <b>Accrued Expenses and Other Long Term Liabilities:</b> |                      |                      |
| Salaries payable   | \$ 23,000            | \$ 119,000           |
| Compensated absences                                     | 211,000              | 195,000              |
| Compensation related                                     | 4,000                | 6,000                |
| Warranty reserve   | 8,000                | 8,000                |
| Operating lease  | 152,000              | 39,000               |
| Other  | 54,000               | 189,000              |
| Total  | <u>452,000</u>       | <u>556,000</u>       |
| Less current portion                                     | (440,000)            | (539,000)            |
| Long-term portion  | <u>\$ 12,000</u>     | <u>\$ 17,000</u>     |

## [Table of Contents](#)

|                            | <u>2019</u>    | <u>2018</u>    | <u>2017</u>    |
|----------------------------|----------------|----------------|----------------|
| Warranty Reserve Activity: |                |                |                |
| Beginning balance          | \$8,000        | \$8,000        | \$8,000        |
| Additions                  | —              | —              | —              |
| Deductions                 | —              | —              | —              |
| Ending balance             | <u>\$8,000</u> | <u>\$8,000</u> | <u>\$8,000</u> |

### **Note 12 — Subsequent Events**

On January 28, 2020, we announced a cost reduction plan for the purpose of aligning our personnel needs and capital requirements as we explored strategic alternatives previously announced. We will maintain operations of our Sapphire Cryocooler cryogenics initiatives while ceasing additional manufacturing of our HTS Conductus® wire. The plan also included a 70% employee workforce reduction.

On February 26, 2020 we entered into a definitive merger agreement with Allied Integral United, Inc. (“Clearday”), a privately-held company dedicated to delivering next generation longevity care and wellness services, whereby a wholly-owned subsidiary of STI will merge with and into Clearday in a stock-for-stock transaction with Clearday. Upon completion of the merger, STI will change its name to Clearday, Inc. The merged company will focus on the development of Clearday’s non-residential daily care service model as well as the continued operation of Clearday’s existing Memory Care America residential memory care facilities. As part of plans to develop and expand its assortment of innovative, non-residential daily care services, Clearday intends to leverage STI’s existing Cryogenic Cooler as an enabling technology for one of its service offerings in the home healthcare market.

The completion of the Merger is subject to customary conditions, including (i) adoption of the Merger Agreement by each of STI and Clearday stockholders, (ii) Nasdaq approval of continued listing of STI Common Stock under its applicable rules, including the rules applicable to its change of control listing application, (iii) the Registration Statement being declared effective by the Securities and Exchange Commission (“SEC”) and (iv) the STI officers with severance rights entering Waiver Agreements. Each party’s obligation to complete the Merger is also subject to certain additional customary conditions, including (i) subject to certain exceptions, the accuracy of the representations and warranties of the other party, (ii) subject to certain exceptions, performance by the other party of its obligations under the Merger Agreement, (iii) the absence of any Material Adverse Effect (as defined in the Merger Agreement) on the other party and (iv) the absence of any law, order, injunction, decree or other legal restraint preventing the completion of the Merger or making the completion of the Merger illegal. In addition, it is a condition to closing that STI’s adjusted net working capital computed in accordance with the terms of the Merger Agreement be not less than negative \$250,000 as of immediately prior to the Effective Time and that all directors of STI, other than Jeffrey Quiram, STI’s current Chief Executive Officer, shall have resigned from the Board of Directors of STI; Mr. Quiram is expected to remain a member of the Board of Directors.

The Merger Agreement contains customary representations and warranties. The representations, warranties and covenants of each party set forth in the Merger Agreement have been made only for the purposes of, and were and are solely for the benefit of the parties to, the Merger Agreement, may be subject to limitations agreed upon by the contracting parties, including being qualified by confidential disclosures made for the purposes of allocating contractual risk between the parties to the Merger Agreement instead of establishing these matters as facts, and may be subject to standards of materiality applicable to the contracting parties that differ from those applicable to investors. Accordingly, the representations and warranties may not describe the actual state of affairs at the date they were made or at any other time, and investors should not rely on them as statements of fact. In addition, such representations and warranties (i) will not survive consummation of the Merger and (ii) were made only as of the date of the Merger Agreement or such other date as is specified in the Merger Agreement. Moreover, information concerning the subject matter of the representations and warranties may

## [Table of Contents](#)

change after the date of the Merger Agreement, which subsequent information may or may not be fully reflected in the parties' public disclosures. Accordingly, the Merger Agreement is included with this filing only to provide investors with information regarding the terms of the Merger Agreement, and not to provide investors with any factual information regarding STI or Clearday, their respective affiliates or their respective businesses. The Merger Agreement should not be read alone, but should instead be read in conjunction with the other information regarding the STI, Clearday, their respective affiliates or their respective businesses, the Merger Agreement and the Merger that will be contained in, or incorporated by reference into, the Registration Statement, as well as in the Forms 10-K, Forms 10-Q and other filings that STI makes with the SEC.

In connection with the proposed transaction between STI and Clearday, the parties intend to file relevant materials with the SEC, including a STI registration statement on Form S-4 that will contain a combined proxy statement/prospectus/information statement.

Subsequent to the announcement on January 28, 2020 about our cost reduction plan, we started the process of selling, in separate transactions, assets that we deemed non-essential going forward. The latest such transaction entered into on March 5th, when considered in combination with the prior transactions since January 28, 2020, may be deemed a material definitive purchase agreement for sales of various production, R&D, and testing equipment and selected intellectual property related primarily to our superconducting wire initiative. The aggregate sales prices of the post January 28th transactions is expected to be approximately \$1,075,000, all sold to purchasers having no affiliation with us. When the transactions are completed over the next several weeks, we will continue to hold production, R&D, and testing assets for our Sapphire cryocooler business, along with the majority of our intellectual property assets. The proceeds from this series of transactions is expected to be sufficient, together with the our other capital resources, for us to complete the Merger.

From March 3, 2020 to March 16, 2020, 5,551,716 warrants issued in connection with our October 2019 financing were exercised, providing us with proceeds of \$1.4 million.

On January 7, 2020, we received a letter (the "Nasdaq Letter") from the Staff notifying us that we had not regained compliance with the minimum bid price requirement set forth in Nasdaq Listing Rule 5550(a)(2) (the "Bid Price Requirement") by January 6, 2020, the 180 calendar day period previously provided in the letter received from the Staff on July 9, 2019 to regain compliance. The letter also confirmed that we are not eligible for a second 180 day period to regain compliance due to us not satisfying the Stockholders' Equity Requirement.

On January 13, 2020, we submitted a written request for a hearing before a Nasdaq Hearings Panel (the "Panel") to appeal the determination of the staff of the Nasdaq Listing Qualifications Department (the "Staff") relating to the previously disclosed Nasdaq Letter. The hearing before the Panel was on February 27, 2020 and no decision has been received yet. The hearing request will stay any delisting action by Nasdaq of our common stock at least until the Panel renders a decision in this matter. At the hearing, we outlined our plan to regain compliance with the Bid Price Requirement and the Stockholders' Equity Requirement. There can be no assurance that the Panel will accept our compliance plan. Our plan of compliance is to complete the Merger with Clearday, and regain compliance based upon the combined company's financial condition and operations and governance. The Merger will take time to complete, and the Nasdaq Hearing Panel may not, under Nasdaq's rules, grant us beyond July 6, 2020, if they decide to grant us any time at all, in their discretion.

As of the date of this Report, the Nasdaq Hearing Panel has not ruled on our request to obtain additional time in which to cure our listing deficiencies. There is no assurance as to when or how the Nasdaq Hearing Panel will rule, or whether, even if a ruling is to provide us additional time, the amount of time will be sufficient. In addition, there is no assurance that the SEC will declare our planned Form S-4 effective at all or in a timely manner, nor is there any assurance that the various conditions to the Merger Agreement will be satisfied at all or in a timely manner. In particular, there is no assurance that the financial statements required of Clearday will be provided in a timely manner or that they will be reasonably satisfactory to us.

[Table of Contents](#)

In December 2019, a novel strain of coronavirus was first identified in Wuhan, Hubei Province, China, and has since spread to a number of other countries, including the United States. Any outbreak of contagious diseases, or other adverse public health developments, could have a material and adverse effect on our business operations. For example, the coronavirus may impact the global economy or negatively affect various aspects of our business, including demand for our products and services. The extent to which the coronavirus may impact our business will depend on future developments, which are highly uncertain and cannot be predicted, including new information which may emerge concerning the severity of the coronavirus. A health epidemic or other outbreak could materially and adversely affect our business, financial condition and results of operations.

**SUPERCONDUCTOR TECHNOLOGIES INC.****Schedule II — Valuation and Qualifying Accounts**

|  | Beginning<br>Balance | Additions                         |                                 | Deductions | Ending<br>Balance |
|--|----------------------|-----------------------------------|---------------------------------|------------|-------------------|
|  |                      | Charged to<br>Costs &<br>Expenses | Charged to<br>Other<br>Accounts |            |                   |
| <b>2019</b>                            |                      |                                   |                                 |            |                   |
| Allowance for Uncollectible Accounts   | \$ 3,000             | \$ —                              | \$ —                            | \$ —       | \$ 3,000          |
| Reserve for Inventory Obsolescence     | —                    | —                                 | —                               | —          | —                 |
| Reserve for Warranty                   | 8,000                | —                                 | —                               | —          | 8,000             |
| Deferred Tax Asset Valuation Allowance | 5,686,000            | —                                 | —                               | (814,000)  | 4,872,000         |
| <b>2018</b>                            |                      |                                   |                                 |            |                   |
| Allowance for Uncollectible Accounts   | 3,000                | —                                 | —                               | —          | 3,000             |
| Reserve for Inventory Obsolescence     | —                    | —                                 | —                               | —          | —                 |
| Reserve for Warranty                   | 8,000                | —                                 | —                               | —          | 8,000             |
| Deferred Tax Asset Valuation Allowance | 3,906,000            | —                                 | 1,780,000                       | —          | 5,686,000         |
| <b>2017</b>                            |                      |                                   |                                 |            |                   |
| Allowance for Uncollectible Accounts   | 5,000                | 2,000                             | —                               | —          | 3,000             |
| Reserve for Inventory Obsolescence     | —                    | —                                 | —                               | —          | —                 |
| Reserve for Warranty                   | 8,000                | —                                 | —                               | —          | 8,000             |
| Deferred Tax Asset Valuation Allowance | \$2,999,000          | \$ —                              | \$ 907,000                      | \$ —       | \$3,906,000       |

## SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this Report to be signed on its behalf by the undersigned, thereunto duly authorized, on this 30th day of March 2020.

SUPERCONDUCTOR TECHNOLOGIES INC.

BY: /s/ Jeffrey A. Quiram  
Jeffrey A. Quiram  
President and Chief Executive Officer

## POWER OF ATTORNEY

KNOW ALL THESE PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints William J. Buchanan, his attorney-in-fact, with full power of substitution, for him in any and all capacities, to sign any and all amendments to this Report on Form 10-K, and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that said attorney-in-fact or his substitute or substitutes, may do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, this Report on Form 10-K has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated:

| <u>Signature</u>  | <u>Title</u>   | <u>Date</u>    |
|---|--|----------------|
| <u>/s/ Jeffrey A. Quiram</u><br>Jeffrey A. Quiram       | President, Chief Executive Officer and Director<br>(Principal Executive Officer) | March 30, 2020 |
| <u>/s/ William J. Buchanan</u><br>William J. Buchanan   | Chief Financial Officer<br>(Principal Financial and Accounting Officer)          | March 30, 2020 |
| <u>/s/ Julia S. Johnson</u><br>Julia S. Johnson         | Director   | March 30, 2020 |
| <u>/s/ David W. Vellequette</u><br>David W. Vellequette | Director   | March 30, 2020 |
| <u>/s/ Lynn J. Davis</u><br>Lynn J. Davis               | Director   | March 30, 2020 |



## DESCRIPTION OF SECURITIES

The following description of our common stock and preferred stock, together with the additional information we include in any future prospectus or prospectus supplement, summarizes the material terms and provisions of our common stock and preferred stock. While the terms we have summarized below will apply generally to any future common stock or preferred stock that we may offer, we will describe the particular terms of any class or series of these securities in more detail in the applicable prospectus or prospectus supplement. For the complete terms of our common stock and preferred stock, please refer to our restated certificate of incorporation, as amended (including the respective certificates of designation), or our certificate of incorporation, and our amended and restated bylaws, as amended, or our bylaws, which are exhibits to this Annual Report on Form 10-K. The terms of these securities may also be affected by the General Corporation Law of the State of Delaware. The summary below is qualified in its entirety by reference to our certificate of incorporation and our bylaws, as either may be amended from time to time.

### Authorized Capitalization

We have 252,000,000 shares of capital stock authorized under our certificate of incorporation, consisting of 250,000,000 shares of common stock and 2,000,000 shares of preferred stock, of which 706,829 have been designated as Series A Convertible Preferred Stock, par value \$0.001 per share, or Series A Preferred Stock, 10,000 have been designated as Series B Convertible Preferred Stock, par value \$0.001 per share, or Series B Preferred Stock, 1,500 have been designated as Series C Convertible Preferred Stock, par value \$0.001 per share, or Series C Preferred Stock, 8,000 have been designated as Series D Convertible Preferred Stock, par value \$0.001 per share, or Series D Preferred Stock and 4,500 have been designated as Series E Convertible Preferred Stock, par value \$0.001 per share, or Series E Preferred Stock. As of December 31, 2019, we had 17,731,893 shares of common stock, 328,925 shares of Series A Preferred Stock and 0 shares of Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock and Series E Preferred Stock outstanding. Our authorized shares of common stock and preferred stock are available for issuance without further action by our stockholders, unless such action is required by applicable law or the rules of any stock exchange or automated quotation system on which our securities may be listed or traded. If the approval of our stockholders is not so required, our board of directors may determine not to seek stockholder approval.

On July 24, 2018, we effected a reverse stock split of the issued and outstanding shares of our common stock, at a ratio of one share for ten shares (the "2018 Reverse Stock Split"). As a result of the 2018 Reverse Stock Split, every ten shares of our pre-2018 Reverse Stock Split common stock were combined and reclassified into one share of our common stock. The 2018 Reverse Stock Split did not change the authorized number of shares or the par value of our common stock. Certain of the information contained in the historical documents incorporated by reference in this Annual Report on Form 10-K present information on our common stock on a pre-2018 Reverse Stock Split basis. On July 18, 2016, we effected a 1-for-15 reverse stock split of our common stock, or the 2016 Reverse Stock Split. As a result of the 2016 Reverse Stock Split, every fifteen shares of our pre-2016 Reverse Stock Split common stock were combined and reclassified into one share of our common stock. Previously, effective March 11, 2013, we effected a 1-for-12 reverse stock split of our common stock, or the March 2013 Reverse Stock Split. As a result of the March 2013 Reverse Stock Split, every twelve shares of our pre-March 2013 Reverse Stock Split common stock were combined and reclassified into one share of our common stock..

All share and per share data in this Annual Report on Form 10-K for periods prior to July 18, 2016 have been retroactively adjusted to reflect a 1-for-15 reverse stock split of our common stock that was effective on July 18, 2016 and for periods prior to July 24, 2018, have been retroactively adjusted to reflect a 1-for-10 reverse stock split of our common stock that was effective on July 24, 2018.

### Common Stock

Holders of our common stock are entitled to such dividends as may be declared by our board of directors out of funds legally available for such purpose, subject to any preferential dividend rights of any then outstanding preferred stock. The shares of common stock are neither redeemable nor convertible. Holders of common stock have no preemptive or subscription rights to purchase any of our securities.

Each holder of our common stock is entitled to one vote for each such share outstanding in the holder's name. No holder of common stock is entitled to cumulate votes in voting for directors.

In the event of our liquidation, dissolution or winding up, the holders of our common stock are entitled to receive pro rata our assets that are legally available for distribution, after payments of all debts and other liabilities and subject to the prior rights of any holders of preferred stock then outstanding. All of the outstanding shares of our common stock are, and the shares of common stock issued upon the conversion of any securities convertible into our common stock will be, fully paid and non-assessable.

Our common stock is listed on the Nasdaq Capital Market under the symbol "SCON." Computershare is the transfer agent and registrar for our common stock. Its address is 250 Royall Street, Canton, MA 02021.

### **Preferred Stock**

Our certificate of incorporation permits us to issue up to 2,000,000 shares of preferred stock in one or more series and with rights and preferences that may be fixed or designated by our board of directors without any further action by our stockholders. As of December 31, 2019, we had 328,925 shares of our Series A Preferred Stock outstanding convertible into 1,827 shares of our common stock.

Subject to the limitations prescribed in our certificate of incorporation and under Delaware law, our certificate of incorporation authorizes the board of directors, from time to time by resolution and without further stockholder action, to provide for the issuance of shares of preferred stock, in one or more series, and to fix the designation, powers, preferences and other rights of the shares and to fix the qualifications, limitations and restrictions thereof. Although our board of directors has no present intention to issue any additional preferred stock, the issuance of preferred stock could adversely affect the rights of holders of our common stock, including with respect to voting, dividends and liquidation, by issuing shares of preferred stock with certain voting, conversion and/or redemption rights. Such issuance of preferred stock may have the effect of delaying, deferring or preventing a change of control.

Preferred stock could thus be issued quickly with terms calculated to delay or prevent a change in control of our company or to make removal of management more difficult. Additionally, the issuance of preferred stock may decrease the market price of our common stock. The number of authorized shares of preferred stock may be increased or decreased, but not decreased below the number of shares then outstanding, by the affirmative vote of the holders of a majority of our common stock without a vote of the holders of preferred stock, or any series of preferred stock, unless a vote of any such holder is required pursuant to the terms of such series of preferred stock.

The following description sets forth certain general terms and provisions of the preferred stock we may issue. If we offer convertible preferred stock, such stock will be convertible into shares of our common stock. With respect to any convertible preferred stock or preferred stock (each referred to herein as preferred stock) we may choose to offer, the specific designations and rights will be described in the prospectus supplement relating to the preferred stock offered, including the following terms. Each time that we issue a new series of preferred stock, we will file with the SEC a definitive certificate of designations that will state the designation, powers, preferences, rights and qualifications, limitations and restrictions of that series of preferred stock. In addition, the prospectus supplement relating to that new series of preferred stock will specify the particular amount, price and other terms of that new series. These terms will include:

- the designation of the series, which may be by distinguishing number, letter or title;
- the number of shares of the series, which number the board of directors may thereafter (except where otherwise provided in the preferred stock designation) increase or decrease (but not below the number of shares thereof then outstanding);
- the price at which the preferred stock will be issued;
- the dividend rate, the dates on which the dividends will be payable, if any, whether dividends shall be cumulative or noncumulative and other terms relating to the payment of dividends on the preferred stock;
- whether the preferred stock is redeemable or subject to a sinking fund, and the terms and amount of such sinking fund provided for the purchase or redemption of shares of the series;

- the amounts payable on shares of the series, and the special or relative rights of such shares, in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of our company;
- whether the shares of the series shall be convertible into shares of any other class or series, or any other security, of our company or any other corporation, and, if so, the specification of such other class or series or such other security, the conversion price or prices or rate or rates, any adjustments thereof, the date or dates as of which such shares shall be convertible and all other terms and conditions upon which such conversion may be made;
- any listing of the preferred stock on any securities exchange;
- the relative ranking and preferences of the preferred stock as to dividend rights and rights upon liquidation and dissolution or winding up;
- restrictions on the issuance of shares of the same series or of any other class or series;
- the voting rights, if any, of the holders of shares of the series, provided that no share of preferred stock of any series will be entitled to more than one vote per share of preferred stock; and
- any additional rights, preferences, qualifications, limitations and restrictions of the preferred stock.

Any prospectus or prospectus supplement filed in connection with an offering of preferred stock will describe all material terms of such series of preferred stock and all material terms of any common stock, if any, issuable upon conversion of such preferred stock. However, the description of the terms of the preferred stock to be set forth in an applicable prospectus or prospectus supplement will not be complete and will be subject to and qualified in its entirety by reference to the certificate of designations or the certificate of amendment to our certificate of incorporation relating to the applicable series of preferred stock, together with our bylaws.

### ***Series A Convertible Preferred Stock***

In October 2007, in connection with entering into an amended investment agreement with Hunchun BaoLi Communication Co. Ltd., or BAOLI, our board of directors authorized the designation and issuance of 706,829 shares of our Series A Preferred Stock. On January 8, 2008, the terms of the investment agreement with BAOLI were amended, and we issued to BAOLI and two related purchasers a total of 1,723 shares of common stock (as adjusted for reverse stock splits) and 611,523 shares of Series A Preferred Stock. Subject to the terms and conditions of our Series A Preferred Stock and to customary adjustments to the conversion rate, each share of our Series A Preferred Stock is convertible into ten twelfths of a share of our common stock so long as the number of shares of our common stock beneficially owned by BAOLI following such conversion does not exceed 9.9% of our outstanding common stock. Except for a preference on liquidation of \$0.01 per share, each share of Series A Preferred Stock is the economic equivalent of ten twelfths of a share of common stock into which it is convertible. Except as required by law, the Series A Preferred Stock will not have any voting rights. As of December 31, 2019, we had 328,925 shares of our Series A Preferred Stock outstanding convertible into 1,827 shares of our common stock. For a complete description of the terms of the Series A Preferred Stock, please see the certificate of designations, filed with, and incorporated by reference into, this Annual Report on Form 10-K.

### **Warrants to Purchase Common Stock**

As of December 31, 2019, we have warrants outstanding representing the right to acquire 16,181,232 shares of our common stock at a weighted average exercise price of \$2.60 per share. (Also see “ Note 5 — Stockholders’ Equity—Warrants” in this Annual Report on Form 10-K for further information on our outstanding warrants).

Our outstanding warrants include warrants with limitations on the ability of the holder of the warrant to exercise such warrant to the extent that such exercise would violate beneficial ownership limitations included therein. Such warrants generally provide that the holder of the warrants cannot exercise such warrant to the extent the holder would, following such exercise, beneficially own, together with other shares attributed to such holder more than 4.99% of our common stock (subject to such limitation being increased to 9.99% upon at least 60 days prior notice).

## Anti-Takeover Effects of Certain Provisions of Delaware Law and Our Charter Documents

The following is a summary of certain provisions of Delaware law, our certificate of incorporation and our bylaws. This summary does not purport to be complete and is qualified in its entirety by reference to the corporate law of Delaware and our certificate of incorporation and bylaws.

*Effect of Delaware Anti-Takeover Statute.* We are subject to Section 203 of the Delaware General Corporation Law, an anti-takeover law. In general, Section 203 prohibits a Delaware corporation from engaging in any business combination with any interested stockholder for a period of three years following the date that the stockholder became an interested stockholder, unless:

- prior to that date, the board of directors of the corporation approved either the business combination or the transaction that resulted in the stockholder becoming an interested stockholder;
- upon consummation of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the number of shares of voting stock outstanding (but not the voting stock owned by the interested stockholder) those shares owned by persons who are directors and officers and by excluding employee stock plans in which employee participants do not have the right to determine whether shares held subject to the plan will be tendered in a tender or exchange offer; or
- on or subsequent to that date, the business combination is approved by the board of directors of the corporation and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of at least 66 2/3% of the outstanding voting stock that is not owned by the interested stockholder.

Section 203 defines “business combination” to include the following:

- any merger or consolidation involving the corporation and the interested stockholder;
- any sale, transfer, pledge or other disposition of 10% or more of the assets of the corporation involving the interested stockholder;
- subject to certain exceptions, any transaction that results in the issuance or transfer by the corporation of any stock of the corporation to the interested stockholder;
- any transaction involving the corporation that has the effect of increasing the proportionate share of the stock of any class or series of the corporation beneficially owned by the interested stockholder; or
- the receipt by the interested stockholder of the benefit of any loans, advances, guarantees, pledges or other financial benefits provided by or through the corporation.

In general, Section 203 defines an interested stockholder as any entity or person beneficially owning 15% or more of the outstanding voting stock of the corporation, or who beneficially owns 15% or more of the outstanding voting stock of the corporation at any time within a three-year period immediately prior to the date of determining whether such person is an interested stockholder, and any entity or person affiliated with or controlling or controlled by any of these entities or persons.

*Our Charter Documents.* Our charter documents include provisions that may have the effect of discouraging, delaying or preventing a change in control or an unsolicited acquisition proposal that a stockholder might consider favorable, including a proposal that might result in the payment of a premium over the market price for the shares held by our stockholders. Certain of these provisions are summarized in the following paragraphs.

*Classified Board of Directors.* Pursuant to our certificate of incorporation, the number of directors is fixed by our board of directors. Our directors are divided into three classes, each class to serve a three-year term and to consist as nearly as possible of one-third of the total number of directors. Pursuant to our bylaws, directors elected by stockholders at an annual meeting of stockholders will be elected by a plurality of all votes cast.

---

*No Stockholder Action by Written Consent.* Our bylaws provide that a special meeting of stockholders may be called only by the chairman of the board, a majority of the entire board of directors or the president. Stockholders are not permitted to call, or to require that the board of directors call, a special meeting of stockholders. Moreover, the business permitted to be conducted at any special meeting of stockholders is limited to the business brought before the meeting pursuant to the notice of the meeting given. In addition, our certificate of incorporation provides that any action taken by our stockholders must be effected at an annual or special meeting of stockholders and may not be taken by written consent instead of a meeting. Our bylaws establish an advance notice procedure for stockholders to nominate candidates for election as directors or to bring other business before meetings of our stockholders.

*Change in Control Agreements.* A number of our executives have agreements with us that entitle them to payments in certain circumstances following a change in control.

CERTAIN IDENTIFIED INFORMATION HAS BEEN EXCLUDED FROM THE EXHIBIT BECAUSE IT IS BOTH NOT MATERIAL AND WOULD LIKELY CAUSE COMPETITIVE HARM TO THE REGISTRANT IF PUBLICLY DISCLOSED. [\*\*\*] INDICATES THAT INFORMATION HAS BEEN REDACTED.



9101 Wall Street Suite 1300  
Austin, TX 78754

Phone: 512 334 8900  
Fax: 512 873 8806  
Prepared by:

various-2020<sup>1</sup>

DATE  
QUOTE #  
CUSTOMER ID  
VALID UNTIL

**CUSTOMER<sup>2</sup>**  
[\*\*\*]

| DESCRIPTION <sup>3</sup> | TAXED | AMOUNT |
|--------------------------|-------|--------|
| [***]                    |       |        |
|                          |       |        |
|                          |       |        |

**TERMS AND CONDITIONS**

- 50% payment due (date)
- 50% payment due (date) / Pick Up

*Customer Acceptance (sign below):*

Print Name:                      Signature:                      Date:

STI approval:  
Print Name:                      Signature:                      Date:

|                          |             |
|--------------------------|-------------|
| Subtotal                 |             |
| Taxable                  | —           |
| Tax Rate                 | 0.000%      |
| Tax due                  | —           |
| Other                    |             |
| <b>TOTAL<sup>4</sup></b> | <b>\$ —</b> |

If you have any questions about this price quote, please contact  
512 334 8870  
*Thank You For Your Business!*

- This form of sales invoice was used to document various equipment sales that occurred between February 4, 2020 and March 10, 2020. The closing date of the last transaction was March 31, 2020.
- The various customers are manufacturers whose processes require deposition equipment.
- Various manufacturing and process equipment were sold.
- The aggregate purchase price of the sales was approximately \$1.2 million.

**SUBSIDIARIES OF SUPERCONDUCTOR TECHNOLOGIES INC.**

Conductus, Inc., a Delaware corporation

STI Investments Limited, a British Virgin Islands company

Superconductor Investments (Mauritius) Limited, a Mauritius company

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in the Registration Statements of Superconductor Technologies Inc. on Form S-8 (File Nos. 333-106594, 333-126121, 333-193008), on Form S-3 (File No. 333-228676, 333-202702), and on Form S-1 (File Nos. 333-226025, 333-224148, 333-233693) of our report (which includes an explanatory paragraph as to the Company's ability to continue as a going concern), dated March 30, 2020, with respect to our audits of the consolidated financial statements of Superconductor Technologies Inc. as of as of December 31, 2019 and 2018, and for each of the three years in the period ended December 31, 2019, appearing in the Annual Report on Form 10-K of Superconductor Technologies Inc. for the year ended December 31, 2019.

/s/ Marcum LLP

Marcum LLP  
Los Angeles, California  
March 30, 2020



**Statement Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 by  
Principal Executive Officer and Principal Financial Officer  
Regarding Facts and Circumstances Relating to Exchange Act Filings**

I, Jeffrey A. Quiram, certify that:

1. I have reviewed this annual report on Form 10-K of Superconductor Technologies Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer 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 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: March 30, 2020

/s/ Jeffrey A. Quiram

---

Jeffrey A. Quiram  
President and Chief Executive Officer

**Statement Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 by  
Principal Executive Officer and Principal Financial Officer  
Regarding Facts and Circumstances Relating to Exchange Act Filings**

I, William J. Buchanan, certify that:

1. I have reviewed this annual report on Form 10-K of Superconductor Technologies Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer 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 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: March 30, 2020

/s/ William J. Buchanan

---

William J. Buchanan  
Chief Financial Officer (Principal Accounting and  
Financial Officer)

**Statement Pursuant to Section 906 the Sarbanes-Oxley Act of 2002**  
**By**  
**Principal Executive Officer and Principal Financial Officer**  
**Regarding Facts and Circumstances Relating to Exchange Act Filings**

Dated: March 30, 2020

I, Jeffrey A. Quiram, Chief Executive Officer of Superconductor Technologies Inc., hereby certify, to my knowledge, that:

1. the accompanying Annual Report on Form 10-K of Superconductor Technologies for the annual period ended December 31, 2019 (the "Report") fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities and Exchange Act of 1934, as amended; and
2. the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of Superconductor Technologies Inc.

IN WITNESS WHEREOF, the undersigned has executed this Statement as of the date first written above.

/s/ Jeffrey A. Quiram

Jeffrey A. Quiram  
President and Chief Executive Officer

**Statement Pursuant to Section 906 the Sarbanes-Oxley Act of 2002**  
**By**  
**Principal Executive Officer and Principal Financial Officer**  
**Regarding Facts and Circumstances Relating to Exchange Act Filings**

Dated: March 30, 2020

I, William J. Buchanan, Chief Financial Officer of Superconductor Technologies Inc., hereby certify, to my knowledge, that:

1. the accompanying Annual Report on Form 10-K of Superconductor Technologies for the annual period ended December 31, 2019 (the "Report") fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities and Exchange Act of 1934, as amended; and
2. the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of Superconductor Technologies Inc.

*/s/ William J. Buchanan*

\_\_\_\_\_  
William J. Buchanan

Chief Financial Officer (Principal Financial and  
Accounting and Officer)