

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI

|                                 |   |                            |
|---------------------------------|---|----------------------------|
| ANDREW TYLER FOSTER, et al.,    | ) | Case No. 6:15-cv-03519-BCW |
|                                 | ) |                            |
| Plaintiff,                      | ) | Hon. Brian C. Wimes        |
|                                 | ) |                            |
| v.                              | ) | Consolidated with:         |
|                                 | ) |                            |
| L-3 COMMUNICATIONS EOTECH, INC. | ) | Case No. 4:16-cv-00095-BCW |
| et al.,                         | ) | Case No. 4:16-cv-03109-BCW |
|                                 | ) | Case No. 4:16-cv-00438-BCW |
| Defendants.                     | ) | Case No. 4:16-cv-00439-BCW |
|                                 | ) |                            |

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[PROPOSED] BRIEF OF *AMICUS CURIAE* COMPETITIVE ENTERPRISE  
INSTITUTE

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## INTRODUCTION

Like the target reticle superimposed in EOTech's sights, the proposed settlement is a holographic illusion. Class counsel has projected this illusion before the Court with one target in mind: an unjustified and disproportional \$10 million dollar windfall fee.

Class counsel would like the Court to believe that their settlement provided \$51 million to the class, but it actually provides approximately \$3.5 million in class benefit. Based on plaintiffs' filings, as of May 19, class members have only claimed \$164,850 worth of cash and coupons available solely under the settlement agreement. Class members who receive or previously received a refund will also receive coupons under the settlement, but few of these \$22.50 coupons are likely to be redeemed. All other recovery is in the form of refunds. But the defendants previously offered class members full refunds for 16 months, starting before the first suit was ever filed. Class counsel takes credit for all of these returns, and obfuscates the fact that class members already obtained most of the claimed relief without being forced to waive their claims against defendants. Even if some of the refunds are attributable to the lawsuit (and no evidence suggests they are), class counsel should not be credited with the gross cash payment of past refunds not attributable to class counsel.

Against this meager recovery, class counsel obtained royal treatment for its \$10 million fee request, representing over three times lodestar, for a suit that was settled in principle the same month as class counsel was appointed. Because class counsel structured a segregated fee agreement, any decrease in the fee award will revert or kick

back to defendants rather than returning to the class. The Settlement is an egregious abuse of the class-action system, and should be rejected in its entirety.

#### THE *AMICUS CURIAE*

*Amicus curiae* Competitive Enterprise Institute (“CEI”) is a 501(c)(3) non-profit corporation incorporated under the laws of Washington, D.C., with its principal place of business in Washington, D.C. In 2015, Center for Class Action Fairness (“CCAF”) merged with CEI to become a unit within it.

In CCAF’s seven-year history, CCAF attorneys have won over \$100 million for consumers and shareholders in the course of objecting to class-action settlements, and numerous landmark decisions in support of the principles that settlement fairness requires that the primary beneficiary of a class-action settlement should be the class, rather than the attorneys; and that courts scrutinizing settlements should value them based on what the class actually receives, rather than on illusory measures of relief. *E.g.* *Pearson v. NBTY, Inc.*, 772 F.3d 778 (7th Cir. 2014); *In re Dry Max Pampers Litig.*, 724 F.3d 713 (6th Cir. 2013) (“*Pampers*”); *In re Baby Prods. Antitrust Litig.*, 708 F.3d 163 (3d Cir. 2013) (“*Baby Prods.*”). CCAF has won the vast majority of appeals it has made in federal court, including both its appeals in the Eighth Circuit. *See In re BankAmerica Corp. Sec. Litig.*, 775 F.3d 1060 (8th Cir. 2015); *In re Target Corp. Customer Data Sec. Breach Litig.*, 847 F.3d 608 (8th Cir. 2017).

CCAF has won national acclaim for its work. *E.g.*, Elizabeth Chamblee Burch, *Public Funded Objectors*, THEORETICAL INQUIRIES IN LAW, at 9 n.35 (forthcoming 2017), available at [https://papers.ssrn.com/sol3/papers2.cfm?abstract\\_id=2923785](https://papers.ssrn.com/sol3/papers2.cfm?abstract_id=2923785) (listing

CCAF as an organization “more likely to challenge the most egregious settlements [that has] develop[ed] the expertise to spot problematic settlement provisions and attorneys’ fees.”); Adam Liptak, *When Lawyers Cut Their Clients Out of the Deal*, N.Y. TIMES (Aug. 13, 2013) (naming CCAF head Ted Frank “the leading critic of abusive class action settlements”); Roger Parloff, *Should Plaintiffs Lawyers Get 94% of a Class Action Settlement?*, FORTUNE, Dec. 15, 2015 (calling Frank “the nation’s most relentless warrior against class-action fee abuse”); Ashby Jones, *A Litigator Fights Class-Action Suits*, WALL ST. J. (Oct. 31, 2011).

## BACKGROUND

EOTech sells holographic weapons sights to consumers and the U.S. military. The government discovered that these products did not live up to their represented specifications under various weather conditions. The Department of Justice investigated and filed suit on November 25, 2015, announcing the same day that EOTech had accepted a \$25.6 million judgment under the False Claims Act. *See United States v. L-3 Communications EOTech, Inc., et al.*, 1:15-cv-09262 (S.D.N.Y.).

Also in November 2015, before a single private lawsuit had been filed in connection with the deficient holographic sights, EOTech initiated a return program that would refund consumers the full retail price paid plus a \$15 shipping allowance. *See L-3 Announces Fourth Quarter 2015 Results* (Jan. 28, 2016) at 5 (Exhibit 1 to Declaration of M. Frank Bednarz (“Bednarz Decl.”), *available at* [https://www.l3t.com/sites/default/files/earnings-releases/2015\\_q4\\_release\\_0.pdf](https://www.l3t.com/sites/default/files/earnings-releases/2015_q4_release_0.pdf)).

Defendant reported that “[t]he refund program is in the early stages of implementation,

and the Company will continue to evaluate the amount of the refund liability.” *Id.* at 6. The program was widely publicized on December 4, 2015 by Larry Vickers, a tactical firearms enthusiast and combat marksmanship instructor who currently has over 222,000 followers on Facebook. *See* Bednarz Decl. ¶¶ 3-4; Larry Vickers Facebook photo (Dec. 4, 2015), Exhibit 2 to Bednarz Decl., *available at* <https://www.facebook.com/LarryVickers/photos/a.10151236579360416.800876.295755495415/10156285737345416/>.<sup>1</sup>

Following news of the government’s settlement, in December 2015 and January 2016, three class action complaints were filed against the defendants in this District and the District of Oregon. Two additional complaints were filed in the Eastern District of Michigan in March 2016, and later transferred to this Court. On August 26, 2016, all five cases were consolidated into a single, putative class action (Dkt. 90), and the Second Amended Consolidated Complaint was filed September 19, 2016. Dkt. 101.

Counsel from all five firms who filed the consolidated actions moved for their joint appointment as interim class counsel on August 22, 2016. Dkt. 81. On October 3, 2016, the Court approved plaintiffs’ motion appointing counsel from all five firms. That same month, according to L-3’s SEC filings, the parties reached an agreement in principle to settle the underlying claims.

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<sup>1</sup> The settling parties represent that “In January 2016, EOTech, prompted in significant part by the filing of the lawsuits and written demands made by Plaintiffs and their counsel, offered a refund to people who were dissatisfied with their holographic weapon sight (“HWS”).” Settlement Agreement at 2.

As of February 3, 2017—prior to the execution of the Settlement Agreement—EOTech had already approved 70,000 voluntary refunds of its scopes. *See* L-3 Annual Report, Exhibit 3 to Bednarz Decl., at F-25 n.2.

On Tuesday February 7, 2017, the parties participated in a status conference and advised that they would soon file their Settlement Agreement and motion for preliminary approval. The parties represented that the agreement would be filed imminently and needed to be approved swiftly by Friday February 10 “so that it would fit within the timeframe of the company's internal needs to begin a media buy and notice.” *See* Transcript of Feb. 7, 2017 Conference, Dkt. 125 at 5. However, the parties failed to file the motion for preliminary approval until Monday February 13. Dkt. 121. The Court held another telephonic conference on February 14 and inquired into whether the previous urgency was still necessary given the parties’ delay. Counsel for defendants advised that it was: “if the Court cannot get to it today, we need this tomorrow. Possibly we can get it -- if we have an order of approval no later than Thursday morning around noon. But we got -- I'm told that we don't have any more flexibility with the media buys after that point in time. So tomorrow is really the kind of stretch.” Transcript of Feb. 7, 2017 Conference, Dkt. 126 at 8.

The Settlement Agreement describes three modes of relief for class members:

1. Class members who request a refund during the settlement’s 60-day claim period (“Tier 1”) will receive their claimed original purchase price (but no more than MSRP), \$15 for shipping, and “a twenty-two dollar and fifty cent (\$22.50) voucher toward the purchase of a Current Model



Holographic Weapon Sight or other product of EOTech, a division of Defendant L-3.” Settlement Agreement, Dkt. 122-1, at 13-14.

2. Class members who received a refund prior to settlement (“Tier 2”) will receive coupons worth \$22.50 toward the purchase of a “Current Model Holographic Weapon Sight or other EOTech Product.” *Id.* at 13-14.
3. Class members who file a claim and elect *not* to have their sight returned (“Tier 3”) can choose to receive either (1) a \$100 voucher or (2) a cash payment of at least \$25 and no more than \$50, depending on the number of claims received. *Id.* at 14.

The Tier 1 refund for up to MSRP plus \$15 shipping allowance is no different than the voluntary refunds EOTech has offered since November 2015, but with the addition of a \$22.50 “voucher,” which is a coupon with one-year expiration date. *Id.* at 15. The Settlement Agreement also provides that defendant will not contest a request of \$10,000,000 for payment of attorneys’ fees and service awards. *Id.* at 19. If the Court awards less than \$10 million, defendant gets to keep the difference. *Id.*

As requested by the parties, preliminary approval was granted February 15, 2017. Dkt. 124. The settlement administrator was provided data from defendant to provide notice on March 15, 2017, and notices were mailed to approximately 40,000 class members on April 4. *See* Finnegan Decl., Dkt. 132, at 6.

On April 19, 2017, class counsel moved for final approval of the settlement and for attorneys’ fees. Dkts. 128 & 133. Counsel did not disclose the number of claims received under the Settlement Agreement to date, but instead stated: “As a result of this

litigation, as of May 12, 2017, more than approximately 78,300 Sights have been returned.” Suggestions in Support of Plaintiffs’ Motion for Final Approval of Settlement and Class Certification, Dkt. 129 (“Suggestions for Approval”), at 2. Counsel also reported that the settlement would provide an “approximate \$80,000 benefit of claims for a voucher, [and] current claims for \$84,850.00 cash for those class members who are retaining their Sight.” Suggestions in Support of Plaintiffs’ Application for Award of Attorneys’ Fees, Litigation Expenses, and Service Awards, Dkt. 134 (“Suggestions for Fees”), at 2 n.1.

### ARGUMENT

The Settlement should not be approved because it exhibits three warning signs courts have recognized as indicia for a self-dealing settlement that prioritizes the interests of counsel over the class. First, the attorneys negotiated a sum disproportionate to that which the class receives. The Settlement here provides \$10 million for class counsel, nearly *three times* what the class is scheduled to receive. The primary alleged benefit to class members consists of notice of a pre-existing refund program defendants have offered since November 2015, before the litigation commenced. Even if class counsel are given credit for the refunds claimed after the Settlement Agreement, the net value of the Settlement would be about \$3.5 million, barely more than a third of the attorneys’ fees request. Second, class counsel obtained a clear-sailing clause, which means defendants agreed not to oppose the disproportionate \$10 million fee request. Finally, there is also a “kicker” clause, meaning that any excess

in class counsel's fee request not awarded reverts or is "kicked back" to the defendants rather than to benefit the class.

The combination of all three features suggests self-dealing and prevents the Court from correcting the imbalance between attorneys' fees and class recovery. *See In re Bluetooth Headset Litig.*, 654 F.3d 935, 946-49 (9th Cir. 2011) (discussing why these provisions are problematic); *Pearson*, 772 F.3d at 786 (calling kicker clauses an improper "gimmick" designed to shield abusive fee requests from scrutiny); *see also Stewart v. USA Tank Sales & Erection Co.*, No. 12-cv-05136, 2014 WL 836212, 2014 U.S. Dist. LEXIS 27560 (W.D. Mo. Mar. 4, 2014) (Kays, C.J.) (denying approval of settlement that included such red-flags). For this reason, the Settlement should be rejected in its entirety, at least until the settling parties are able to renegotiate and eliminate the kicker.

In the alternative, if the settlement is nonetheless approved, attorneys' fees should be awarded based on a reasonable percentage of actual class benefits, which suggests a fee award of no more than \$1.2 million.

**I. The Court owes a fiduciary duty to absent class members to guard against recognized incentive problems of class action settlements.**

The Supreme Court has recognized that class-action settlements create special problems for our adversary system, because in the *non-adversary* context of settlement, it is not always clear that class counsel will have the best interests of their clients at heart. *See, e.g., Ortiz v. Fibreboard Corp.*, 527 U.S. 815, 852 (1999); *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997). "Class-action settlements are different from other settlements.

The parties to an ordinary settlement bargain away only their own rights—which is why ordinary settlements do not require court approval. In contrast, class-action settlements affect not only the interests of the parties and counsel who negotiate them, but also the interests of unnamed class members who by definition are not present during negotiations. And thus there is always the danger that the parties and counsel will bargain away the interests of unnamed class members in order to maximize their own.” *Pampers*, 724 F.3d at 715.

Thus, “in class-action settlements the district court cannot rely on the adversarial process to protect the interests of the persons most affected by the litigation—namely, the class. Instead, the law relies upon the fiduciary obligations of the class representatives and, especially, class counsel, to protect those interests. And that means the courts must carefully scrutinize whether those fiduciary obligations have been met.” *Id.* at 718. (internal quotation omitted). Through its oversight responsibility, the court itself assumes a “derivative fiduciary” obligation to “serv[e] as a guardian of the rights of absent class members.” *In re Wireless Tel. Fed. Cost Recovery Fees Litig.*, 396 F.3d 922, 932 (8th Cir. 2005).

“In reviewing a proposed settlement, a court should not apply any presumption that the settlement is fair and reasonable.” American Law Institute, *Principles of the Law of Aggregate Litigation* § 3.05(c) (2010). The burden of proving settlement fairness rests with the moving party. *Id.* “Because class actions are rife with potential conflicts of interest between class counsel and class members, district judges presiding over such actions are expected to give careful scrutiny to the terms of proposed settlements in

order to make sure that class counsel are behaving as honest fiduciaries for the class as a whole.” *Mirfasihi v. Fleet Mortgage Corp.*, 356 F.3d 781, 785 (7th Cir. 2004). Further, like the Settlement in this case, settlements negotiated prior to formal class certification require that the Court “be particularly vigilant not only for explicit collusion, but also for more subtle signs that class counsel have allowed pursuit of their own self-interests and that of certain class members to infect the negotiations.” *Dennis v. Kellogg Co.*, 697 F.3d 858, 864 (9th Cir. 2012); *see also Petrovic v. AMOCO Oil Co.*, 200 F.3d 1140, 1146 (8th Cir. 1999) (distinguishing *Amchem* because it was a case about the “need for additional protections when the settlement is not negotiated by a court designated class representative”) (internal quotation marks omitted).

The basic problem is this: While class counsel and defendants have an incentive to bargain effectively over the *size* of a settlement, similar incentives do not govern their critical decisions about how to divvy it up—including the portion allocated to counsel’s own fees. The defendant cares only about the bottom line, and will take any deal that drives it down. Meanwhile, class counsel have an obvious incentive to seek the largest portion possible for themselves, and will accept bargains that are worse for the class if their share is sufficiently increased. Humans are human, and unfortunately, the *people* at the bargaining table can all get something for themselves by favoring attorneys’ fees over class recovery; as Judge Posner explained: “From the selfish standpoint of class counsel and the defendant, ... the optimal settlement is one modest in overall amount but heavily tilted toward attorneys’ fees.” *Eubank v. Pella Corp.*, 753 F.3d 718, 720 (7th Cir. 2014).

The potential for conflict is structural and acute because every dollar reserved to the class is a dollar defendants will not want to pay class counsel. *Johnston v. Comerica Mortgage Corp.*, 83 F.3d 241, 246 (8th Cir. 1996) (fees and class recovery are a “package deal”). Defendants care only about minimizing payments and are indifferent to allocation, and so a court must ensure that counsel is not self-dealing at the class’s expense. *Redman v. RadioShack*, 768 F.3d 622, 629 (7th Cir. 2014); *Pearson*, 772 F.3d at 786-87; *Pampers*, 724 F.3d at 718; *Bluetooth*, 654 F.3d at 948. The problem, however, is that class counsel has various tools available to hide compromises between counsel and class recovery. The primary object of these tools is to create the illusion of valuable relief to class members, which in turn justifies an outsized attorneys’ fee request absent rigorous doctrinal tests designed to weed out this abuse.

To see this, imagine a lawyer actually tried to compromise a class action with a straightforward cash settlement paying him \$10 million and paying class members a marginal \$3.5 million—as this settlement appears to do. It is hard to believe that any judge would approve that deal. *See, e.g., Dennis*, 697 F.3d at 868 (class counsel receiving even 38.9% of settlement proceeds is “clearly excessive”). Accordingly, to have any chance of surviving review, such a deal must be structured to obfuscate this result. This is accomplished by counting benefits that defendant already paid, here in the form of EOTech’s voluntary refund program, which predates the settlement. The inflation of settlement value for the sake of a fee award is already easy because of the lack of adversary presentation, *see, e.g., Eubank*, 753 F.3d at 719-20, and yet settling parties have developed a variety of mechanisms to make it easier still.

Federal Rule of Civil Procedure 23(e) assigns to courts the final judgment on whether any class-action settlement reached is fair and reasonable to absent class members. But that judgment cannot be just an *ad hoc* “gut check” as to how class members have fared. *See Amchem*, 521 U.S. at 621 (noting the limited value of “appraisals of the chancellor’s foot kind ... dependent upon the court’s gestalt judgment or overarching impression of the settlement’s fairness.”). Instead, the vitality of the class-action mechanism depends on *how* courts scrutinize such settlements, and whether their doctrinal tests correctly align the incentives of class counsel with those of the vulnerable, absent class members whose claims counsel is attempting to settle away. When courts simply defer to the settling parties, class counsel and defendants can each realize unfair windfalls at the expense of absent class members.

## **II. The proposed settlement contains all three *Bluetooth* red flags of self-dealing.**

A class action settlement may not confer preferential treatment upon class counsel to the detriment of class members. “Such inequities in treatment make a settlement unfair” for neither class counsel nor the named representatives are entitled to disregard their “fiduciary responsibilities” and enrich themselves while leaving the class behind. *Pampers*, 724 F.3d at 718-21 (reversing settlement where class counsel received \$2.73 million and absent class members were offered a money-back refund program with a likely small marginal claims rate, prospective labeling changes, and a *cy pres* donation).

A settlement can be unfair even when negotiated at arms’ length: class counsel can achieve an impermissible self-dealing settlement simply through a defendant’s

indifference to the allocation: the relevant inquiry is whether the attorneys are unfairly attuned to their self-interest at the expense of the class. *Pearson*, 772 F.3d at 787 (nixing “selfish deal”). Similarly, the Ninth Circuit in *Bluetooth*, identified three warning signs of self-dealing by class counsel: **(1)** a disproportionate distribution of fees to counsel; **(2)** a “clear sailing agreement” (the defendant’s agreement not to oppose a certain sum in attorneys’ fees); and **(3)** a “kicker” (a segregated fund for attorneys’ fees that reverts any excess fees to the defendant)). 654 F.3d at 947. As in *Bluetooth*, there are “multiple indicia” of self-dealing and unfairness present here.

**A. The Settlement selfishly and unfairly allocates 74% of the class benefit to class counsel.**

If the “fees are unreasonably high, the likelihood is that the defendant obtained an economically beneficial concession with regard to the merits provisions, in the form of lower monetary payments to class members or less injunctive relief for the class than could otherwise have [been] obtained.” *Staton v. Boeing Co.*, 327 F.3d 938, 964 (9th Cir. 2003). Thus, fee awards cannot exceed a reasonable proportion of the class’s actual recovery. *Galloway v. Kan. City Landsmen, LLC*, 833 F.3d 969, 975 (8th Cir. 2016) (affirming lower court’s fee reduction from nearly \$150,000 request to less than \$20,000 where anything more “would be unreasonable in light of class counsel’s limited success in obtaining value for the class.”). Here, the fees constitute 74% (or more) of the settlement value.

While the Settlement Agreement defines concrete benefits for class counsel—a fee request of \$10 million, which defendants agreed not to oppose even though it is



more than triple class counsel's bloated lodestar—it provides mostly illusory benefits to class members.

All class benefits together likely total about \$3.5 million. First, the refunds cannot be attributed to the Settlement because most refunds—about 70,000 of the 78,300 refunds class counsel seeks to take credit for—were approved by EOTech's voluntary refund program *before* the Settlement was even executed. When valuing a settlement, it is only the “*incremental* benefits” that matter, not ones that preceded settlement. *Reynolds v. Beneficial Nat'l Bank*, 288 F.3d 277, 286 (7th Cir. 2002) (emphasis in original). At best class counsel can claim credit for the *net* value of post-Settlement refunds induced by notice, but the net value to class members is only perhaps 40% of the outlay because class members are required to surrender valuable sights to get the refund. Generously assuming that the number of refunds attributable to the settlement swells to 12,000, the net value of these refunds is \$3.13 million.

Second, redemption of the coupons provided to class members who receive refunds will likely be minimal because \$22.50 does not go far toward the purchase of a new holographic sight that retails for at least \$459. *Sobel v. Hertz Corp.*, No. 3:06-cv-00545-LRH, 2011 U.S. Dist. LEXIS 68984, at \*35 (D. Nev. Jun. 27, 2011) (explaining that coupon redemption rates “may be particularly low in cases involving low value coupons”). Such coupons are typically redeemed at a rate below 1%. *See, e.g., Galloway*, 833 F.3d at 971 (0.045% of distributed certificates for \$10-\$30 off a car rental were redeemed). Assuming 82,000 refunds are eventually paid by defendant and 82,000 coupons are issued, a 1% redemption rate would amount to only \$27,000 for the class.

Finally, the number of coupons and cash claimed under tier 3 of the program totals only \$164,850 according the plaintiffs' recent filings. Suggestions for Fees at 2 n.1. If this figure *doubles*, the total value of the Settlement is about \$13.5 million:

| Benefit                                | Value  |
|--|--|
| Attorneys' fees                        | \$10 million   |
| New refund requests                    | \$3.13 million, assuming 40% net value due to surrendering valuable scope <sup>2</sup>   |
| \$22.50 coupons for those with refunds | \$27,000 assuming a generous 1% redemption rate  |
| Claims by those who keep sights        | \$329,700, assuming that the current number of claims for cash and coupons <i>double</i> |
| <b>Total value:</b>                    | \$13.5 million   |

Therefore, class counsel obtains the vast majority of benefits under the proposed settlement, about 74% given the above assumptions. This figure may be an overstatement because plaintiffs have not shown that *any* additional refunds are attributable to the Settlement. Class counsel instead attempts to take credit for the total of all refunds paid since before the suit was even filed.

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<sup>2</sup> \$3.13 million assumes that the total number of refunds attributable to settlement rises to 12,000, with an average *gross* refund value of \$651.67 for new returns. This also assumes that *any* return requests since February 3, 2017 are attributable to class counsel, which is unsupported on the present record. EOTech's voluntary refund program ran at least until March, so more than 70,000 returns were approved under the voluntary refund. Thus, fewer than 8,300 new refund requests were claimed as of May 12.

1. **Class counsel should get credit for no more than \$3.13 million of refunds (*net* refunds after Settlement) because refund program was offered by defendant before the first lawsuit was filed.**

Class counsel artfully and disingenuously describes the purported benefits of the Settlement: “**As a result of this litigation**, as of May 12, 2017, more than approximately 78,300 Sights have been returned.” Suggestions for Approval at 2 (emphasis added). Notably, class counsel does not say that these returns occurred “as a result of the *settlement*,” because that would be blatantly false.

But class counsel’s description obfuscates the fact that class members have been able to return their sights, no questions asked, since November 2015, before the first lawsuit was even filed. *See* Ex. 1 to Bednarz Decl. at 5. The returns offered by EOTech were identical to those offered under the settlement, providing class members with a full refund and \$15 shipping allowance.

While plaintiffs have intentionally obscured the number of claims made under the settlement, it is clear that the vast majority of returns were received by class members before the Settlement Agreement was even executed. “As of February 3, 2017, the Company had approved refunds at a cost of approximately \$35 million, with an average refund cost per unit of \$500.” Excerpts from L-3 Annual Report, at F-25 n.2 (Exhibit 3 to Bednarz Decl.), *available at* [https://www.l3t.com/sites/default/files/annual-reports/2016 annual report on form 10-k.pdf](https://www.l3t.com/sites/default/files/annual-reports/2016%20annual%20report%20on%20form%2010-k.pdf). Thus, EOTech had already refunded approximately 70,000 of the 78,300 returns claimed by class counsel.

There is no evidence that EOTech would have ended the refund program before May 23, 2017 without the Settlement. If anything, the Settlement has made the last two

months of the refund program *worse* for class members. Participation in the Settlement requires class members to surrender their claims against EOTech, which was not required for the earlier voluntary refunds.

A rooster cannot take credit for the sun rising. And class counsel cannot take credit for a program their Settlement neither established nor improved. In this respect, the Settlement is analogous to *In re Dry Max Pampers Litig.*, 724 F.3d 713 (6th Cir. 2013) (“*Pampers*”). In the *Pampers* settlement, the defendant had offered a refund program from July to December 2010. *Id.* at 716. Under the settlement agreement, defendant agreed to revive the refund program for an additional year. The Sixth Circuit found that this revival provided little additional relief to unnamed class members in part because “most of them have already had access to it.” *Id.* at 719.

Thus, before this settlement agreement was even reached, consumers who purchased Pampers during a 29-month period—of the 38 months encompassed by the class definition—had already had an opportunity to obtain their single-box refund, without the assistance of class counsel and without assigning away important rights as captive members of a settlement class. That is all the more reason to doubt the parties' assertions of value. *Cf. In re Aqua Dots Prods. Liab. Litig.*, 654 F.3d 748, 752 (7th Cir. 2011) (“A representative who proposes that high transaction costs (notice and attorneys’ fees) be incurred at the class members’ expense to obtain a refund that already is on offer is not adequately protecting the class members’ interests”).

*Pampers*, 724 F.3d at 719.

The same situation presents itself here: class members previously had access to EOTech’s voluntary refund program for 14 months. Unlike *Pampers*, the defendant did not even agree to revive a previously-discontinued program. Instead, the Settlement

purports to provide two more months in addition to the previous 14 where class members could receive a full refund of the retail price plus \$15 shipping allowance. This Settlement is therefore even more duplicative of existing relief than the one reversed in *Pampers*.

Illustration 2 of § 3.13 of the *ALI Principles* is also directly on point. In that illustration, a settlement required the defendant to spend \$10 million on providing a year of free technical support for the class. But the defendant had already announced and set aside funds for that program, and planned to implement the program whether or not there was a settlement. Under § 3.13, class counsel may not count the \$10 million cost of the program towards calculation of the settlement benefit. Here, EOTech did not just “announce[] and set aside funds for” the refund program, it *implemented* the program before the litigation even began. It is “the *incremental* benefits” that matter, “not the total benefits.” *Reynolds*, 288 F.3d at 282 (emphasis in original). Simply put, there is “no real value” generated where the settlement “does not obligate [defendant] to do anything it was not already doing.” *Koby v. ARS Nat’l Servs.*, 846 F.3d 1071, 1080 (9th Cir. 2017). On this record, the correct valuation of the Settlement’s refund component is zero. *See Pampers*, 724 F.3d at 719 (“to the extent the parties here argue that the settlement was fair because the refund program has actual value for consumers, it was the parties’ burden to prove the fact, rather than [an objector’s] burden to disprove it.”).

**i. The value attributable to notice is negligible.**

Class counsel may argue that the settlement's notice program spurred additional refund requests, but this benefit appears negligible. After the Settlement was executed, the refund program offered no additional value to class members here because the class "already had access to it." *Pampers*, 724 F.3d at 719. In the 14 months EOTech operated the refund program prior to Settlement, customers returned approximately 70,000 sights to EOTech, *see* Exhibit 3 to Bednarz Decl., which works out to about 5,000 per month. As of May 12, 2017, only 8,300 additional returns have been claimed since February 3, which is a slower rate than under EOTech's voluntary refund program; presumably, most class members who wished to return their sights have long since done so. Yet class counsel seeks to take credit for all 78,300 refunds for the sixteen months between November 2015 and May 12, 2017. While class counsel has a colorable argument that they should be credited for the incremental improvement, they cannot take credit for what EOTech was already doing and what would have happened in the but-for world. At best, class counsel may be responsible for 8,300 refunds which generously attributes *all* of the incremental improvement to the Settlement notice, as opposed the normal rate of claims or increased press coverage of the issue. In reality, only a portion of these refunds should be attributed to class counsel. The parties should provide evidence that the rate of claims indeed increased under the Settlement over the rate during preceding months. This would isolate the refunds attributable to class notice.

**ii. Refunds should be valued at 40% of the cash paid because class members must surrender valuable equipment to receive a refund.**

Even if all of the 8,300 post-February 3 refunds were attributable to the efforts of class counsel, their value is substantially less than the cash payments to class members. Class members who owned EOTech sights are unlikely to have valued them at \$0, the sights were and are valuable equipment on the secondary market.

Gun sights, like other durable goods, are actively resold and traded by their owners. For example, on eBay there are currently dozens of used EOTech sights being auctioned. Recently-sold listing on eBay show that these sights have a true value of many hundred dollars. *See* Exhibit 4 to Bednarz Decl. and ¶¶ 6-11. Among the most recent 50 eBay sales to the “Red Dot & Laser Scopes” category, with “EOTech” brand and condition “used,” working condition sights sold for between \$225 and \$799, not including shipping. *Id.* ¶¶ 8-9. The recent sales included a non-working sight that sold for \$80, but even including this outlier the average used sales price of 28 recent sales was \$353.63. *Id.* ¶ 11. Comparing the used sales price to MSRP revealed that the vast majority of used EOTech scopes sold for more than half of their MSRP, and the average—including the non-working sight that sold for only \$80—was 64% of MSRP. *Id.*

The low rate of depreciation for these durable goods means that the *net* recovery to class members is substantially lower than the cash paid for refunds. For example, a class member with a 2014 model XPS2-0 could receive the retail price from the refund, which is \$539. But in order to receive this money, the class member had to surrender their sight, which eBay suggests to be worth \$343. *Id.* ¶ 9 (second row). So the class

member's refund would not provide a \$539 benefit, but only the difference between the payment and the surrendered value—in this case, a *net* benefit of \$196 or 36% of the refund's face value.

Just as it would be absurd for a company to measure corporate profit by looking only at revenue without considering costs, it is equally absurd to value the class's "profit" without considering what the settlement costs them. The *net value to class members* is the only appropriate measurement of settlement value, even if the refund program costs EOTech more than the value of the sights. Costs imposed on the defendant—divorced from class benefits—are not the measure of compensable class value. See *Bluetooth*, 654 F.3d at 944 ("[T]he standard [under Rule 23(e)] is not how much money a company spends on purported benefits, but the value of those benefits to the class.") (quoting *In re TD Ameritrade Accountholder Litig.*, 266 F.R.D. 418, 423 (N.D. Cal. 2009)); cf. *Mirfasihi*, 356 F.3d at 784 (putting defendant out of business not valuable).

The settling parties have provided no information concerning the *net* value of refunds, and it is unclear precisely how many (if any) refunds should be attributable to the Settlement rather than EOTech's voluntary refunds. But even if the Court attributes the full claimed average \$651 value to 8,300 refunds made since February 3, 2017, the refund component of the settlement adds up to \$5.4 million, not the \$51 million class counsel claims. And if each class member actually benefits 40% net of their returned property, the post-Settlement refunds so far total at most \$2.16 million. Assuming that post-Settlement claims attributable to class counsel eventually total 12,000, the net benefit from refunds totals approximately \$3.13 million (assuming 12,000 claims x 40%



x \$651). Again, the parties provided no evidence that EOTech would have discontinued its notice refund program absent Settlement, so the refund value is properly considered \$0. But if class counsel can prove they increased the refund rate, an accurate *net* value should be assigned to these refunds.

**2. Few \$22.50 coupons are likely to be redeemed.**

The Settlement provides that \$22.50 coupons will be sent to class members who received refunds before or after the Settlement—78,300 class members as of May 12. While these coupons appear to have a face value of \$1,435,500, the value to class members will be a small fraction of this. Unlike the Tier 3 claimants who request \$100 coupons, class members receiving vouchers did not affirmatively choose to receive coupons instead of additional cash. Additionally, the vast majority of class members (at least 70,000) had refunds approved before the settlement was even executed. These class members, *who had no interest in keeping their sights*, will receive unsolicited coupons for \$22.50, so they are unlikely to redeem them. EOTech’s primary business is the sale of holographic scopes, with retail prices starting at \$459. *See* Dkt. 122-5 (stipulated table of MSRPs). The \$22.50 settlement coupons cover an insignificant fraction of the price of a new scope, so unless a class member happens to buy a new EOTech scope (or EOTech apparel) within one year, the vouchers are worthless.<sup>3</sup> Given these factors, it would be surprising if the redemption rate reaches even the “annual corporate issued

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<sup>3</sup> Neither the settlement agreement nor notice to class explain where and how the vouchers may be used. Assuming that they can be spent at EOTech’s online store, <http://www.eotechgear.com>, the coupons only fully cover the price of promotional/apparel items like hats, shirts, water bottles, and canvass patches.

promotional coupon redemption rates of 1-3%.” James Tharin & Brian Blockovich, *Coupons and the Class Action Fairness Act*, 18 GEO. J. LEGAL ETHICS 1443, 1445, 1448 (2005). In other settlements involving modest discounts on expensive purchases, coupons are redeemed at rates around or below 1%. *See, e.g., Galloway*, 833 F.3d at 971 (0.045% of distributed certificates for \$10-\$30 off a car rental were redeemed); *True v. Am. Honda Motor Co.*, 749 F. Supp. 2d. 1052, 1074-75 (C.D. Cal. 2010) (citing two cases with redemption rates under 2%); Steven B. Hantler & Robert E. Norton, *Coupon Settlements: The Emperor’s Clothes of Class Actions*, 18 GEO. J. LEGAL ETHICS 1343, 1347 (2005) (noting one settlement where only 2 of more than 96,000 coupons were redeemed).

If class counsel suggests redemption will be higher in this case, the court should defer its decision on the fee request until the actual benefits of the settlement may be ascertained. *See In re HP Inkjet Printer Litig.*, 716 F.3d 1173, 1184 (9th Cir. 2013) (“the district court must use the value of the coupons redeemed when determining the value of the coupons part of the settlement”). Otherwise, the final value to the class for these coupons should be considered 1% of the face value (for example, \$27,000 if 82,000 refunds are ultimately approved).

### **3. Number of claims for coupons and cash total only \$164,850 so far.**

On May 19, class counsel disclosed that total Tier 3 benefits claimed under the settlement total only \$164,850 so far. The Tier 3 cash component equals \$84,850 (Suggestions for Fees at 2 n.1), which corresponds to an anemic 1697 cash claims under

the settlement.<sup>4</sup> The voucher benefit of the settlement totals \$80,000, excluding “those members who chose to return the sight.” Suggestions for Fees at 2 n.1.

Even if the number of claims *doubles*, it is insignificant compared to the requested attorneys’ fees. Altogether, the value of the settlement is dwarfed by class counsel’s fee request:

| Benefit                                | Value  |
|--|--|
| Attorneys’ fees                        | \$10 million   |
| New refund requests                    | \$3.13 million, assuming 40% net value due to surrendering valuable scope      |
| \$22.50 coupons for those with refunds | \$27,000 assuming a generous 1% redemption rate                                |
| Claims by those who keep sights        | \$329,700, assuming that the current claims for cash and coupons <i>double</i> |
| <b>Total value:</b>                    | \$13.5 million   |

This projected value of the settlement squares with defendants’ own projection, which booked the settlement as costing the company \$14 million, most of which has been earmarked for class counsel. On October 27, 2016, L-3 advised its shareholders that it had reached a “settlement in principle of the class action litigation ... in connection with the EOTech holographic weapons sights (HWS).” L-3 Announces Third Quarter 2016 Results, Bednarz Ex. 5, at 1. For accounting purposes, the settlement incurred “a \$14 million pre-tax charge, or \$0.11 per diluted share, in the Electronic Systems

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<sup>4</sup> According the plan of distribution, all class members who file valid Tier 3 claims will receive \$50 unless over 5,000 claims are filed. Dkt. 122-8.

segment.” *Id.* Meanwhile, the estimated costs of EOTech’s return program have remain virtually unchanged since early 2016. While the company originally set aside only \$20 million for the refunds, in the first quarter of 2016 it conducted statistical analysis of the rate or returns to project that these would eventually cost the company \$38 million. *See* L-3 Annual Report, Exhibit 3 of Bednarz Decl., at F-25 n.2. The estimate proved close, because as of February 3, 2017, \$35 million had been spent. *Id.*

Therefore, under the Settlement, class counsel captures nearly all of the new value provided by the defendant, while the defendant obtains complete waiver of the class’s claims for the cost of attorneys’ fees, notice, and the very modest value of coupons and cash payments discussed above.

#### **4. Gross disproportion suggests self-dealing.**

Settlement valuation “must be examined with great care to eliminate the possibility that it serves only the ‘self-interests’ of the attorneys and the parties, and not the class, by assigning a dollar number to the fund that is fictitious.” *Dennis*, 697 F.3d at 868. *See also In re Baby Prods.*, 708 F.3d at 179 (in evaluating the attorney’s relative share of an award, the district court “should begin by determining *with reasonable accuracy* the distribution of funds that *will result* from the claims process” (emphasis added)).

Here, class counsel has presented a fictitious figure because any reasonable accounting of the Settlement would reveal that counsel claims perhaps 74% of the settlement’s value for themselves. This is inappropriate. The refusal to structure a settlement to maximize class recovery to instead provide for their own personal benefit was a breach of class counsel’s fiduciary duty. *Cf. In re BankAmerica Corp. Secs. Litig.*,

775 F.3d 1060, 1068 (8th Cir. 2015) (class counsel has a “responsibility to seek an award that adequately prioritizes direct benefit to the class”). Therefore, the settlement should be rejected in its entirety.

**B. The clear-sailing and “kicker” provisions, in combination with the excessive fee request, require rejection of the Settlement.**

The clear-sailing and kicker clauses make it impossible to correct the disproportion as could be done in an ordinary settlement without these indicia of self-dealing.

The settlement has a “clear sailing” provision providing for the payment of attorneys’ fees separate and apart from class funds without challenge from the defendants. *Bluetooth*, 654 F.3d at 948; see Settlement Agreement, Dkt. 122-1 at 19. A clear sailing clause stipulates that attorney awards will not be contested by opposing parties. “Such a clause by its very nature deprives the court of the advantages of the adversary process.” *Weinberger v. Great N. Nekoosa Corp.*, 925 F.2d 518, 525 (1st Cir. 1991); accord *Galloway v. Kan. City Landsmen, LLC*, 833 F.3d 969 (8th Cir. 2016) (lamenting that “clear sailing” provisions in class action settlements “deprive[] the court of the advantages of the adversary process”); *Johnston v. Comerica Mortgage Corp.*, 83 F.3d 241, 246 n.11 (8th Cir. 1996) (“the potential for abuse is heightened by the defendants’ agreement not to contest fees up to a certain point”). The clause “suggests, strongly,” that its associated fee request should go “under the microscope of judicial scrutiny.” *Weinberger*, 925 F.2d at 525. The clear sailing clause lays the groundwork for lawyers to “urge a class settlement at a low figure or on a less-than-optimal basis in exchange for

red carpet treatment on fees.” *Id.* at 524; accord *Bluetooth*, 654 F.3d at 947; see also *Vought v. Bank of Am., N.A.*, 901 F. Supp. 2d 1071, 1101 (C.D. Ill. 2012) (rejecting settlement with clear sailing provision because “while the present case does not utilize a classic reversionary fund in which attorneys’ fees are paid from a common pool that directly reduces the class’s recovery, it undoubtedly did not escape either party’s attention that every dollar not claimed from the fund was one dollar that [defendant] could use to pay class counsel’s fees”); William D. Henderson, *Clear Sailing Agreements: A Special Form of Collusion in Class Action Settlements*, 77 TUL. L. REV. 813, 816-17 (2003).

The Settlement’s kicker clause makes it unredeemable. A “kicker arrangement reverting unpaid attorneys’ fees to the defendant rather than to the class amplifies the danger” that is “already suggested by a clear sailing provision.” *Bluetooth*, 654 F.3d at 949. “The clear sailing provision reveals the defendant’s willingness to pay, but the kicker deprives the class of that full potential benefit if class counsel negotiates too much for its fees.” *Id.* When attorneys negotiate a settlement structure that will disproportionately pay them a fee greater than what the class will recover, “the likelihood is that the defendant obtained an economically beneficial concession with regard to the merits provisions, in the form of lower monetary payments to class members or less injunctive relief for the class than could otherwise have been obtained.” *Id.* at 947. But a fee reduction would not cure this: it would return money to the pockets of the defendants. It is wrong. The parties here agreed to a kicker. See Settlement Agreement at 19 (“If the Court awards less than the amount set out in this

subparagraph B, the Defendant shall be liable only for the lesser amount awarded by the Court.”)

The class is unambiguously worse off when any reduction in a fee award reverts to the defendant instead of the class. The only reason to negotiate that provision is for the self-serving effect of protecting class counsel by deterring court scrutiny of the fee award. *E.g.*, Charles Silver, *Due Process and the Lodestar Method*, 74 TULANE L. REV. 1809, 1839 (2000) (reversionary kicker is “a strategic effort to insulate a fee award from attack”); Lester Brickman, *LAWYER BARONS* 522-25 (2011) (same; further arguing reversionary kicker should be considered *per se* unethical). “If the defendant is willing to pay a certain sum in attorneys’ fees as part of the settlement package, but the full fee award would be unreasonable, there is *no apparent reason* the class should not benefit from the excess allotted for fees.” *Bluetooth*, 654 F.3d at 949 (emphasis added). The fact that a fee was “separately negotiated” does not change this: defendants aren’t stupid, and “economically rational” defendants anticipate what plaintiffs will request as their attorneys’ part of the settlement when negotiating class relief. *Pearson*, 772 F.3d at 786-87.

The combination of a disproportionate fee and a kicker provision makes it impossible for the Court to rectify disparate awards. Typically, the solution to disproportionate allocation is “to increase the share of the settlement received by the class, at the expense of class counsel.” *Redman*, 768 F.3d at 632. For example, class counsel might appropriately claim 25% in a settlement of this size, which works out to be \$3.375 million. If class counsel received this amount and the other \$6.625 million

were disbursed to the class, the overall settlement would be fair. If this could occur, the defendant would pay the exact same amount as they agreed, class members would nearly triple their actual recovery, and class counsel would still receive more than their bloated lodestar. Class counsel should have negotiated a settlement free from self-dealing to reach this result.

Instead, this settlement has a kicker, by which the “parties arrange[d] for fees not awarded to revert to defendants rather than be added to the class fund.” *Bluetooth*, 654 F.3d at 947. The kicker makes it impossible to reallocate the excessive fee request: any decrease in the Rule 23(h) request redounds to defendants, rather than the class, though EOTech agreed to a clear-sailing clause eliminating its ability to challenge the request. Because of this unfair clause that deprives the class of the appropriate allocation of the settlement benefit EOTech was willing to pay, the settlement must be rejected unless the clause is “delete[d].” *Eubank*, 753 F.3d at 723.

Class counsel argues that the “payment of the attorneys’ fees and service awards do not diminish the Class Members’ recovery because they will be paid separately from the benefits to the Class.” Suggestions for Fees at 1. Every appellate court to consider the issue of a segregated fund rejects this economic fiction. *Johnston v. Comerica*, 83 F.3d 241, 246 (8th Cir. 1996) (“[I]n essence the entire settlement amount comes from the same source. The award to the class and the agreement on attorney fees represent a package deal.”); *Bluetooth*, 654 F.3d at 949; *Eubank*, 753 F.3d at 723; *Redman*, 768 F.3d at 637 (placing fees and class recovery in “separate compartments” is “defect of proposed settlement”). See also *In re Gen. Motors Corp. Pick-Up Truck Fuel Tank Prods. Liab. Litig*, 55



F.3d 768, 820 (3d Cir. 1995) (severable fee structure “is, for practical purposes, a constructive common fund”); *id.* at 821 (“[P]rivate agreements to structure artificially separate fee and settlement arrangements cannot transform what is in economic reality a common fund situation into a statutory fee shifting case.”); *Dennis*, 697 F.3d at 867-68 (designating similar settlement “constructive common fund”). “If an agreement is reached on the amount of a settlement fund and a separate amount for attorney fees” then “the sum of the two amounts ordinarily should be treated as a settlement fund for the benefit of the class.” *Manual for Complex Litigation* §21.71 (4th ed. 2008). In short, “Even when technically funded separately, the class recovery and the agreement on attorneys’ fees should be viewed as a ‘package deal.’” *Bluetooth*, 654 F.3d at 948-49 (quoting *Johnston*, 83 F.3d at 245-46).

The combination of the three warning signs of *Bluetooth* hang together to make the settlement unacceptable. Class counsel worked for its own interests rather than that of the class, and attempted to shield its excessive fee request from both scrutiny and reallocation to the class. The kicker must be eliminated before the Settlement can be approved.

**III. Independently, class counsel’s fee request is not sufficiently documented and excessive because it awards class counsel \$10 million at a blended hourly rate of \$1,800 where they reached settlement a month after appointment.**

The Eighth Circuit has noted that the percentage of recovery is the preferred method in calculating attorneys’ fees in common fund (including constructive common fund) cases. *Johnston*, 83 F.3d at 245. In this matter, the recovery traceable to the

Settlement Agreement totals approximately \$3.5 million (see Section II.A.2). As such, a reasonable percentage of fund would suggest a fee of about \$1.2 million.<sup>5</sup>

A lodestar cross-check can “confirm that a percentage of recovery amount does not award counsel an exorbitant hourly rate.” *Bluetooth*, 654 F.3d at 945; *Sanderson v. Unilever Supply Chain, Inc.*, No. 10-CV-00775-FJG, 2011 U.S. Dist. LEXIS 132378 (W.D. Mo. Nov. 16, 2011) (ordering plaintiffs to provide detailed billing records to “double-check the reasonableness of the percentage of the fund fee request”). “Without such an inquiry there is a grave danger that the bar and bench will be brought into disrepute, and there will be prejudice to those whose substantive interests are at stake and who are unrepresented except by the very lawyers who are seeking compensation.” *Grunin v. Int’l House of Pancakes*, 513 F.2d 114, 128 (8th Cir. 1975). The Court should recognize the claimed hours are an unsuitable basis for a fee award because they are poorly documented and excessive. Further, no multiplier should be applied because class counsel has not achieved an exceptional outcome beyond their exceptionally audacious fee request.

**A. Opaque block billing makes evaluation of the claimed hours impossible.**

While fees should be awarded as a percentage of actual class recovery, class counsel’s failure to submit any breakdown of hours worked prevents class members

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<sup>5</sup> Of course, such an award would leave \$8.8 million that class counsel negotiated for themselves on the table, which is why the Court should instead reject the settlement in its entirety; there is no way to disperse to class members benefits that class counsel has earmarked for itself.

and the Court from evaluating the reasonableness of those hours, and so should prevent the award of attorneys' fees on the basis of lodestar. *See, e.g., Otey v. Crowdfunder, Inc.*, No. 12-cv-05524-JST, 2014 U.S. Dist. LEXIS 52192, at \*26 (N.D. Cal. Apr. 15, 2014) ("The Court is ... unable to determine whether the hours spent are reasonable, because Plaintiffs' counsel have provided no evidence or itemized records to support the hours they worked."). Class counsel has failed to meet the bare minimum of "listing [its] hours and identifying the general subject matter of [its] time expenditures." *Fischer v. SJB-P.D., Inc.*, 214 F.3d 1115, 1121 (9th Cir. 2000). While counsel has characterized its billing as a "detailed summary indicating the amount of time, by category," *see* Dollar Decl. ¶ 3, the submitted billing includes only attorney name, claimed hours, and hourly rate.<sup>6</sup>

Although the claimed hours are sketchy, two problems are evident from class counsel's billing. *First*, the lodestar is distended and unreasonably top-heavy because the entire blended hourly rate of the lodestar figure exceeds \$592/hour, including support staff time. *See* Dollar Decl., Dkt. 130 at ¶ 48. These are astonishingly high average rates and they imply senior attorneys performed all activity on the case, even ministerial matters that would normally be performed by paralegals, like arranging for service of complaints. Such a rate strongly suggests excessive compensation:

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<sup>6</sup> Walsh LLC provides even less: only the total number of hours (539.91) and lodestar "based on the law firm's current rates" (\$323,945.17). Walsh Decl. ¶ 6. This works out to a blended rate of \$600 per hour, for the 539 and 91 one-hundredths of an hour the Walsh firm spent on the case.

Even \$538 per hour, the average fee allowed by the district judge in cutting the total fees from \$4.5 million to \$1.93 million, would be excessive. It would imply that few if any associates or paralegals had actually been used on the case, even though most of the legal work was routine pretrial preparation. This is a further indication (if any were needed) that class counsel sought and were awarded excessive compensation.

*Pearson*, 772 F.3d at 781. *See also* *FB-Stark, LLC v. White*, No. CV-12-0095-PHX-PGR, 2012 U.S. Dist. LEXIS 137892, at \*4-\*5 (D. Ariz. Sept. 26, 2012) (criticizing partner who performed tasks “that could have, and should have, been done by the lesser-paid employees who worked on this litigation, such as the two associate attorneys and the paralegal assigned to the case”); *Zucker v. Occidental Petroleum Corp.*, 968 F. Supp. 1396, 1402 (C.D. Cal. 1997) (“[L]egal research [is] a task that most certainly could have been tackled by an associate billing at a lower rate.”). In the absence of such improper practices, one would expect the blended rate to be closer to the average rate for each firm’s market, which are all lower than the billing rate claimed by plaintiffs here. *See* Ronald L. Burdge, *United States Consumer Law Attorney Fee Survey Report*, 2013-14, 80, available at <https://www.nclc.org/images/pdf/litigation/fee-survey-report-2013-2014.pdf> (describing typical attorney billing rates in all 50 states).

*Second*, apart from the failure to efficiently manage the litigation, some of the rates claimed in the lodestar request bear no relation to fair market rates. For example, Mr. Nick W. Allen, an attorney in Springfield, Missouri, is listed as having billed 179.7 hours at an hourly rate of \$550/hour. *See* Time Report for Douglas, Haun & Heidemann, P.C., Dkt. 136-1. While Mr. Allen may be a superb young attorney, he was admitted to

the Missouri Bar on December 15, 2016 and appears to be a 2016 law school graduate.<sup>7</sup> According to the *United States Consumer Law Attorney Fee Survey Report*, *supra*, \$550/hour exceeds the average rate of an attorney with ten years' experience in Kansas City, St. Louis, and Columbia. The *amicus* defers to the Court's judgment on whether \$550/hour significantly exceeds the customary rate for a first-year associate in the Springfield market.

**B. The Court should not award a multiplier higher than one.**

Class counsel argues that the \$10 million fee requests reflects a 3.07 multiplier. *See* Suggestions for Fees, Dkt. 134 at 16. This amounts to an astonishing blended hourly rate of over \$1,800 per hour (\$592/hour x 3.07 multiplier). *See* Dollar Decl., Dkt. 130 at ¶ 48. In the first place, as discussed above, the claimed lodestar of \$3.26 million is highly suspect given the high billing rates. It is further unclear how class counsel could have spent nearly 5500 hours on a matter where not one deposition was taken, and the parties settled in principle the same month as class counsel was appointed. *Compare* Exhibit 1 to Bednarz Decl. at 2 (Oct. 27, 2016 filing describing "settlement in principle"); with Dkt. 107 (Oct. 3, 2016). *Cf. Pampers*, 724 F.3d at 718 ("signs [of self-dealing] are not particularly subtle" where "settlement agreement awards class counsel a fee of \$2.73 million—this, in a case where counsel did not take a single deposition, serve a single request for written discovery, or even file a response to P&G's motion to dismiss.").

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<sup>7</sup> See University of Arkansas 2016 Commencement Program at 30, available online at [https://registrar.uark.edu/resources/pdf/spring\\_2016\\_commencement\\_program\\_book.pdf](https://registrar.uark.edu/resources/pdf/spring_2016_commencement_program_book.pdf).

Class counsel also relied on the investigative work of the Department of Justice, which provided a detailed 40-page complaint. *United States v. L-3 Communications EOTech, Inc., et al.*, 1:15-cv-09262, Dkt. 1 (S.D.N.Y. Nov. 24, 2015).

In any event, any multiplier over 1 is not appropriate here. The Supreme Court has established a “strong presumption that the lodestar is sufficient” without an enhancement multiplier. *Perdue v. Kenny A.*, 130 S. Ct. 1662, 1669 (2010). A lodestar enhancement is justified only in “rare and exceptional” circumstances where “specific evidence” demonstrates that an unenhanced “lodestar fee would not have been adequate to attract competent counsel.” *Id.* at 1673; accord *Forshee v. Waterloo Indus., Inc.*, 178 F.3d 527, 532 (8th Cir. 1999) (noting that only in “rare” and “exceptional” cases, “counsel may be entitled to a multiplier to reward them for taking on risk and high-quality work”). “[T]he burden of proving that an enhancement is necessary must be borne by the fee applicant.” *Id.*

*Kenny A*’s limitation on enhancements was made in the context of interpreting 42 U.S.C. § 1988’s language of “reasonable” fee awards, but has equal application to “reasonable” fee awards in class actions made under Fed. R. Civ. P. 23(h). See e.g., *In re Pet Food Prods. Liab. Litig.*, 629 F.3d 333, 361 (3d Cir. 2010) (Weis, J. concurring/dissenting) (referring to *Kenny A* as an “analogous statutory fee-shifting case.”); *Van Horn v. Nationwide Prop. & Cas. Ins. Co.*, 436 Fed. Appx. 496, 500 (6th Cir. 2011); *Weeks v. Kellogg Co.*, No. 09-cv-8102, 2011 U.S. Dist. LEXIS 155472, at \*129-\*135 & n.157 (C.D. Cal. Nov. 23, 2011) (citing *Kenny A* and finding “little basis for an application of a multiplier” when calculating lodestar cross-check); see also *Roeser v. Best*

*Buy Co.*, No. 13-cv-1968, 2015 U.S. Dist. LEXIS 88471, at \*30-\*31 (D. Minn. June 17, 2015) (citing *Forshee* and rejecting request for 1.9 multiplier because case “settled early, efficiently, and non-contentiously”).

In short, it should be improper to permit any multiplier greater than one.

### CONCLUSION

The Court should deny approval of the Settlement because of the gross disproportion between attorneys’ fees and class recovery, and because the suspect features of the fee request—clear sailing and kicker—prevent the court from correcting the imbalance. In the alternative, if the Court approves the Settlement, the Court should award attorneys’ fees proportional to the actual amount of relief under the settlement, of approximately \$1.2 million, or to defer the attorneys’ fee award until Settlement benefits may be accurately ascertained.

Dated: May 23, 2017

/s/ Melissa A. Holyoak

Melissa A. Holyoak (MO Bar No. 62602)

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*Attorneys for Amicus Curiae*

*Competitive Enterprise Institute*

*Center for Class Action Fairness*

### CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of May, 2017, a true and correct copy of the foregoing was electronically filed with the Clerk of the Court using CM/ECF system, which will send notifications of such filing to the CM/ECF participants registered to receive service in this matter.

/s/ Melissa A. Holyoak



UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI

|                              |   |                            |
|------------------------------|---|----------------------------|
| ANDREW TYLER FOSTER, et al., | ) | Case No.6:15-cv-03519-BCW  |
|                              | ) |                            |
| Plaintiff,                   | ) | Hon. Brian C. Wimes        |
|                              | ) |                            |
| v.                           | ) | Consolidated with:         |
|                              | ) |                            |
| L-3 COMMUNICATIONS EOTECH,   | ) | Case No. 4:16-cv-00095-BCW |
| INC. et al.,                 | ) | Case No. 4:16-cv-03109-BCW |
|                              | ) | Case No. 4:16-cv-00438-BCW |
| Defendants.                  | ) | Case No. 4:16-cv-00439-BCW |
|                              | ) |                            |

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**DECLARATION OF M. FRANK BEDNARZ**

M. Frank Bednarz declares as follows:

1. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.

2. I am an attorney with the Competitive Enterprise Institute, and I have assisted Melissa A. Holyoak in preparing the *amicus curiae* brief on behalf of the Competitive Enterprise Institute.

3. **Exhibit 1**, entitled "L-3 Announces Fourth Quarter 2015 Results," is a true and accurate copy of the following document as it appeared on May 21, 2017:  
[https://www.l3t.com/sites/default/files/earnings-releases/2015\\_q4\\_release\\_0.pdf](https://www.l3t.com/sites/default/files/earnings-releases/2015_q4_release_0.pdf).

4. **Exhibit 2**, depicting a Facebook photo by Larry Vickers posted Dec. 4, 2015, is a true and accurate copy of the following internet page as it appeared on May 21, 2017:  
<https://www.facebook.com/LarryVickers/photos/a.10151236579360416.800876.295755495>

[415/10156285737345416/](http://415/10156285737345416/). This exhibit was prepared by printing the linked URL to pdf and saving the resulting document.

5. As shown by Exhibit 2, this photo post has 100 “shares,” meaning that 100 distinct Facebook accounts re-posted the image on their “wall,” which in turn means the post could be seen by friends or followers of those 100 Facebook accounts. Mr. Vickers’ account itself has many followers. As of May 21, 2017, his Facebook account, @LarryVickers, had 227,079 “likes” and Facebook reports that “222,085 people follow this.” Larry Vickers’ Facebook account links to vickerstactical.com which describes him as follows: “Larry Vickers of Vickers Tactical is a retired US Army 1st SFOD-Delta combat veteran with years of experience in the firearms industry as a combat marksmanship instructor and industry consultant.” See “About Larry Vickers,” available at: <http://www.vickerstactical.com/about-larry-vickers.html>.

6. **Exhibit 3**, contains excerpts of L-3 Technologies, Inc.’s (“L-3’s”) 2016 Annual Report, Form 10-K filed under the 1934 Act. I prepared these excerpts by first downloading the complete 10-K form from L-3’s investor relations website at: [https://www.l3t.com/sites/default/files/annual-reports/2016 annual report on form 10-k.pdf](https://www.l3t.com/sites/default/files/annual-reports/2016%20annual%20report%20on%20form%2010-k.pdf). The unabridged document is 140 pages, including attachments. From this document, I removed all pages except for the cover, the table of contents, and pages 48-49, F-25, and F-43.

7. **Exhibit 4**, is a true and accurate copy of the following eBay search page as it appeared on May 23, 2017: [http://www.ebay.com/sch/Red-Dot-Laser-Scopes/66827/i.html?LH\\_ItemCondition=3000&LH\\_Sold=1&fsrp=1&sop=1&LH\\_Com](http://www.ebay.com/sch/Red-Dot-Laser-Scopes/66827/i.html?LH_ItemCondition=3000&LH_Sold=1&fsrp=1&sop=1&LH_Com)

[plete=1& dcat=66827&rt=nc&Brand=EOTech](#). This exhibit was prepared by printing the linked URL to pdf.

8. Exhibit 4 depicts the most recent 50 eBay sales (“sold items”) in the “Red Dot & Laser Scopes” category that have brand name “EOTech” and condition “used.” Based on the page, these particular 50 sales occurred between May 16 and May 22, 2017.

9. To determine the approximate value of used EOTech sights, I reviewed each of the sales in Exhibit 4. For each sale, I ascertained the: (1) sight model, (2) date of manufacture, (3) sales price, and (4) manufacturer’s suggested retail price (MSRP) for the model. The date of manufacture was determined by visiting each linked item page, where a photo or the item description for most listings indicated the date of manufacture. (The date of manufacture is printed on a sticker under the mount of each sight.) The sales price is simply the eBay sales price, which does not include shipping costs. Based on the model and date of manufacture, I looked up the MSRP for each sight using the settling parties’ own figures (Dkt. 122-5). Where the manufacture date could not be determined, it was classified as “unknown,” and the highest MSRP for the model was used.

10. Using the sale price and MSRP, I calculated percentage of MSRP by dividing the latter into the former. For example, a hypothetical sight that had MSRP of \$500 and sold for \$300 on eBay sold for 60% of the MSRP. Combining all the above-discussed data, I produced this table from the sales shown in Exhibit 4:

| Listing Title  | Sale Price | Age       | MSRP             | Sale % of MSRP |
|--|------------|-----------|------------------|----------------|
| EOTech EXPS2 Holographic Red Dot Sight - 2-dot Reticle, EXPS2-2A | \$403.00   | Unknown   | At most \$579.00 | 70%            |
| EOTech XPS2-0 Holographic Sight 03/L135173A                      | \$343.00   | Jun. 2014 | \$539.00         | 64%            |

| <b>Listing Title</b>   | <b>Sale Price</b> | <b>Age</b> | <b>MSRP</b>      | <b>Sale % of MSRP</b> |
|--|-------------------|------------|------------------|-----------------------|
| EOTech L3 Holographic Weapon Sight 517.A65 (R22)                                 | \$319.61          | Apr. 2012  | \$485.00         | 66%                   |
| eotech xps2-0 holographic weapon sight Red Dot Trijicon Aimpoint                 | \$385.00          | Sep. 2016  | \$539.00         | 71%                   |
| Eotech L3 552.A65 Holographic Weapon Sight                                       | \$320.00          | Unknown    | At most \$569.00 | 56%                   |
| Used EOTech 512  | \$234.50          | Unknown    | At most \$459.00 | 51%                   |
| L3 EOTECH 512 Holographic Scope  | \$267.50          | Unknown    | At most \$459.00 | 58%                   |
| Eotech XPS2 Holographic Sight with AD QD riser mount.                            | \$350.00          | Unknown    | At most \$539.00 | 65%                   |
| EOTech Transverse EXPS3 Red Dot Sight, Black w/ 1-Dot Reticle Anti-Glare EXPS3-0 | \$435.00          | Sep. 2016  | \$629.00         | 69%                   |
| eotech 512.a65   | \$310.00          | Nov. 2014  | \$459.00         | 68%                   |
| EO Tech 512.a65  | \$275.00          | Unknown    | At most \$459.00 | 60%                   |
| Eotech L3 Holographic Weapon Sight w/Case 511.A65                                | \$299.95          | Mar. 2009  | \$409.00         | 73%                   |
| [Broken 553.A65/1] EOTECH HOLOGRAPHIC SIGHT                                      | \$80.00           | Feb. 2005  | \$639.00         | 13%                   |
| Eotech 512 Holographic Sight   | \$355.00          | Mar. 2014  | \$459.00         | 77%                   |
| Eotech 512.A65/1 Holographic Sight   | \$225.00          | May 2016   | \$459.00         | 49%                   |
| EOTech EXPS3-0 TAN MOA Red Dot Holographic Tactical Weapon Sight 65MOA           | \$410.00          | Unknown    | At most \$629.00 | 65%                   |
| EOTech XPS2-0 Holographic Weapon Sight   | \$337.80          | Mar. 2012  | \$525.00         | 64%                   |
| EOTECH 553 A65 HOLOGRAPHIC SIGHT NIGHTVISION COMPATIBLE 553.A65 SU-231/PEQ M553M | \$471.01          | Unknown    | At most \$749.00 | 63%                   |
| Eotech EXPS2 red dot; Quick Release, 65MOA / 1MOA                                | \$401.00          | Nov. 2014  | \$539.00         | 74%                   |

| Listing Title   | Sale Price | Age       | MSRP             | Sale % of MSRP |
|---|------------|-----------|------------------|----------------|
| Eotech OPMOD EXPS2-0<br>Holosight w/ 65 MOA Ring and 1-Dot Reticle, Black,EXPS2-0OP | \$415.00   | Unknown   | At most \$539.00 | 77%            |
| EOTech Model 552.A65<br>Holographic Weapon Sight Red Dot Black MIL-STD-1913         | \$299.95   | Unknown   | At most \$569.00 | 53%            |
| EOTech 512.A65 Holographic<br>Weapon Sight 68 MOA Circle With 1 MOA Dot Reticle     | \$255.00   | Unknown   | At most \$459.00 | 56%            |
| Eotech EXPS2 Holographic Sight  | \$401.00   | Aug. 2016 | \$539.00         | 74%            |
| Eotech M512 Black 512<br>Holographic Sight  | \$295.00   | Aug. 2008 | \$429.00         | 69%            |
| EOTech Holographic Sight HHS II<br>EXPS2-2 with G33STS HHS2                         | \$799.00   | Aug. 2014 | \$1,079          | 74%            |
| eotech 512 holographic weapon<br>sight with laser 512.LBC                           | \$499.00   | Unknown   | At most \$729.00 | 68%            |
| EoTech XPS2-0 68 MOA Circle<br>with 1 MOA Dot Matte<br>Holographic Weapon Sight     | \$390.00   | Feb. 2016 | \$539.00         | 72%            |
| EOTech Model 552.A65<br>Holographic Weapon Sight AA<br>Batteries                    | \$325.25   | Aug. 2011 | \$549.00         | 59%            |

11. Of the 50 sales in Exhibit 4, only 28 had useful data and are listed above. Sales that did not reflect the actual sales price were excluded from the table. For example, the most recent sale on Exhibit 4 says “~~\$799.99~~” and “Best offer accepted.” This means that the seller posted a listing seeking \$799.99, but the buyer offered some unknown lower price that the seller accepted. Also excluded are sales listings that included additional magnifiers not originally sold with the sight, because these accessories do not qualify for a refund. Finally, I excluded models that were not part of the refund, such as the model 510 shown on the second page of Exhibit 4.

12. Of the 28 sales documented above, each one sold for at least 49% of the MSRP with only one exception: a 2005 model 553 which the seller sold as a non-working item. Even including this outlier, the average sales price of all 28 sights was 64% of the original retail price. Including the broken model 553, which sold for \$80, the average used sale price of an EOTech sight was \$353.63.

13. **Exhibit 5**, entitled "L-3 Announces Third Quarter 2016 Results," is a true and accurate copy of the following document as it appeared on May 21, 2017: [https://www.l3t.com/sites/default/files/earnings-releases/2016\\_q3\\_release\\_0.pdf](https://www.l3t.com/sites/default/files/earnings-releases/2016_q3_release_0.pdf).

14. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 23, 2017 in Chicago, Illinois.



---

M. Frank Bednarz

**Bednarz Decl.**  
**EXHIBIT 1**



communications

L-3 Communications Corporation  
600 Third Avenue  
New York, NY 10016  
212-697-1111 Fax: 212-682-9553

## News

Contact: L-3 Communications Holdings, Inc.  
Corporate Communications  
212-697-1111

For Immediate Release

### L-3 Announces Fourth Quarter 2015 Results

- **Agreement to sell National Security Solutions (presented as discontinued operations)**
- **Net sales of \$2.9 billion**
- **Adjusted diluted earnings per share (EPS) from continuing operations<sup>(1)</sup> of \$2.16; Diluted loss per share from continuing operations of \$0.76**
- **Goodwill impairment charges of \$2.93 per diluted share, primarily for Logistics Solutions**
- **Net cash from operating activities from continuing operations of \$465 million**
- **Funded orders of \$2.6 billion, funded backlog of \$8.4 billion**
- **Updated 2016 financial guidance**

NEW YORK, January 28, 2016 – L-3 Communications Holdings, Inc. (NYSE: LLL) today reported adjusted diluted EPS from continuing operations of \$2.16 and diluted loss per share from continuing operations of \$0.76 for the quarter ended December 31, 2015 (2015 fourth quarter). Diluted EPS from continuing operations for the quarter ended December 31, 2014 (2014 fourth quarter) was \$2.34. Net sales of \$2.9 billion for the 2015 fourth quarter decreased by 3% compared to the 2014 fourth quarter. Excluding sales from divestitures<sup>(2)</sup> and acquisitions<sup>(2)</sup>, net sales (organic sales) increased 1%. The prior period results have been adjusted to present the National Security Solutions business as discontinued operations.

“In the fourth quarter, we continued the progress we made on our transformation throughout 2015, highlighted by our announcement of the sale of our National Security Solutions (NSS) business,” said Michael T. Strianese, chairman and chief executive officer. “Our strategic portfolio shaping efforts and solid program execution allowed us to focus on higher returning, higher margin businesses where we have market leading positions, supporting organic growth and increased segment operating margins. While there is still work to do, we are seeing benefits of our refined strategy. Our organic sales growth for the quarter was 1% and we strengthened our offerings in key markets through our ForceX acquisition, which will expand our brand and market share in 2016 and beyond.”

“While we are disappointed in our 2015 book-to-bill ratio, which was impacted by lower than anticipated international awards at Aerospace Systems, our other two segments generated healthy orders from the DoD and other U.S. Government customers. Looking ahead to 2016, we are a leaner, more focused company with robust cash flows operating in what we believe will be a more stable budgetary environment. We are confident that our ongoing efforts will drive additional organic growth in 2016 and enable us to continue returning capital to shareholders.”

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<sup>(1)</sup> Adjusted diluted earnings per share from continuing operations is a non-GAAP financial measure. See Table E for a reconciliation and a discussion on why this information is presented.

<sup>(2)</sup> Sales from business divestitures are defined as sales from business divestitures that are included in L-3’s actual results for the 12 months prior to the divestitures. Sales from acquired businesses are defined as sales from business acquisitions that are included in L-3’s actual results for less than 12 months.



Funded orders of \$2.6 billion for the quarter included the following key wins:

- a contract to design, manufacture, qualify, test and deliver Integrated Power Node Center/Power Node Control Center (IPNC/PNCC) units to General Dynamics Bath Iron Works,
- a contract to deliver two night vision product variants, monocular and binocular, to the Saudi Ministry of Defense, Land Forces,
- a contract to provide immersion fidelity updates on the F/A-18 C/D/E/F and EA-18G Tactical Operational Flight Trainers (TOFT's) at multiple Air Stations for the Naval Air Warfare Center Training Systems Division,
- a contract to provide three Full Flight Simulators for an Airbus A320, an Airbus A330 and a Boeing B737 to Turkish Airlines, and
- a contract to provide an Airbus A320 Full Flight Simulator to Spring Airlines.

Adjusted diluted EPS from continuing operations for the 2015 fourth quarter excludes: (1) goodwill impairment charges of \$349 million (\$230 million after income taxes), or \$2.93 per diluted share, including \$338 million related to a decline in the estimated fair value of the Logistics Solutions reporting unit and \$11 million related to the re-allocation of goodwill to a business unit retained by L-3 in connection with the expected sale of the National Security Solutions business and (2) a pre-tax loss of \$2 million (\$2 million after income taxes), or \$0.02 per diluted share, related to the divestiture of Klein Associates, Inc., which was completed on December 31, 2015 for a sales price of \$10 million.

Adjusted diluted EPS from continuing operations for the year ended December 31, 2015 excludes: (1) goodwill impairment charges of \$384 million (\$264 million after income taxes), or \$3.22 per diluted share, including \$338 million related to a decline in the estimated fair value of the Logistics Solutions reporting unit, and \$46 million related to the re-allocation of goodwill and an impairment charge recorded during the third quarter of 2015 to a business retained by L-3 in connection with the expected sale of the National Security Solutions business and (2) a pre-tax loss of \$31 million (\$20 million after income taxes), or \$0.25 per diluted share, related to business divestitures, of which \$17 million relates to the divestiture of Marine Systems International (MSI), completed on May 29, 2015, \$8 million relates to the Tinsley Product Line divestiture completed on July 27, 2015, \$4 million relates to the Broadcast Sports, Inc. (BSI) divestiture, completed on April 24, 2015, and \$2 million relates to the Klein Associates, Inc. divestiture, completed on December 31, 2015.

The goodwill impairment charges and pre-tax losses related to business divestitures are included in consolidated operating (loss) income. Segment operating income represents earnings from the Company's business segments before the goodwill impairment charges and pre-tax losses related to business divestitures. Segment operating income is used by management for purposes of evaluating the operating performance of the Company's business segments.

## L-3 Consolidated Results

| (\$ in millions, except per share data)   | Fourth Quarter Ended |          | Increase/<br>(decrease) | Year Ended Dec. 31, |           | Increase/<br>(decrease) |
|---|----------------------|----------|-------------------------|---------------------|-----------|-------------------------|
|   | 2015                 | 2014     |                         | 2015                | 2014      |                         |
| Net sales.....  | \$ 2,871             | \$ 2,961 | (3)%                    | \$ 10,466           | \$ 10,986 | (5)%                    |
| Operating (loss) income.....  | \$ (96)              | \$ 294   | nm                      | \$ 475              | \$ 1,012  | (53)%                   |
| Loss related to business divestitures.....  | 2                    | —        | nm                      | 31                  | —         | nm                      |
| Goodwill impairment charges.....  | 349                  | —        | nm                      | 384                 | —         | nm                      |
| Segment operating income.....   | \$ 255               | \$ 294   | (13)%                   | \$ 890              | \$ 1,012  | (12)%                   |
| Operating margin .....  | nm                   | 9.9%     | nm                      | 4.5%                | 9.2%      | (470) bpts              |
| Segment operating margin .....  | 8.9%                 | 9.9%     | (100) bpts              | 8.5%                | 9.2%      | (70) bpts               |
| Interest expense.....   | \$ 45                | \$ 43    | 5%                      | \$ 169              | \$ 158    | 7%                      |
| Interest and other income, net .....  | \$ 6                 | \$ 4     | 50%                     | \$ 17               | \$ 18     | (6)%                    |
| Debt retirement charge.....   | \$ 1                 | \$ —     | nm                      | \$ 1                | \$ —      | nm                      |
| Effective income tax rate .....   | nm                   | 19.6%    | nm                      | nm                  | 26.0%     | nm                      |
| Net (loss) income from continuing operations<br>attributable to L-3.....  | \$ (60)              | \$ 201   | nm                      | \$ 282              | \$ 632    | (55)%                   |
| Adjusted net income from continuing<br>operations attributable to L-3 <sup>(a)</sup> .....  | \$ 172               | \$ 201   | (14)%                   | \$ 566              | \$ 632    | (10)%                   |
| Diluted (loss) earnings per share from<br>continuing operations .....   | \$ (0.76)            | \$ 2.34  | nm                      | \$ 3.44             | \$ 7.20   | (52)%                   |
| Adjusted diluted earnings per share from<br>continuing operations <sup>(a)</sup> .....  | \$ 2.16              | \$ 2.34  | (8)%                    | \$ 6.91             | \$ 7.20   | (4)%                    |
| Diluted weighted average common shares<br>outstanding .....   | 78.5                 | 86.0     | (9)%                    | 81.9                | 87.8      | (7)%                    |
| <sup>(a)</sup> Non-GAAP metric that excludes the goodwill impairment charge and the aggregate loss related to business divestitures. See Table E for a reconciliation of this measure.<br>nm – not meaningful |                      |          |                         |                     |           |                         |

**Fourth Quarter Results of Operations:** For the 2015 fourth quarter, consolidated net sales of \$2.9 billion decreased \$90 million, or 3%, compared to the 2014 fourth quarter. Organic sales growth for the 2015 fourth quarter was \$40 million, or 1%. Organic sales growth excludes \$167 million of sales declines related to business divestitures and \$37 million of sales increases from business acquisitions. Sales to the U.S. Government increased 3%, or \$66 million, to \$2,029 million in the 2015 fourth quarter, compared to \$1,963 million in the 2014 fourth quarter. Sales to international and commercial customers declined 19%, or \$156 million, to \$842 million in the 2015 fourth quarter, compared to \$998 million in the 2014 fourth quarter. Organic sales to international and commercial customers decreased \$22 million, or 3%.

Segment operating income for the 2015 fourth quarter decreased \$39 million, or 13%, compared to the 2014 fourth quarter. Segment operating income as a percentage of sales (segment operating margin) decreased by 100 basis points to 8.9% for the 2015 fourth quarter compared to 9.9% for the 2014 fourth quarter. This decrease was driven by higher pension expense of \$14 million and unfavorable contract performance adjustments primarily in the Aerospace Systems segment. See the reportable segment results below for additional discussion of sales and operating margin trends.

The effective income tax rate for the 2015 fourth quarter is not meaningful due to the goodwill impairment charges. Excluding the goodwill impairment charges and related income tax benefit, the effective income tax rate for the 2015 fourth quarter would have decreased to 17.4% compared to 19.6% primarily due to an increased benefit from the Federal Research and Experimentation (R&E) Tax Credit, which was permanently reenacted on December 18, 2015.

Net (loss) income from continuing operations attributable to L-3 in the 2015 fourth quarter decreased by \$261 million to a loss of \$60 million, compared to income of \$201 million in the 2014 fourth quarter. Diluted EPS from continuing operations decreased by \$3.10 to a loss of \$0.76 from \$2.34 in the 2014 fourth quarter. Adjusted diluted EPS from continuing operations decreased 8% to \$2.16. Diluted weighted average common

shares outstanding for the 2015 fourth quarter declined by 9% compared to the 2014 fourth quarter due to share repurchases.

*Full Year Results of Operations:* For the year ended December 31, 2015, consolidated net sales of \$10.5 billion decreased \$520 million, or 5%, compared to the year ended December 31, 2014. Organic sales for the year ended December 31, 2015 declined \$269 million, or 3%. Organic sales exclude \$354 million related to business divestitures and \$103 million from business acquisitions. Sales to the U.S. Government declined 2%, or \$173 million, to \$7,291 million in the year ended December 31, 2015 compared to \$7,464 million in the year ended December 31, 2014, driven primarily by U.S. defense budget constraints and reductions from sequestration, and by the U.S. military drawdown in Afghanistan. Sales to international and commercial customers declined 10%, or \$347 million, to \$3,175 million in the year ended December 31, 2015, compared to \$3,522 million in the year ended December 31, 2014. Organic sales to international and commercial customers decreased \$92 million, or 3%, driven by foreign currency exchange rate changes.

Segment operating income for the year ended December 31, 2015 decreased by \$122 million, or 12%, compared to the year ended December 31, 2014. Segment operating margin decreased by 70 basis points to 8.5% for the year ended December 31, 2015 compared to 9.2% for the year ended December 31, 2014. This decrease was driven by higher pension expense of \$61 million and unfavorable contract performance adjustments at the Aerospace Systems segment, partially offset by outside accounting and legal advisory expenses incurred in 2014 for the Internal Review completed in October 2014. See the reportable segment results below for additional discussion of sales and operating margin trends.

The effective income tax rate for the year ended December 31, 2015 is not meaningful due to the goodwill impairment charges. Excluding the goodwill impairment charges and related income tax benefit, the effective income tax rate for 2015 would have decreased to 20.5%. The decrease is primarily due to: (1) \$17 million of foreign tax benefits related to a legal restructuring of our foreign entities and (2) an increased benefit from the Federal Research and Experimentation Tax Credit.

Net income from continuing operations attributable to L-3 in the year ended December 31, 2015 decreased to \$282 million, compared to \$632 million in the year ended December 31, 2014. Diluted EPS from continuing operations decreased 52% to \$3.44 from \$7.20 in the year ended December 31, 2014. Adjusted net income from continuing operations attributable to L-3 decreased 10% to \$566 million compared to the year ended December 31, 2014, and adjusted diluted EPS from continuing operations decreased 4% to \$6.91. Diluted weighted average common shares outstanding for the year ended December 31, 2015 declined by 7% compared to the year ended December 31, 2014 due to repurchases of L-3 common stock.

*Orders:* Funded orders for the 2015 fourth quarter were \$2.6 billion, a decrease of 18.7% compared to the 2014 fourth quarter. Funded orders for the year ended December 31, 2015 were \$9.9 billion, compared to \$11.0 billion for the year ended December 31, 2014. The book-to-bill ratio was 0.89x for the 2015 fourth quarter and 0.94x for the year ended December 31, 2015. Funded backlog declined 13% to \$8.4 billion at December 31, 2015, compared to \$9.7 billion at December 31, 2014, due to the divestiture of MSI and a book-to-bill ratio of less than 1.

*Cash flow and cash returned to shareholders:* Net cash from operating activities from continuing operations decreased by \$49 million, or 10%, to \$465 million for the 2015 fourth quarter, compared to \$514 million for the 2014 fourth quarter. Net cash from operating activities from continuing operations decreased by \$71 million, or 7%, to \$1,021 million for the year ended December 31, 2015, compared to \$1,092 million for the year ended December 31, 2014. The decrease in net cash from operating activities in the year ended December 31, 2015 was due to lower net income partially offset by lower working capital requirements in the year ended December 31, 2015, compared to the year ended December 31, 2014.

The table below summarizes the cash returned to shareholders during the 2015 and 2014 fourth quarter and the years ended December 31, 2015 and 2014.

| (\$ in millions)  | Fourth Quarter Ended |        | Year Ended Dec. 31, |          |
|---|----------------------|--------|---------------------|----------|
|   | 2015                 | 2014   | 2015                | 2014     |
| Net cash from operating activities from continuing operations.....      | \$ 465               | \$ 514 | \$ 1,021            | \$ 1,092 |
| Less: Capital expenditures, net of dispositions .....                   | (59)                 | (64)   | (194)               | (170)    |
| Plus: Income tax payments attributable to discontinued operations ..... | —                    | 3      | 2                   | 14       |
| Free cash flow <sup>(1)(2)</sup> .....                                  | \$ 406               | \$ 453 | \$ 829              | \$ 936   |
| Dividends paid .....  | \$ 51                | \$ 50  | \$ 214              | \$ 208   |
| Common stock repurchases.....   | 135                  | 410    | 740                 | 823      |
| Cash returned to shareholders .....                                     | \$ 186               | \$ 460 | \$ 954              | \$ 1,031 |

<sup>(1)</sup> Free cash flow is defined as net cash from operating activities less net capital expenditures (capital expenditures less cash proceeds from dispositions of property, plant and equipment), plus income tax payments attributable to discontinued operations. Free cash flow represents cash generated after paying for interest on borrowings, income taxes, pension benefit contributions, capital expenditures and changes in working capital, but before repaying principal amount of outstanding debt, paying cash dividends on common stock, repurchasing shares of our common stock, investing cash to acquire businesses, and making other strategic investments. Thus, a key assumption underlying free cash flow is that the company will be able to refinance its existing debt. Because of this assumption, free cash flow is not a measure that should be relied upon to represent the residual cash flow available for discretionary expenditures.

<sup>(2)</sup> Free cash flow from discontinued operations is not included above.

## Reportable Segment Results

### Electronic Systems

| (\$ in millions)       | Fourth Quarter Ended |          | Decrease  | Year Ended Dec. 31, |          | Decrease |
|------------------------|----------------------|----------|-----------|---------------------|----------|----------|
|                        | 2015                 | 2014     |           | 2015                | 2014     |          |
| Net sales .....        | \$ 1,217             | \$ 1,335 | (8.8) %   | \$ 4,269            | \$ 4,645 | (8.1) %  |
| Operating income ..... | \$ 137               | \$ 153   | (10.5) %  | \$ 489              | \$ 533   | (8.3) %  |
| Operating margin ..... | 11.3 %               | 11.5 %   | (20) bpts | 11.5 %              | 11.5 %   | — bpts   |

*Fourth Quarter:* Electronic Systems net sales for the 2015 fourth quarter decreased by \$118 million, or 9%, compared to the 2014 fourth quarter. Excluding \$167 million related to the divestitures of MSI, BSI and the Tinsley Product Line and \$24 million related to the CTC and ForceX acquisitions, organic sales increased by \$25 million, or 2%. The increase is driven by: (1) \$28 million for Aviation Products & Security Systems due to increased deliveries of airport and cargo security system products to international customers and cockpit avionics products to commercial and DoD customers, (2) \$10 million primarily for Precision Engagement and Training due to increased deliveries of simulation devices to the DoD, partially offset by completed contracts for simulation devices to commercial customers and ordnance products to the U.S. military, and (3) \$8 million for Sensor Systems, primarily due to deliveries of electronic warfare products to the United Kingdom Ministry of Defence and increased volume for photonics masts and surface ship stabilizing products to the U.S. Navy. These increases were partially offset by a reduction of \$21 million at Warrior Systems related to a holographic weapons sight refund program at the EoTech business further discussed below.

Electronic Systems operating income for the 2015 fourth quarter decreased by \$16 million, or 10%, compared to the 2014 fourth quarter. Operating margin decreased by 20 basis points to 11.3%. Operating margin decreased by: (1) 70 basis points due to sales mix changes primarily for Aviation Products & Security Systems, Sensor Systems, and Power & Propulsion Systems, (2) 20 basis points due to higher pension expense of \$3 million and (3) 20 basis points due to higher severance costs of \$2 million. These decreases were partially offset by increases of: (1) 40 basis points due to acquisitions and divestitures and (2) 50 basis points for favorable contract performance adjustments primarily for Sensor Systems.

In November 2015, the Company commenced a voluntary refund program and began accepting customer returns for various EoTech holographic weapons sight (HWS) products affected by certain performance issues. The refund program gives eligible owners of the affected HWS products the option to obtain a refund of the purchase price, including shipping costs. The estimated refund program liability of \$20 million is based on several factors, including the number of HWS units that the Company anticipates purchasers will return for a refund.

The refund program is in the early stages of implementation, and the Company will continue to evaluate the amount of the refund liability. This may cause a material adjustment to the liability.

*Full Year:* Electronic Systems net sales for the year ended December 31, 2015 decreased by \$376 million, or 8%, compared to the year ended December 31, 2014. Excluding \$354 million related to the divestitures of MSI, BSI, and the Tinsley Product Line, and \$49 million for the CTC and ForceX acquisitions, organic sales declined \$71 million, or 2%. The decrease was due to: (1) \$85 million related to foreign currency exchange rate changes and (2) \$44 million related to reduced sales at Warrior Systems driven by lower volume for night vision goggles and the holographic weapons sight refund program at EoTech discussed above. These decreases were partially offset by \$58 million, primarily for Aviation Products & Security Systems, due to deliveries of airport security systems products to international customers and cockpit avionics products to commercial and DoD customers.

Electronic Systems operating income for the year ended December 31, 2015 decreased by \$44 million, or 8%, compared to the year ended December 31, 2014. Operating margin remained at 11.5% compared to the year ended December 31, 2014. Operating margin increased by: (1) 50 basis points due to acquisitions and divestitures, (2) 40 basis points for favorable contract performance adjustments and (3) 20 basis points due to lower severance expense of \$8 million. These increases were offset by decreases of: (1) 80 basis points primarily due to lower volume for Sensor Systems and sales mix changes for Aviation Products & Security and (2) 30 basis points due to higher pension expense of \$13 million.

### *Aerospace Systems*

| (\$ in millions)       | Fourth Quarter Ended |          |            | Year Ended Dec. 31, |          |            |
|------------------------|----------------------|----------|------------|---------------------|----------|------------|
|                        | 2015                 | 2014     | Decrease   | 2015                | 2014     | Decrease   |
| Net sales .....        | \$ 1,069             | \$ 1,152 | (7.3) %    | \$ 4,156            | \$ 4,321 | (3.8) %    |
| Operating income ..... | \$ 61                | \$ 91    | (33.0) %   | \$ 205              | \$ 283   | (27.6) %   |
| Operating margin ..... | 5.7 %                | 7.9 %    | (220) bpts | 4.9 %               | 6.5 %    | (160) bpts |

*Fourth Quarter:* Aerospace Systems net sales for the 2015 fourth quarter decreased by \$83 million, or 7%, compared to the 2014 fourth quarter. Sales decreased \$60 million for Aircraft Systems, \$20 million for Logistics Solutions and \$3 million for ISR Systems. Sales decreased for Aircraft Systems due to lower volume of: (1) \$34 million for foreign military aircraft modification contracts, including \$12 million for the Australian C-27J aircraft, (2) \$19 million for modification contracts primarily for the U.S. Navy maritime patrol aircraft, (3) \$14 million primarily due to less modification work on the United States Air Force (USAF) Compass Call aircraft and (4) \$12 million for aircraft cabin assemblies and subassemblies due to timing of deliveries. These decreases were partially offset by higher volume on international head-of-state aircraft modification contracts of \$19 million. The decrease in sales for Logistics Solutions was due to lower volume for field maintenance and sustainment services, primarily for U.S. Army and U.S. Navy aircraft due to the completion of contracts and reduced flight hours and lower sell prices resulting from competitive pressures. Sales decreased for ISR Systems due to lower volume of: (1) \$33 million for small ISR aircraft fleet management services primarily to the DoD due to the U.S. military drawdown in Afghanistan and (2) \$30 million primarily for large ISR aircraft systems for foreign military customers as contracts near completion. The decreases were partially offset by higher volume of \$48 million for large ISR aircraft systems for the U.S. Government and \$12 million for small ISR aircraft systems to the DoD.

Aerospace Systems operating income for the 2015 fourth quarter decreased by \$30 million, or 33%, compared to the 2014 fourth quarter. Operating margin decreased by 220 basis points to 5.7%. Operating margin decreased by: (1) 180 basis points due to lower volume and sales mix changes primarily at Logistics Solutions and Aircraft Systems, (2) 70 basis points due to higher pension expense of \$7 million and (3) 60 basis points due to unfavorable contract performance adjustments primarily at Aircraft Systems. These decreases were partially offset by: (1) 70 basis points for improved performance primarily on the Army C-12 contract due to better terms on the new contract which began on August 1, 2015, and \$8 million due to a partial recovery of cost overruns recognized in prior periods on the previous contract that ended on July 31, 2015, and (2) 20 basis points due to a termination settlement of \$3 million for a commercial aerostructures contract.

*Full Year:* Aerospace Systems net sales for the year ended December 31, 2015 decreased by \$165 million, or 4%, compared to the year ended December 31, 2014. Sales decreased \$159 million for Aircraft Systems and \$63 million for Logistic Solutions. Sales for ISR Systems increased by \$57 million. Sales decreased for Aircraft Systems due to lower volume of: (1) \$74 million primarily on the USAF Compass Call aircraft and the DoD's retirement of the Joint Cargo Aircraft, (2) \$39 million on international head-of-state aircraft modification contracts primarily due to unfavorable contract performance adjustments, (3) \$28 million for modification contracts primarily for the U.S. Navy maritime patrol aircraft and (4) \$18 million primarily for aircraft cabin assemblies and subassemblies. The decrease in sales for Logistics Solutions was due to lower volume for field maintenance and sustainment services, primarily for U.S. Army and U.S. Navy aircraft due to the completion of contracts and lower demand and lower prices due to competitive pressures. The increase in ISR Systems was due to an increase in sales of \$182 million primarily for large ISR aircraft systems for U.S. Government customers and small ISR aircraft systems to the DoD and a foreign government, partially offset by \$125 million of lower sales for small ISR aircraft fleet management services to the DoD due to the U.S. military drawdown in Afghanistan.

Aerospace Systems operating income for the year ended December 31, 2015 decreased by \$78 million, or 28%, compared to the year ended December 31, 2014. Operating margin decreased by 160 basis points to 4.9%. Operating margin decreased by: (1) 250 basis points due to contract performance adjustments at Aircraft Systems, which includes \$101 million of cost growth on international head-of-state aircraft modification contracts, compared to \$15 million of cost growth on the same contracts in the year ended December 31, 2014, (2) 100 basis points primarily due to reduced flight hours and lower pricing due to competitive pressures on logistics and maintenance contracts, including the U.S. Navy T-45 contract and (3) 70 basis points due to higher pension expense of \$28 million. These decreases were partially offset by: (1) 110 basis points due to favorable contract performance adjustments at ISR Systems, (2) 70 basis points for improved performance on the Army C-12 contract due to better terms on the new contract and \$18 million due to a partial recovery of cost overruns recognized in prior periods on the previous contract, (3) 40 basis points due to a \$17 million increase in reserves for excess and obsolete inventory at Logistics Solutions recorded during the year ended December 31, 2014 and (4) 40 basis points due to \$25 million of outside accounting and legal advisory expenses incurred for the Internal Review completed in October 2014.

### Communication Systems

| (\$ in millions)       | Fourth Quarter Ended |        | Increase/<br>(decrease) | Year Ended Dec. 31, |          | Increase/<br>(decrease) |
|------------------------|----------------------|--------|-------------------------|---------------------|----------|-------------------------|
|                        | 2015                 | 2014   |                         | 2015                | 2014     |                         |
| Net sales .....        | \$ 585               | \$ 474 | 23.4 %                  | \$ 2,041            | \$ 2,020 | 1.0 %                   |
| Operating income ..... | \$ 57                | \$ 50  | 14.0 %                  | \$ 196              | \$ 196   | — %                     |
| Operating margin ..... | 9.7 %                | 10.5 % | (80) bpts               | 9.6 %               | 9.7 %    | (10) bpts               |

*Fourth Quarter:* Communication Systems net sales for the 2015 fourth quarter increased by \$111 million, or 23%, compared to the 2014 fourth quarter. Excluding \$14 million related to the Miteq, Inc. acquisition, organic sales increased \$97 million, or 20%. The increase was due to: (1) \$34 million for Broadband Communication Systems, primarily due to increased volume for development and production of secure networked communication systems for the DoD, (2) \$28 million for Tactical Satellite Communications products due to higher volume on a satellite communication land terminals contract for the Australian Defence Force (ADF), partially offset by reduced deliveries of mobile and ground-based satellite communication systems for the U.S. military, (3) \$22 million for Advanced Communications products due to higher volume for secure data recorders and communication systems for the U.S. Air Force, U.S. Navy and a foreign government and (4) \$13 million for Space & Power Systems due to increased deliveries of power devices for commercial satellites.

Communication Systems operating income for the 2015 fourth quarter increased by \$7 million, or 14%, compared to the 2014 fourth quarter. Operating margin decreased by 80 basis points to 9.7% driven primarily by higher pension expense of \$4 million.

*Full Year:* Communication Systems net sales for the year ended December 31, 2015 increased by \$21 million, or 1%, compared to the year ended December 31, 2014. Excluding \$55 million related to the Miteq, Inc. acquisition, organic sales declined by \$34 million, or 2%. The decrease was due to: (1) \$37 million for Space & Power Systems, primarily satellite command and control software for U.S. Government agencies and high frequency radios for a foreign government and (2) \$20 million for Advanced Communications products,

primarily secure data recorders and communications equipment for the U.S. military as contracts near completion. These decreases were offset by \$23 million for Broadband Communication Systems, primarily due to increased volume for development and production of secure networked communication systems for the U.S. military. For Tactical Satellite Communications products, lower sales of mobile and ground based satellite communication systems for the U.S. military were offset by sales on a new contract for the ADF.

Communication Systems operating income for the year ended December 31, 2015 remained the same at \$196 million compared to the year ended December 31, 2014. Operating margin decreased by 10 basis points to 9.6%. Operating margin decreased by 100 basis points due to higher pension expense of \$20 million. Improved contract performance and sales and mix changes, partially offset by lower margins from the Miteq, Inc. business acquisition increased operating margin by 90 basis points.

**Financial Guidance**

Based on information known as of today, the company has updated its consolidated and segment financial guidance for the year ending December 31, 2016. The 2016 guidance was previously provided on December 8, 2015. All financial guidance amounts are estimates subject to change in the future, including as a result of matters discussed under the “Forward-Looking Statements” cautionary language beginning on page 10. The company undertakes no duty to update its guidance.

| <b>Consolidated 2016 Financial Guidance</b>                                   |                      |  |
|---|----------------------|--|
| <b>(\$ in millions, except per share data)</b>                                |                      |  |
|   | <u>Guidance</u>      | <u>Prior Guidance<br/>(December 8, 2015)</u> |
| Net sales   | \$ 9,950 to \$10,150 | \$ 9,950 to \$10,150                         |
| Segment operating margin  | 9.8%                 | 9.5%   |
| Interest expense and other  | \$ 162               | \$ 162                                       |
| Effective tax rate  | 28.0%                | 30.0%  |
| Diluted shares  | 77.5                 | 77.5   |
| Diluted EPS   | \$ 7.40 to \$7.60    | \$ 6.90 to \$7.10                            |
| Net cash from operating activities  | \$ 1,030             | \$ 1,000                                     |
| Capital expenditures, net of dispositions of<br>property, plant and equipment | (205)                | (190)  |
| Free cash flow  | <u>\$ 825</u>        | <u>\$ 810</u>                                |

| <b>Segment 2016 Financial Guidance</b> |                    |  |
|--|--------------------|--|
| <b>(\$ in millions)</b>                |                    |  |
|  | <u>Guidance</u>    | <u>Prior Guidance<br/>(December 8, 2015)</u> |
| <u>Net Sales:</u>                      |                    |  |
| Electronic Systems                     | \$4,150 to \$4,250 | \$4,150 to \$4,250                           |
| Aerospace Systems                      | \$3,900 to \$4,000 | \$3,900 to \$4,000                           |
| Communication Systems                  | \$1,850 to \$1,950 | \$1,850 to \$1,950                           |
| <u>Operating Margins:</u>              |                    |  |
| Electronic Systems                     | 12.4% to 12.6%     | 12.2% to 12.4%                               |
| Aerospace Systems                      | 6.5% to 6.7%       | 6.0% to 6.2%                                 |
| Communication Systems                  | 10.3% to 10.5%     | 10.0% to 10.2%                               |

The revisions to our Current Guidance compared to our Prior Guidance primarily include:

- A decrease in the estimated effective tax rate for U.S. Federal R&E tax credit of \$19 million, and
- A net pension expense decrease of \$32 million to a \$9 million net pension benefit, compared to a net pension expense of \$23 million included in the prior guidance. The estimated decrease in net pension expense will increase 2016 operating margin by approximately 30 basis points and diluted EPS by \$0.25. The decrease in pension expense is due to: (i) \$25 million related to a change in the approach to measure service and interest costs and (ii) \$7 million primarily related to an 18 basis point increase in the estimated weighted average discount rate to 4.63% from 4.45% assumed in prior guidance.

The current guidance for 2016 excludes: (i) any potential non-cash goodwill impairment charges for which the information is presently unknown and (ii) additional expenses relating to the Internal Review at Aerospace Systems, which was completed in October 2014.

Additional financial information regarding the 2015 fourth quarter and full year results and the 2016 financial guidance is available on the company’s website at [www.L-3com.com](http://www.L-3com.com).



**Conference Call**

In conjunction with this release, L-3 will host a conference call today, Thursday, January 28, 2016 at 11:00 a.m. ET that will be simultaneously broadcast over the Internet. Michael T. Strianese, chairman and chief executive officer, and Ralph G. D'Ambrosio, senior vice president and chief financial officer, will host the call.

11:00 a.m. ET  
10:00 a.m. CT  
9:00 a.m. MT  
8:00 a.m. PT

Listeners may access the conference call live over the Internet at the company's website at:

<http://www.L-3com.com>

Please allow fifteen minutes prior to the call to visit our website to download and install any necessary audio software. The archived version of the call may be accessed at our website or by dialing (800) 585-8367/passcode: 25272545 (for domestic callers) or (404) 537-3406/passcode: 25272545 (for international callers) approximately two hours after the call ends and will be available until the company's next quarterly earnings release.

Headquartered in New York City, L-3 employs approximately 38,000 people worldwide and is a leading provider of a broad range of communication and electronic systems and products used on military and commercial platforms. L-3 is also a prime contractor in aerospace systems.

To learn more about L-3, please visit the company's website at [www.L-3com.com](http://www.L-3com.com). L-3 uses its website as a channel of distribution of material company information. Financial and other material information regarding L-3 is routinely posted on the company's website and is readily accessible.

**Forward-Looking Statements**

Certain of the matters discussed in this press release, including information regarding the company's 2016 financial guidance are forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. All statements other than historical facts, may be forward-looking statements, such as "may," "will," "should," "likely," "projects," "financial guidance," "expects," "anticipates," "intends," "plans," "believes," "estimates," and similar expressions are used to identify forward-looking statements. The company cautions investors that these statements are subject to risks and uncertainties many of which are difficult to predict and generally beyond the company's control that could cause actual results to differ materially from those expressed in, or implied or projected by, the forward-looking information and statements. Some of the factors that could cause actual results to differ include, but are not limited to, the following: our dependence on the defense industry; backlog processing and program slips resulting from delayed awards and/or funding from the Department of Defense (DoD) and other major customers; the U.S. Government fiscal situation; changes in DoD budget levels and spending priorities; U.S. Government failure to raise the debt ceiling; our reliance on contracts with a limited number of customers and the possibility of termination of government contracts by unilateral government action or for failure to perform; the extensive legal and regulatory requirements surrounding many of our contracts; our ability to retain our existing business and related contracts; our ability to successfully compete for and win new business, or, identify, acquire and integrate additional businesses; our ability to maintain and improve our operating margin; the availability of government funding and changes in customer requirements for our products and services; our significant amount of debt and the restrictions contained in our debt agreements and actions taken by rating agencies that could result in a downgrade of our debt; our ability to continue to recruit, retain and train our employees; actual future interest rates, volatility and other assumptions used in the determination of pension benefits and equity based compensation, as well as the market performance of benefit plan assets; our collective bargaining agreements; our ability to successfully negotiate contracts with labor unions and our ability to favorably resolve labor disputes should they arise; the business, economic and political conditions in the markets in which we operate; global economic uncertainty; the DoD's Better Buying Power and other efficiency initiatives; events beyond our control such as acts of terrorism; our ability to perform contracts on schedule; our international operations including currency risks and compliance with foreign laws; our extensive use of fixed-price type revenue arrangements; the rapid change of technology and high level of competition in which our businesses participate; risks relating to technology and data security; our introduction of new products into commercial markets or our investments in civil and commercial products

or companies; the outcome of litigation matters; results of audits by U.S. Government agencies and of ongoing governmental investigations, including the Aerospace Systems segment; our ability to predict the level of participation in and the related costs of our voluntary refund program for certain EoTech holographic weapons sight products, and our ability to change and terminate the refund program at our discretion; the impact on our business of improper conduct by our employees, agents or business partners; goodwill impairments and the fair values of our assets; and ultimate resolution of contingent matters, claims and investigations relating to acquired businesses, and the impact on the final purchase price allocations.

Our forward-looking statements speak only as of the date of this press release or as of the date they were made, and we undertake no obligation to update forward-looking statements. For a more detailed discussion of these factors, also see the information under the captions “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” in our most recent report on Form 10-K for the year ended December 31, 2014 and in the quarterly report on Form 10-Q for the quarterly period ended September 25, 2015 and any material updates to these factors contained in any of our future filings.

As for the forward-looking statements that relate to future financial results and other projections, actual results will be different due to the inherent uncertainties of estimates, forecasts and projections and may be better or worse than projected and such differences could be material. Given these uncertainties, you should not place any reliance on these forward-looking statements.

# # #

**– Financial Tables Follow –**

**Table A**

**L-3 COMMUNICATIONS HOLDINGS, INC.**  
**UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS**  
(in millions, except per share data)

|  | Fourth Quarter Ended      |                | Year Ended Dec. 31, |                |
|--|---------------------------|----------------|---------------------|----------------|
|  | 2015                      | 2014           | 2015                | 2014           |
| Net sales  | \$ 2,871                  | \$ 2,961       | \$ 10,466           | \$ 10,986      |
| Cost of sales  | (2,616)                   | (2,667)        | (9,576)             | (9,974)        |
| Loss related to business divestitures <sup>(a)</sup>                                 | (2)                       | —              | (31)                | —              |
| Impairment charge <sup>(b)</sup>   | (349)                     | —              | (384)               | —              |
| Operating (loss) income  | (96)                      | 294            | 475                 | 1,012          |
| Interest expense   | (45)                      | (43)           | (169)               | (158)          |
| Interest and other income, net   | 6                         | 4              | 17                  | 18             |
| Debt retirement charge   | (1)                       | —              | (1)                 | —              |
| (Loss) income from continuing operations before income taxes                         | (136)                     | 255            | 322                 | 872            |
| Benefit (provision) for income taxes   | 80                        | (50)           | (25)                | (227)          |
| (Loss) income from continuing operations   | (56)                      | 205            | 297                 | 645            |
| (Loss) income from discontinued operations, net of income tax                        | (106)                     | 2              | (522)               | 32             |
| Net (loss) income  | (162)                     | 207            | (225)               | 677            |
| Net income attributable to noncontrolling interests                                  | (4)                       | (4)            | (15)                | (13)           |
| Net (loss) income attributable to L-3  | <u>\$ (166)</u>           | <u>\$ 203</u>  | <u>\$ (240)</u>     | <u>\$ 664</u>  |
| Basic earnings (loss) per share attributable to L-3 Holdings' common shareholders:   |                           |                |                     |                |
| Continuing operations  | \$ (0.76)                 | \$ 2.38        | \$ 3.49             | \$ 7.40        |
| Discontinued operations  | (1.35)                    | 0.03           | (6.46)              | 0.38           |
| Basic (loss) earnings per share  | <u>\$ (2.11)</u>          | <u>\$ 2.41</u> | <u>\$ (2.97)</u>    | <u>\$ 7.78</u> |
| Diluted earnings (loss) per share attributable to L-3 Holdings' common shareholders: |                           |                |                     |                |
| Continuing operations  | \$ (0.76)                 | \$ 2.34        | \$ 3.44             | \$ 7.20        |
| Discontinued operations  | (1.35)                    | 0.02           | (6.37)              | 0.36           |
| Diluted (loss) earnings per share  | <u>\$ (2.11)</u>          | <u>\$ 2.36</u> | <u>\$ (2.93)</u>    | <u>\$ 7.56</u> |
| L-3 Holdings' weighted average common shares outstanding:                            |                           |                |                     |                |
| Basic  | <u>78.5</u>               | <u>84.4</u>    | <u>80.7</u>         | <u>85.4</u>    |
| Diluted  | <u>78.5<sup>(c)</sup></u> | <u>86.0</u>    | <u>81.9</u>         | <u>87.8</u>    |

<sup>(a)</sup> The loss related to business divestitures for the 2015 fourth quarter includes a \$2 million loss on the divestiture of Klein Associates, Inc. The loss related to the business divestitures for the year ended December 31, 2015 includes a \$17 million loss related to the divestiture of MSI, an \$8 million loss on the divestiture of the Tinsley Product Line, a \$4 million loss on the divestiture of BSI and a \$2 million loss on the divestiture of Klein Associates, Inc.

<sup>(b)</sup> The impairment charge for the 2015 fourth quarter represents non-cash goodwill impairment charges due to a decline in the estimated fair value of the Logistics Solutions reporting unit of \$338 million and \$11 million due to the re-allocation of goodwill of the business retained by L-3 in connection with the expected sale of the National Security Solutions business. The impairment charge for the year ended December 31, 2015 represents non-cash goodwill impairment charges due to a decline in the estimated fair value of the Logistics Solutions reporting unit of \$338 million and \$46 million due to the re-allocation of goodwill of the business retained by L-3 in connection with the expected sale of the National Security Solutions business.

<sup>(c)</sup> Due to a loss for the 2015 fourth quarter, zero incremental weighted average common shares are included because the effect would be antidilutive.

**Table B**

**L-3 COMMUNICATIONS HOLDINGS, INC.**  
**UNAUDITED SELECT FINANCIAL DATA**  
(in millions)

|                                       | <u>Fourth Quarter Ended</u> |                 | <u>Year Ended Dec. 31,</u> |                  |
|---------------------------------------|-----------------------------|-----------------|----------------------------|------------------|
|                                       | <u>2015</u>                 | <u>2014</u>     | <u>2015</u>                | <u>2014</u>      |
| <b><u>Segment operating data</u></b>  |                             |                 |                            |                  |
| <b>Net sales:</b>                     |                             |                 |                            |                  |
| Electronic Systems                    | \$ 1,217                    | \$ 1,335        | \$ 4,269                   | \$ 4,645         |
| Aerospace Systems                     | 1,069                       | 1,152           | 4,156                      | 4,321            |
| Communication Systems                 | 585                         | 474             | 2,041                      | 2,020            |
| Total                                 | <u>\$ 2,871</u>             | <u>\$ 2,961</u> | <u>\$10,466</u>            | <u>\$ 10,986</u> |
| <b>Operating income:</b>              |                             |                 |                            |                  |
| Electronic Systems                    | \$ 137                      | \$ 153          | \$ 489                     | \$ 533           |
| Aerospace Systems                     | 61                          | 91              | 205                        | 283              |
| Communication Systems                 | 57                          | 50              | 196                        | 196              |
| Total                                 | <u>\$ 255</u>               | <u>\$ 294</u>   | <u>\$ 890</u>              | <u>\$ 1,012</u>  |
| <b>Operating margin:</b>              |                             |                 |                            |                  |
| Electronic Systems                    | 11.3%                       | 11.5%           | 11.5%                      | 11.5%            |
| Aerospace Systems                     | 5.7%                        | 7.9%            | 4.9%                       | 6.5%             |
| Communication Systems                 | 9.7%                        | 10.5%           | 9.6%                       | 9.7%             |
| Total                                 | 8.9%                        | 9.9%            | 8.5%                       | 9.2%             |
| <b>Depreciation and amortization:</b> |                             |                 |                            |                  |
| Electronic Systems                    | \$ 29                       | \$ 34           | \$ 110                     | \$ 123           |
| Aerospace Systems                     | 13                          | 11              | 50                         | 40               |
| Communication Systems                 | 13                          | 13              | 50                         | 51               |
| Total                                 | <u>\$ 55</u>                | <u>\$ 58</u>    | <u>\$ 210</u>              | <u>\$ 214</u>    |
| <b><u>Funded order data</u></b>       |                             |                 |                            |                  |
| Electronic Systems                    | \$ 1,038                    | \$ 1,359        | \$ 4,137                   | \$ 4,811         |
| Aerospace Systems                     | 955                         | 1,249           | 3,569                      | 4,178            |
| Communication Systems                 | 568                         | 542             | 2,156                      | 1,985            |
| Total                                 | <u>\$ 2,561</u>             | <u>\$ 3,150</u> | <u>\$ 9,862</u>            | <u>\$ 10,974</u> |
|                                       |                             |                 | <u>Dec. 31,</u>            | <u>Dec. 31,</u>  |
|                                       |                             |                 | <u>2015</u>                | <u>2014</u>      |
| <b><u>Period end data</u></b>         |                             |                 |                            |                  |
| Funded backlog                        |                             |                 | \$ 8,408                   | \$ 9,652         |

**Table C**

**L-3 COMMUNICATIONS HOLDINGS, INC.**  
**UNAUDITED PRELIMINARY CONDENSED CONSOLIDATED**  
**BALANCE SHEETS**  
(in millions)

|   | <u>Dec. 31,</u><br><u>2015</u> | <u>Dec. 31,</u><br><u>2014</u> |
|---|--------------------------------|--------------------------------|
| <b>ASSETS</b>   |                                |                                |
| Cash and cash equivalents                                 | \$ 207                         | \$ 442                         |
| Billed receivables, net                                   | 746                            | 803                            |
| Contracts in process                                      | 2,139                          | 2,157                          |
| Inventories   | 333                            | 288                            |
| Deferred income taxes                                     | —                              | 127                            |
| Other current assets                                      | 178                            | 175                            |
| Assets held for sale                                      | —                              | 547                            |
| Assets of discontinued operations                         | <u>692</u>                     | <u>1,262</u>                   |
| Total current assets                                      | <u>4,295</u>                   | <u>5,801</u>                   |
| Property, plant and equipment, net                        | 1,097                          | 1,061                          |
| Goodwill  | 6,254                          | 6,512                          |
| Identifiable intangible assets                            | 199                            | 195                            |
| Deferred debt issue costs                                 | 18                             | 27                             |
| Other assets  | <u>255</u>                     | <u>240</u>                     |
| Total assets  | <u><u>\$ 12,118</u></u>        | <u><u>\$ 13,836</u></u>        |
| <b>LIABILITIES AND EQUITY</b>                             |                                |                                |
| Current portion of long-term debt                         | \$ 499                         | \$ —                           |
| Accounts payable, trade                                   | 302                            | 346                            |
| Accrued employment costs                                  | 498                            | 474                            |
| Accrued expenses  | 416                            | 370                            |
| Advance payments and billings in excess of costs incurred | 619                            | 570                            |
| Income taxes  | 21                             | 23                             |
| Other current liabilities                                 | 380                            | 394                            |
| Liabilities held for sale                                 | —                              | 237                            |
| Liabilities of discontinued operations                    | <u>200</u>                     | <u>216</u>                     |
| Total current liabilities                                 | <u>2,935</u>                   | <u>2,630</u>                   |
| Pension and postretirement benefits                       | 1,047                          | 1,187                          |
| Deferred income taxes                                     | 188                            | 350                            |
| Other liabilities   | 382                            | 370                            |
| Long-term debt  | <u>3,143</u>                   | <u>3,939</u>                   |
| Total liabilities   | <u>7,695</u>                   | <u>8,476</u>                   |
| Shareholders' equity                                      | 4,350                          | 5,285                          |
| Noncontrolling interests                                  | <u>73</u>                      | <u>75</u>                      |
| Total equity  | <u>4,423</u>                   | <u>5,360</u>                   |
| Total liabilities and equity                              | <u><u>\$ 12,118</u></u>        | <u><u>\$ 13,836</u></u>        |

**L-3 COMMUNICATIONS HOLDINGS, INC.**  
**UNAUDITED PRELIMINARY CONDENSED CONSOLIDATED**  
**STATEMENTS OF CASH FLOWS**  
(in millions)

|  | Year Ended Dec. 31, |         |
|--|---------------------|---------|
|  | 2015                | 2014    |
| <b>Operating activities</b>  |                     |         |
| Net (loss) income  | \$ (225)            | \$ 677  |
| Loss (income) from discontinued operations, net of tax   | 522                 | (32)    |
| Income from continuing operations  | 297                 | 645     |
| Depreciation of property, plant and equipment  | 166                 | 165     |
| Amortization of intangibles and other assets   | 44                  | 49      |
| Deferred income tax (benefit) provision  | (90)                | 120     |
| Stock-based employee compensation expense  | 46                  | 50      |
| Excess income tax benefits related to share-based payment arrangements   | (25)                | (17)    |
| Contributions to employee savings plans in L-3 Holdings' common stock  | 110                 | 119     |
| Impairment charge  | 384                 | 1       |
| Amortization of pension and postretirement benefit plans net loss and prior service cost                                     | 67                  | 15      |
| Amortization of bond discounts and deferred debt issue costs (included in interest expense)                                  | 8                   | 7       |
| Loss related to business divestitures  | 31                  | (1)     |
| Other non-cash items   | (2)                 | 1       |
| Changes in operating assets and liabilities, excluding amounts from acquisitions, divestitures, and discontinued operations: |                     |         |
| Billed receivables   | 50                  | 39      |
| Contracts in process   | 31                  | (3)     |
| Inventories  | (37)                | 1       |
| Other assets   | (27)                | (17)    |
| Accounts payable, trade  | (32)                | (80)    |
| Accrued employment costs   | 28                  | (5)     |
| Accrued expenses   | 40                  | (14)    |
| Advance payments and billings in excess of costs incurred  | (1)                 | 70      |
| Income taxes   | (30)                | 6       |
| Other current liabilities  | (22)                | 13      |
| Pension and postretirement benefits  | (8)                 | (44)    |
| All other operating activities   | (7)                 | (28)    |
| Net cash from operating activities from continuing operations  | 1,021               | 1,092   |
| <b>Investing activities</b>  |                     |         |
| Business acquisitions, net of cash acquired  | (320)               | (57)    |
| Proceeds from the sale of businesses   | 318                 | 1       |
| Capital expenditures   | (197)               | (174)   |
| Dispositions of property, plant and equipment  | 3                   | 4       |
| Other investing activities   | 4                   | 5       |
| Net cash used in investing activities from continuing operations   | (192)               | (221)   |
| <b>Financing activities</b>  |                     |         |
| Proceeds from sale of senior notes   | —                   | 996     |
| Redemption of CODES  | —                   | (935)   |
| Repurchase of senior notes   | (296)               | —       |
| Borrowings under revolving credit facility   | 1,194               | 1,367   |
| Repayment of borrowings under revolving credit facility  | (1,194)             | (1,367) |
| Common stock repurchased   | (740)               | (823)   |
| Dividends paid on L-3 Holdings' common stock   | (214)               | (208)   |
| Proceeds from exercises of stock options   | 48                  | 93      |
| Proceeds from employee stock purchase plan   | 34                  | 35      |
| Excess income tax benefits related to share-based payment arrangements   | 26                  | 17      |
| Debt issue costs   | —                   | (8)     |
| Employee restricted stock units surrendered in lieu of income tax withholding  | (33)                | (27)    |
| Other financing activities   | (3)                 | (16)    |
| Net cash used in financing activities from continuing operations   | (1,178)             | (876)   |
| Effect of foreign currency exchange rate changes on cash and cash equivalents  | (19)                | (17)    |
| Cash from (used in) discontinued operations:   |                     |         |
| Operating activities   | 77                  | 33      |
| Investing activities   | (5)                 | (8)     |
| Financing activities   | —                   | —       |
| Cash from discontinued operations  | 72                  | 25      |
| Change in cash balance in assets held for sale   | 61                  | (61)    |
| Net decrease in cash and cash equivalents  | (235)               | (58)    |
| Cash and cash equivalents, beginning of the year   | 442                 | 500     |
| Cash and cash equivalents, end of the year   | \$ 207              | \$ 442  |

**Table E**

**L-3 COMMUNICATIONS HOLDINGS, INC.**  
**NON-GAAP FINANCIAL MEASURES**  
(in millions, except per share amounts)

| <u>Adjusted Diluted EPS Non-GAAP Reconciliation</u>  |   | <u>Fourth Quarter Ended</u> |                | <u>Year Ended Dec. 31,</u> |                |
|--|---|-----------------------------|----------------|----------------------------|----------------|
|  |   | <u>2015</u>                 | <u>2014</u>    | <u>2015</u>                | <u>2014</u>    |
| Diluted (loss) earnings per share from continuing operations attributable to L-3 Holdings' common stockholders |   | \$ (0.76)                   | \$ 2.34        | \$ 3.44                    | \$ 7.20        |
| EPS impact of loss on business divestitures <sup>(A)</sup>   |   | 0.02                        | —              | 0.08                       | —              |
| EPS impact of the non-cash impairment charge related to MSI assets held for sale <sup>(B)</sup>                |   | —                           | —              | 0.15                       | —              |
| EPS impact of the loss on a forward contract to sell Euro proceeds from the MSI divestiture <sup>(C)</sup>     |   | —                           | —              | 0.02                       | —              |
| EPS impact of the goodwill impairment charge <sup>(D)</sup>  |   | 2.93                        | —              | 3.22                       | —              |
| Dilutive impact of common share equivalents  |   | (0.03)                      | —              | —                          | —              |
| Adjusted diluted EPS <sup>(1)</sup> from continuing operations   |   | <u>\$ 2.16</u>              | <u>\$ 2.34</u> | <u>\$ 6.91</u>             | <u>\$ 7.20</u> |
| (A)  | Loss on business divestitures   | \$ (2)                      |                | \$ (10)                    |                |
|  | Tax benefit   | —                           |                | 4                          |                |
|  | After-tax impact  | (2)                         |                | (6)                        |                |
|  | Diluted weighted average common shares outstanding                        | 78.5                        |                | 81.9                       |                |
|  | Per share impact <sup>(2)</sup>   | <u>\$ (0.02)</u>            |                | <u>\$ (0.08)</u>           |                |
| (B)  | Non-cash impairment charge related to MSI assets held for sale            |                             |                | \$ (17)                    |                |
|  | Tax benefit   |                             |                | 5                          |                |
|  | After-tax impact  |                             |                | (12)                       |                |
|  | Diluted weighted average common shares outstanding                        |                             |                | 81.9                       |                |
|  | Per share impact  |                             |                | <u>\$ (0.15)</u>           |                |
| (C)  | Loss on a forward contract to sell Euro proceeds from the MSI divestiture |                             |                | \$ (4)                     |                |
|  | Tax benefit   |                             |                | 2                          |                |
|  | After-tax impact  |                             |                | (2)                        |                |
|  | Diluted weighted average common shares outstanding                        |                             |                | 81.9                       |                |
|  | Per share impact  |                             |                | <u>\$ (0.02)</u>           |                |
| (D)  | Goodwill impairment charge  | \$ (349)                    |                | \$ (384)                   |                |
|  | Tax benefit   | 119                         |                | 120                        |                |
|  | After-tax impact  | (230)                       |                | (264)                      |                |
|  | Diluted weighted average common shares outstanding                        | 78.5                        |                | 81.9                       |                |
|  | Per share impact  | <u>\$ (2.93)</u>            |                | <u>\$ (3.22)</u>           |                |
| <u>Adjusted Net Income From Continuing Operations Attributable to L-3 Non-GAAP Reconciliation</u>              |   | <u>Fourth Quarter Ended</u> |                | <u>Year Ended Dec. 31,</u> |                |
|  |   | <u>2015</u>                 | <u>2014</u>    | <u>2015</u>                | <u>2014</u>    |
| Net (loss) income from continuing operations attributable to L-3   |   | \$ (60)                     | \$ 201         | \$ 282                     | \$ 632         |
| Loss on business divestitures  |   | 2                           | —              | 6                          | —              |
| Non-cash impairment charge related to MSI assets held for sale   |   | —                           | —              | 12                         | —              |
| Loss on a forward contract to sell Euro proceeds from the MSI divestiture                                      |   | —                           | —              | 2                          | —              |
| Goodwill impairment charge   |   | 230                         | —              | 264                        | —              |
| Adjusted net income from continuing operations attributable to L-3 <sup>(1)</sup>                              |   | <u>\$ 172</u>               | <u>\$ 201</u>  | <u>\$ 566</u>              | <u>\$ 632</u>  |

(1) Adjusted diluted EPS is diluted EPS attributable to L-3 Holdings' common stockholders, excluding the charges or credits relating to business divestitures and non-cash goodwill impairment charges. Adjusted net income attributable to L-3 is net income attributable to L-3, excluding the charges or credits relating to business divestitures and non-cash goodwill impairment charges. These amounts are not calculated in accordance with accounting principles generally accepted in the United States of America (U.S. GAAP). The company believes that the charges or credits relating to business divestitures and non-cash goodwill impairment charges affect the comparability of the results of operations for 2015 to the results of operations for 2014. The company also believes that disclosing net income and diluted EPS excluding the charges or credits relating to business divestitures and non-cash goodwill impairment charges will allow investors to more easily compare the 2015 results to the 2014 results. However, these measures may not be defined or calculated by other companies in the same manner.

(2) Amounts may not recalculate directly due to rounding.

**Table F**

**L-3 COMMUNICATIONS HOLDINGS, INC.**  
**UNAUDITED HISTORICAL DATA**  
**FOR THE QUARTERLY PERIODS ENDED MARCH 27, JUNE 26, AND SEPTEMBER 25, 2015**  
(in millions)

|   | <b>Historical Results</b> |                |                              | <b>Discontinued Operations</b> |                |                  | <b>Continuing Operations<sup>(a)</sup></b> |                |                |
|---|---------------------------|----------------|------------------------------|--------------------------------|----------------|------------------|--|----------------|----------------|
|   | <b>Q1</b>                 | <b>Q2</b>      | <b>Q3</b>                    | <b>Q1</b>                      | <b>Q2</b>      | <b>Q3</b>        | <b>Q1</b>                                  | <b>Q2</b>      | <b>Q3</b>      |
| <b>Net sales</b>  | \$ 2,713                  | \$ 2,793       | \$ 2,817                     | \$ 225                         | \$ 250         | \$ 253           | \$ 2,488                                   | \$ 2,543       | \$ 2,564       |
| <b>Cost of sales</b>  | (2,491)                   | (2,629)        | (2,531)                      | (212)                          | (237)          | (242)            | (2,279)                                    | (2,392)        | (2,289)        |
| <b>(Loss) gain related to business divestitures</b>   | (22)                      | 2              | (9)                          | —                              | —              | —                | (22)                                       | 2              | (9)            |
| <b>Impairment charge</b>  | —                         | —              | (491)                        | —                              | —              | (456)            | —  | —              | (35)           |
| <b>Operating income (loss)</b>  | 200                       | 166            | (214)                        | 13                             | 13             | (445)            | 187  | 153            | 231            |
| <b>Interest expense</b>   | (44)                      | (48)           | (47)                         | (5)                            | (6)            | (4)              | (39)                                       | (42)           | (43)           |
| <b>Interest and other income, net</b>   | <u>3</u>                  | <u>5</u>       | <u>3</u>                     | <u>—</u>                       | <u>—</u>       | <u>—</u>         | <u>3</u>                                   | <u>5</u>       | <u>3</u>       |
| <b>Income (loss) before income taxes</b>  | 159                       | 123            | (258)                        | 8                              | 7              | (449)            | 151  | 116            | 191            |
| <b>(Provision) benefit for income taxes</b>   | <u>(50)</u>               | <u>1</u>       | <u>(38)</u>                  | <u>(4)</u>                     | <u>(3)</u>     | <u>25</u>        | <u>(46)</u>                                | <u>4</u>       | <u>(63)</u>    |
| <b>Net income (loss)</b>  | 109                       | 124            | (296)                        | 4                              | 4              | (424)            | 105  | 120            | 128            |
| <b>Net income attributable to noncontrolling interests</b>                                    | <u>(4)</u>                | <u>(4)</u>     | <u>(3)</u>                   | <u>—</u>                       | <u>—</u>       | <u>—</u>         | <u>(4)</u>                                 | <u>(4)</u>     | <u>(3)</u>     |
| <b>Net income (loss) attributable to L-3</b>  | <u>\$ 105</u>             | <u>\$ 120</u>  | <u>\$ (299)</u>              | <u>\$ 4</u>                    | <u>\$ 4</u>    | <u>\$ (424)</u>  | <u>\$ 101</u>                              | <u>\$ 116</u>  | <u>\$ 125</u>  |
| <b>Diluted earnings (loss) per share attributable to L-3's Holdings' common shareholders:</b> | <u>\$ 1.25</u>            | <u>\$ 1.44</u> | <u>\$ (3.74)</u>             | <u>\$ 0.05</u>                 | <u>\$ 0.05</u> | <u>\$ (5.22)</u> | <u>\$ 1.20</u>                             | <u>\$ 1.39</u> | <u>\$ 1.54</u> |
| <b>L-3 Holdings' diluted weighted average common shares outstanding:</b>                      | <u>\$ 83.8</u>            | <u>\$ 83.2</u> | <u>\$ 80.0<sup>(b)</sup></u> | <u>\$ 83.8</u>                 | <u>\$ 83.2</u> | <u>\$ 81.2</u>   | <u>\$ 83.8</u>                             | <u>\$ 83.2</u> | <u>\$ 81.2</u> |

<sup>(a)</sup> The continuing operations were derived from L-3 historical results and were adjusted to: (1) remove NSS results of operations, (2) allocate a portion of L-3's interest expense to NSS, and (3) realign certain contracts between L-3 and NSS. In addition, certain overhead expenses previously allocated to NSS and included in L-3's historical results were retained by L-3 and reported as part of L-3 continuing operations. NSS will be reported as discontinued operations beginning with the 2015 fourth quarter.

<sup>(b)</sup> Due to a loss in the historical results for the quarter, zero incremental weighted average common shares are included because the effect would be antidilutive.



**Table G**

**L-3 COMMUNICATIONS HOLDINGS, INC.**  
**UNAUDITED HISTORICAL DATA**  
**FOR THE QUARTERLY PERIODS ENDED MARCH 28, JUNE 27,**  
**SEPTEMBER 26, AND DECEMBER 31, 2014**  
(in millions)

|  | <b>Historical Results</b> |                |                |                | <b>Discontinued Operations</b> |                |                |                | <b>Continuing Operations<sup>(a)</sup></b> |                |                |                |
|--|---------------------------|----------------|----------------|----------------|--------------------------------|----------------|----------------|----------------|--|----------------|----------------|----------------|
|  | <b>Q1</b>                 | <b>Q2</b>      | <b>Q3</b>      | <b>Q4</b>      | <b>Q1</b>                      | <b>Q2</b>      | <b>Q3</b>      | <b>Q4</b>      | <b>Q1</b>                                  | <b>Q2</b>      | <b>Q3</b>      | <b>Q4</b>      |
| <b>Net sales</b>   | \$ 2,957                  | \$ 3,019       | \$ 2,940       | \$ 3,208       | \$ 287                         | \$ 317         | \$ 287         | \$ 247         | \$ 2,670                                   | \$ 2,702       | \$ 2,653       | \$ 2,961       |
| <b>Cost of sales</b>   | <u>(2,671)</u>            | <u>(2,780)</u> | <u>(2,683)</u> | <u>(2,905)</u> | <u>(267)</u>                   | <u>(295)</u>   | <u>(265)</u>   | <u>(238)</u>   | <u>(2,404)</u>                             | <u>(2,485)</u> | <u>(2,418)</u> | <u>(2,667)</u> |
| <b>Operating income</b>  | 286                       | 239            | 257            | 303            | 20                             | 22             | 22             | 9              | 266  | 217            | 235            | 294            |
| <b>Interest expense</b>  | (43)                      | (39)           | (47)           | (49)           | (5)                            | (5)            | (4)            | (6)            | (38)                                       | (34)           | (43)           | (43)           |
| <b>Interest and other income, net</b>  | <u>5</u>                  | <u>4</u>       | <u>5</u>       | <u>4</u>       | <u>—</u>                       | <u>—</u>       | <u>—</u>       | <u>—</u>       | <u>5</u>                                   | <u>4</u>       | <u>5</u>       | <u>4</u>       |
| <b>Income before income taxes</b>  | 248                       | 204            | 215            | 258            | 15                             | 17             | 18             | 3              | 233  | 187            | 197            | 255            |
| <b>Provision for income taxes</b>  | <u>(76)</u>               | <u>(63)</u>    | <u>(58)</u>    | <u>(51)</u>    | <u>(6)</u>                     | <u>(7)</u>     | <u>(7)</u>     | <u>(1)</u>     | <u>(70)</u>                                | <u>(56)</u>    | <u>(51)</u>    | <u>(50)</u>    |
| <b>Net income</b>  | 172                       | 141            | 157            | 207            | 9                              | 10             | 11             | 2              | 163  | 131            | 146            | 205            |
| <b>Net income attributable to noncontrolling interests</b>                           | <u>(2)</u>                | <u>(4)</u>     | <u>(3)</u>     | <u>(4)</u>     | <u>—</u>                       | <u>—</u>       | <u>—</u>       | <u>—</u>       | <u>(2)</u>                                 | <u>(4)</u>     | <u>(3)</u>     | <u>(4)</u>     |
| <b>Net income attributable to L-3</b>  | <u>\$ 170</u>             | <u>\$ 137</u>  | <u>\$ 154</u>  | <u>\$ 203</u>  | <u>\$ 9</u>                    | <u>\$ 10</u>   | <u>\$ 11</u>   | <u>\$ 2</u>    | <u>\$ 161</u>                              | <u>\$ 127</u>  | <u>\$ 143</u>  | <u>\$ 201</u>  |
| <b>Diluted earnings per share attributable to L-3 Holdings' common shareholders:</b> | <u>\$ 1.90</u>            | <u>\$ 1.53</u> | <u>\$ 1.78</u> | <u>\$ 2.36</u> | <u>\$ 0.10</u>                 | <u>\$ 0.11</u> | <u>\$ 0.13</u> | <u>\$ 0.02</u> | <u>\$ 1.80</u>                             | <u>\$ 1.42</u> | <u>\$ 1.65</u> | <u>\$ 2.34</u> |
| <b>L-3 Holdings' diluted weighted average common shares outstanding:</b>             | <u>\$ 89.4</u>            | <u>\$ 89.3</u> | <u>\$ 86.6</u> | <u>\$ 86.0</u> | <u>\$ 89.4</u>                 | <u>\$ 89.3</u> | <u>\$ 86.6</u> | <u>\$ 86.0</u> | <u>\$ 89.4</u>                             | <u>\$ 89.3</u> | <u>\$ 86.6</u> | <u>\$ 86.0</u> |

<sup>(a)</sup> The continuing operations were derived from L-3 historical results and were adjusted to: (1) remove NSS results of operations, (2) allocate a portion of L-3's interest expense to NSS, and (3) realign certain contracts between L-3 and NSS. In addition, certain overhead expenses previously allocated to NSS and included in L-3's historical results were retained by L-3 and reported as part of L-3 continuing operations. NSS will be reported as discontinued operations beginning with the 2015 fourth quarter.

**Bednarz Decl.**  
**EXHIBIT 2**

1/1

**Bednarz Decl.**  
**EXHIBIT 3**

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

FORM 10-K

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

For the fiscal year ended December 31, 2016

☐ 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 001-14141

**L3 TECHNOLOGIES, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**

**13-3937436**

(State or other jurisdiction of incorporation or organization)

(I.R.S. Employer Identification No.)

**600 Third Avenue, New York, NY**

**10016**

(Address of principal executive offices)

(Zip Code)

**(212) 697-1111**

(Registrant's telephone number, including area code)

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

**Title of each class**

**Name of each exchange on which registered:**

Common stock, par value \$0.01 per share

New York Stock Exchange

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

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

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

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

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

Indicate by check mark if disclosure of the delinquent filer pursuant to Item 405 of Regulation S-K (§ 229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☒

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

Large accelerated filer ☒ Accelerated filer ☐ Non-accelerated filer ☐ Smaller reporting company ☐

(Do not check if a smaller reporting company)

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

The aggregate market value of the registrant's voting stock held by non-affiliates as of June 24, 2016 was approximately \$10.8 billion. For purposes of this calculation, the registrant has assumed that the directors and executive officers are affiliates.

There were 77,798,844 shares of the registrant's common stock with a par value of \$0.01 outstanding as of the close of business on February 17, 2017.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the definitive proxy statement to be filed with the Securities and Exchange Commission ("SEC") pursuant to Regulation 14A relating to the registrant's Annual Meeting of Shareholders, to be held on May 9, 2017, will be incorporated by reference in this Form 10-K in response to Items 10, 11, 12, 13 and 14 of Part III. The definitive proxy statement will be filed with the SEC no later than 120 days after the registrant's fiscal year ended December 31, 2016.

**L3 TECHNOLOGIES, INC.**  
**INDEX TO ANNUAL REPORT ON FORM 10-K**  
**For the Year Ended December 31, 2016**

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Signatures

## Reportable Segment Results of Operations

The table below presents selected data by reportable segment reconciled to consolidated totals. The results of operations of the NSS business sold to CACI International Inc. are classified as discontinued operations for all periods presented. Accordingly, the NSS business is no longer a reportable segment. See Note 21 to our audited consolidated financial statements for additional reportable segment data.

|   | Year Ended December 31, |                 |                 |
|---|-------------------------|-----------------|-----------------|
|   | 2016                    | 2015            | 2014            |
|   | (dollars in millions)   |                 |                 |
| <b>Net sales:<sup>(1)</sup></b>             |                         |                 |                 |
| Electronic Systems .....                    | \$ 4,219                | \$ 4,269        | \$ 4,645        |
| Aerospace Systems .....                     | 4,240                   | 4,156           | 4,321           |
| Communication Systems .....                 | 2,052                   | 2,041           | 2,020           |
| Consolidated net sales .....                | <u>\$10,511</u>         | <u>\$10,466</u> | <u>\$10,986</u> |
| <b>Operating income:</b>                    |                         |                 |                 |
| Electronic Systems .....                    | \$ 518                  | \$ 489          | \$ 533          |
| Aerospace Systems .....                     | 289                     | 205             | 283             |
| Communication Systems .....                 | 201                     | 196             | 196             |
| Total segment operating income .....        | 1,008                   | 890             | 1,012           |
| Loss related to business divestitures ..... | —                       | (31)            | —               |
| Goodwill impairment charges .....           | —                       | (384)           | —               |
| Consolidated operating income .....         | <u>\$ 1,008</u>         | <u>\$ 475</u>   | <u>\$ 1,012</u> |
| <b>Operating margin:</b>                    |                         |                 |                 |
| Electronic Systems .....                    | 12.3%                   | 11.5%           | 11.5%           |
| Aerospace Systems .....                     | 6.8%                    | 4.9%            | 6.5%            |
| Communication Systems .....                 | 9.8%                    | 9.6%            | 9.7%            |
| Total segment operating margin .....        | 9.6%                    | 8.5%            | 9.2%            |
| Loss related to business divestitures ..... | —%                      | (0.3)%          | —%              |
| Goodwill impairment charges .....           | —%                      | (3.7)%          | —%              |
| Consolidated operating margin .....         | <u>9.6%</u>             | <u>4.5%</u>     | <u>9.2%</u>     |

<sup>(1)</sup> Net sales are after intercompany eliminations.

## Electronic Systems

|                          | Year Ended<br>December 31, |         | Increase/<br>(decrease) | Year Ended<br>December 31, |         | Decrease |
|--------------------------|----------------------------|---------|-------------------------|----------------------------|---------|----------|
|                          | 2016                       | 2015    |                         | 2015                       | 2014    |          |
|                          | (dollars in millions)      |         |                         |                            |         |          |
| Net sales . . . . .      | \$4,219                    | \$4,269 | (1.2)%                  | \$4,269                    | \$4,645 | (8.1)%   |
| Operating income . . . . | \$ 518                     | \$ 489  | 5.9%                    | \$ 489                     | \$ 533  | (8.3)%   |
| Operating margin . . . . | 12.3%                      | 11.5%   | 80 bpts                 | 11.5%                      | 11.5%   | — bpts   |

## 2016 Compared with 2015

Electronic Systems net sales for the year ended December 31, 2016 decreased by \$50 million, or 1%, compared to the year ended December 31, 2015. Organic sales increased \$81 million, or 2%, compared to the year ended December 31, 2015. Organic sales exclude \$209 million of sales declines related to business divestitures and \$78 million of sales increases related to business acquisitions. Sales increased by: (1) \$42 million for Aviation Products & Security due to: (i) deliveries of airport security screening systems to international customers and commercial aviation recorders products and (ii) higher volume for overhaul and repair services for cockpit display products to the USAF and a new commercial cockpit control/display unit product, (2) \$21 million for Power & Propulsion Systems primarily due to higher volume for Hybrid Electric Drive contracts, and power conversion and

distribution systems to the U.S. Navy and an allied foreign naval customer and (3) \$18 million primarily for Sensor Systems due to increased deliveries of infrared detection and space electronics products to the U.S. Air Force and higher volume for photonics masts products to the U.S. Navy.

Electronic Systems operating income for the year ended December 31, 2016 increased by \$29 million, or 6%, compared to the year ended December 31, 2015. Operating margin increased by 80 basis points to 12.3%. Operating margin increased by 40 basis points primarily due to higher margins related to acquisitions and divestitures and 40 basis points due to lower pension expense of \$15 million.

As previously disclosed, in November 2015, we commenced a voluntary return program and began accepting customer returns for various EoTech HWS products that may have been affected by certain performance issues. The refund program gives eligible owners of such HWS products the option to return their products in exchange for a refund of the purchase price, including shipping costs. During 2016, we increased our product returns allowance by recording a reduction to net sales of \$18 million. We continue to review the product returns allowance as the program matures and new information becomes available. Our ongoing evaluation may cause us to record further adjustments to the allowance in future periods. These adjustments could be material. See Note 7 to our audited consolidated financial statements for additional information.

#### ***2015 Compared with 2014***

Electronic Systems net sales for the year ended December 31, 2015 decreased by \$376 million, or 8%, compared to the year ended December 31, 2014. Excluding \$354 million related to the divestitures of MSI, BSI, and the Tinsley Product Line, and \$49 million for the CTC and ForceX acquisitions, organic sales declined \$71 million, or 2%. The decrease was due to: (1) \$85 million related to foreign currency exchange rate changes and (2) \$24 million related to reduced sales at Warrior Systems driven by lower volume for night vision goggles and \$20 million related to the HWS voluntary return program at EoTech. These decreases were partially offset by \$58 million, primarily for Aviation Products & Security, due to deliveries of cockpit avionics products to commercial and DoD customers and airport security systems products to international customers.

Electronic Systems operating income for the year ended December 31, 2015 decreased by \$44 million, or 8%, compared to the year ended December 31, 2014. Operating margin remained at 11.5% compared to the year ended December 31, 2014. Operating margin increased by: (1) 50 basis points due to acquisitions and divestitures, (2) 40 basis points for favorable contract performance adjustments and (3) 20 basis points due to lower severance expense of \$8 million. These increases were offset by decreases of: (1) 80 basis points primarily due to lower volume for Sensor Systems and sales mix changes for Aviation Products & Security and (2) 30 basis points due to higher pension expense of \$13 million.

#### **Aerospace Systems**

|                          | Year Ended<br>December 31, |         |                       | Year Ended<br>December 31, |         |            |
|--------------------------|----------------------------|---------|-----------------------|----------------------------|---------|------------|
|                          | 2016                       | 2015    | Increase              | 2015                       | 2014    | Decrease   |
|                          |                            |         | (dollars in millions) |                            |         |            |
| Net sales . . . . .      | \$4,240                    | \$4,156 | 2.0%                  | \$4,156                    | \$4,321 | (3.8)%     |
| Operating income . . . . | \$ 289                     | \$ 205  | 41.0%                 | \$ 205                     | \$ 283  | (27.6)%    |
| Operating margin . . . . | 6.8%                       | 4.9%    | 190 bpts              | 4.9%                       | 6.5%    | (160) bpts |

#### ***2016 Compared with 2015***

Aerospace Systems net sales for the year ended December 31, 2016 increased by \$84 million, or 2%, compared to the year ended December 31, 2015. Sales increased \$66 million for Vertex Aerospace and \$36 million for Aircraft Systems, partially offset by an \$18 million decrease for ISR Systems. Sales increased for Vertex Aerospace primarily due to higher volume and pre-production activities for U.S. Navy training aircraft and the U.S. Army C-12 contract. Sales increased for Aircraft Systems primarily due to unfavorable contract performance adjustments in the year ended December 31, 2015 that did not recur in the year ended December 31, 2016 on international head-of-state aircraft modification contracts. Sales decreased for ISR Systems by: (1) \$148 million for large ISR aircraft systems for foreign military customers as contracts near completion and (2) \$91 million for small ISR aircraft fleet management services to the U.S. Air Force due to reduced demand resulting from the U.S. military drawdown from Afghanistan. These decreases for ISR Systems were partially offset by increases of: (1) \$107 million primarily due to the



**L3 TECHNOLOGIES, INC.**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – CONTINUED**

Amortization expense recorded by the Company for its identifiable intangible assets is presented in the table below.

|                                | <b>Year Ended December 31,</b> |             |             |
|--------------------------------|--------------------------------|-------------|-------------|
|                                | <b>2016</b>                    | <b>2015</b> | <b>2014</b> |
|                                | (in millions)                  |             |             |
| Amortization expense . . . . . | <u>\$35</u>                    | <u>\$35</u> | <u>\$39</u> |

Based on gross carrying amounts at December 31, 2016, the Company's estimate of amortization expense for identifiable intangible assets for the years ending December 31, 2017 through 2021 is presented in the table below.

|  | <b>Year Ending December 31,</b> |             |             |             |             |
|--|---------------------------------|-------------|-------------|-------------|-------------|
|  | <b>2017</b>                     | <b>2018</b> | <b>2019</b> | <b>2020</b> | <b>2021</b> |
|  | (in millions)                   |             |             |             |             |
| Estimated amortization expense . . . . . | <u>\$39</u>                     | <u>\$35</u> | <u>\$32</u> | <u>\$28</u> | <u>\$24</u> |

**7. Other Current Liabilities and Other Liabilities**

The table below presents the components of other current liabilities.

|   | <b>December 31,</b> |              |
|---|---------------------|--------------|
|   | <b>2016</b>         | <b>2015</b>  |
|   | (in millions)       |              |
| <b>Other Current Liabilities:</b>   |                     |              |
| Estimated costs in excess of estimated contract value to complete contracts in process in a loss position . . . . . | \$ 70               | \$ 75        |
| Accrued product warranty costs . . . . .  | 68                  | 70           |
| Accruals for pending and threatened litigation (see Note 18) <sup>(1)</sup> . . . . .                               | 51                  | 6            |
| Accrued interest . . . . .  | 43                  | 45           |
| Deferred revenues . . . . .   | 34                  | 32           |
| Product returns allowance <sup>(2)</sup> . . . . .  | 5                   | 20           |
| Other . . . . .   | <u>160</u>          | <u>146</u>   |
| Total other current liabilities . . . . .   | <u>\$431</u>        | <u>\$394</u> |

<sup>(1)</sup> The year ended December 31, 2016, includes \$14 million accrued in the third quarter of 2016 in connection with the EoTech matter.

<sup>(2)</sup> In November 2015, the Company commenced a voluntary return program and began accepting customer returns for various EoTech HWS products that may have been affected by certain performance issues. The return program gives eligible owners of such HWS products the option to return their products in exchange for a refund of the purchase price, including shipping costs. The Company initially recorded a reduction to net sales of \$20 million in the Warrior Systems sector of the Electronic Systems segment in the fourth quarter of 2015 associated with establishing a product returns allowance to reflect the estimated cost of the return program. Beginning in the first quarter of 2016, with the benefit of a larger volume of actual refund transactions, the Company began using a statistical analysis of the voluntary return program to estimate the number and cost of future refunds. In its statistical analysis, the Company utilized empirical models to forecast the expected emergence pattern of new refunds over time to produce a probabilistic distribution of new refund costs that reflects the existing level of estimation uncertainty. Based on this analysis, the Company expects the total cost of the voluntary return program to be approximately \$38 million. Accordingly, during 2016 the product returns allowance was increased by \$18 million as a reduction to net sales. The product returns allowance, net of refund payments made to eligible owners, was \$5 million at December 31, 2016. As of February 3, 2017, the Company had approved refunds at a cost of approximately \$35 million, with an average refund cost per unit of \$500. The Company will continue to monitor the product returns allowance. The Company's ongoing evaluation may cause it to record further adjustments to the allowance in future periods. These adjustments could be material.

**L3 TECHNOLOGIES, INC.**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – CONTINUED**

***Litigation Matters***

The Company is also subject to litigation, proceedings, claims or assessments and various contingent liabilities incidental to its businesses, including those specified below. Furthermore, in connection with certain business acquisitions, the Company has assumed some or all claims against, and liabilities of, such acquired businesses, including both asserted and unasserted claims and liabilities.

In accordance with the accounting standard for contingencies, the Company records a liability when management believes that it is both probable that a liability has been incurred and the Company can reasonably estimate the amount of the loss. Generally, the loss is recorded at the amount the Company expects to resolve the liability. The estimated amounts of liabilities recorded for pending and threatened litigation are disclosed in Note 7. Amounts recoverable from insurance contracts or third parties are recorded as assets when deemed probable. At December 31, 2016, the Company recorded approximately \$34.5 million of receivables for recoveries from insurance contracts or third parties in connection with the amount of liabilities recorded for pending and threatened litigation. Legal defense costs are expensed as incurred. The Company believes it has recorded adequate provisions for its litigation matters. The Company reviews these provisions to reflect the impact of negotiations, settlements, rulings, advice of legal counsel and other information and events pertaining to a particular matter. While it is reasonably possible that an unfavorable outcome may occur in one or more of the following matters, unless otherwise stated below, the Company believes that it is not probable that a loss has been incurred in any of these matters. With respect to the litigation matters below for which it is reasonably possible that an unfavorable outcome may occur, an estimate of loss or range of loss is disclosed when such amount or amounts can be reasonably estimated. Although the Company believes that it has valid defenses with respect to legal matters and investigations pending against it, the results of litigation can be difficult to predict, particularly those involving jury trials. Therefore, it is possible that one or more of the following or other contingencies could have a material impact on the financial position, results of operations or cash flows of the Company in future periods.

*EoTech Class Actions.* During 2015 and 2016, five putative class action complaints against the Company were filed in the United States District Court for the Western District of Missouri alleging that the Company's EoTech business unit knowingly sold defective holographic weapons sights (see Andrew Tyler Foster, et al., v. L-3 Communications EoTech, Inc., et al., Case No. 6:15 CV 03519 BCW). In October 2016, the parties reached a settlement in principle to resolve the allegations in these cases. On February 15, 2017, the Company received preliminary approval from the court to settle the five class action consumer lawsuits filed. Following an agreed-to notice period in which any contentions from objectors are addressed, the court, in its discretion and following a fairness hearing, will order final approval of the settlement and the litigation will be resolved. Any final approval order from the court is subject to appeal. Prior to final resolution of this litigation, either party retains rights to withdraw from the settlement under circumstances delineated in the settlement agreement. There are numerous risks associated with this settlement, including that the court finds that the settlement is not fair and adequate to the class members or for any other reason that the court deems appropriate to withhold final approval. If final approval does not occur, the litigation would recommence. As of December 31, 2016, the Company has accrued all amounts it deems appropriate for this matter.

*Securities Class Action.* In August 2014, three separate, putative class actions were filed in the United States District Court for the Southern District of New York (the District Court) against the Company and certain of its officers. These cases were consolidated into a single action on October 24, 2014. A consolidated amended complaint was filed in the District Court on December 22, 2014, which was further amended and restated on March 13, 2015. The complaint alleges violations of federal securities laws related to misconduct and accounting errors identified by the Company at its Aerospace Systems segment, and seeks monetary damages, pre- and post-judgment interest, and fees and expenses. On March 30, 2016, the District Court dismissed with prejudice all claims against the Company's officers and allowed the claim against the Company to proceed to discovery. On December 20, 2016, the parties reached an agreement in principle to resolve this matter for \$34.5 million, subject to the execution of definitive settlement documents and final court approval. The Company's insurers have agreed to fund the entire amount of the settlement.

**Bednarz Decl.**  
**EXHIBIT 4**



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# EOtech Red Dot Sight

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- ☐ Dot (34)
- ☐ Holographic (280)
- ☐ Laser (4)
- ☐ Not Specified (68)

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- ☒ EOtech

## Reticle Color

see all

## Condition

see all

- ☒ Used

## Price

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## Format

see all

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- ☐ Auction (239)
- ☐ Buy It Now (147)

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### EOtech Holographic Sight HHS II EXPS2-2 with G33STS HHS2

★★★★★ 4 product ratings

**\$799.00**

May-22 20:52

Best offer accepted

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### EOtech G33 3X Magnifier w/ QD Cantilever Mount

★★★★★ 6 product ratings

**\$385.00**

May-22 20:30

25 bids

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### EOtech EXPS2 Holographic Red Dot Sight - 2-dot Reticle, EXPS2-2A

★★★★★ 5 product ratings

**\$403.00**

May-22 20:00

29 bids

**Free shipping**[View similar active items](#)[Sell one like this](#)

### EOtech XPS2-0 Holographic Sight 03/L135173A

★★★★★ 45 product ratings

**\$343.00**

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EOTECH G33 3x magnifier

**\$350.00**

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★★★★★ 45 product ratings

**\$385.00**

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Eotech 512 W/ Scopecoat

**\$319.99**

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EOTECH 510 - EARLY MODEL - NO RESERVE

**\$255.00**

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EOTech L3 Holographic Weapon Sight 517.A65 (R22)

★★★★★ 107 product ratings

**\$319.61**

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[eotech xps2-0 holographic weapon sight Red Dot Trijicon Aimpoint](#)

★★★★★ 45 product ratings



**\$385.00**

May-21 18:32

15 bids

[View similar active items](#)[Sell one like this](#)**EOTech EXP3-4 HHS I Dot Sight with G33 3X Magnifier and Switch to Side QD**

★★★★★ 9 product ratings

**\$801.87**

May-21 16:39

8 bids

**Free shipping**[View similar active items](#)[Sell one like this](#)**Eotech L3 552.A65 Holographic Weapon Sight**

★★★★★ 3 product ratings

**\$320.00**

May-21 14:45

14 bids

[View similar active items](#)[Sell one like this](#)**EOTech 518-2 Holographic Sight QD 68 MOA Dual (2) Red Dot Reticle Quick Detach**

★★★★★ 5 product ratings

**\$350.00**

May-21 12:47

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[View similar active items](#)[Sell one like this](#)**Used EOTech 512****\$234.50**

May-21 11:14

16 bids

[View similar active items](#)[Sell one like this](#)**Eotech 552 Replica**

★★★★★ 3 product ratings



**\$69.00**

May-20 15:06

[Buy It Now](#)[View similar active items](#)[Sell one like this](#)**EoTech XPS2-0 XPS2 Holographic Sight with protective hood**

★★★★★ 45 product ratings

**\$380.00**

May-20 12:47

Best offer accepted

**Free shipping**[View similar active items](#)[Sell one like this](#)**L3 EOTECH 512 Holographic Scope****\$267.50**

May-20 10:49

5 bids

[View similar active items](#)[Sell one like this](#)**EOTech 552 Holographic sight " READ ALL OF DESCRIPTION "**

★★★★★ 3 product ratings

**\$240.00**

May-20 05:24

Best offer accepted

[View similar active items](#)[Sell one like this](#)**Eotech XPS2 Holographic Sight with AD QD riser mount.**

★★★★★ 16 product ratings

**\$350.00**

May-19 22:07

1 bid

[View similar active items](#)[Sell one like this](#)**EOTech Transverse EXPS3 Red Dot Sight, Black w/ 1-Dot Reticle Anti-Glare EXPS3-0**

★★★★★ 50 product ratings

**\$435.00**

May-19 20:00

16 bids

**Free shipping**[View similar active items](#)[Sell one like this](#)[eotech 512.a65](#)

**\$310.00**

10 bids

May-19 18:34

[View similar active items](#)[Sell one like this](#)**EO Tech 512.a65****\$275.00**

16 bids

May-19 16:03

[View similar active items](#)[Sell one like this](#)**L-3 EOtech Hood Kit without Screws for 512/511/552/551 Red Dot Sight : 9-N2053**

★★★★★ 5 product ratings

**\$19.00**

Buy It Now

May-19 09:10

[View similar active items](#)[Sell one like this](#)**Eotech L3 Holographic Weapon Sight w/Case 511.A65****\$299.95**

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May-19 07:55

[View similar active items](#)[Sell one like this](#)**Eotech Hybrid HHS II Dot Sight exps-2 with g33 magnifier**

★★★★★ 4 product ratings

**\$810.00**

4 bids

May-19 07:30

[View similar active items](#)[Sell one like this](#)**EOTECH HOLOGRAPHIC SIGHT**

★★★★★ 5 product ratings

**\$80.00**

1 bid

May-19 04:42

[View similar active items](#)[Sell one like this](#)**Eotech 512 Holographic Sight**





★★★★★ 1 product rating

**\$355.00**

May-18 18:15

41 bids

**Free shipping**

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**EOTECH 557.AR223(517.A65) Holographic Optical Laser Sight**

Used but in Good Condition-Hardly Used

★★★★★ 3 product ratings

**\$365.99**

May-18 16:53

Best offer accepted

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**Eotech 512.A65/1 Holographic Sight**

★★★★★ 107 product ratings

**\$225.00**

May-18 14:00

1 bid

**Free shipping**

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**eotech mini red dot**

**\$350.00**

May-18 01:29

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**Eotech XPS2-2 Holographic Sight with G33.STS**

★★★★★ 16 product ratings

**\$525.00**

May-18 00:01

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**EOTech EXP3-0 TAN MOA Red Dot Holographic Tactical Weapon Sight 65MOA**

★★★★★ 50 product ratings

**\$410.00**

May-17 22:15

Trending at \$475.00

Buy It Now

**Free shipping**

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**EOTech XPS2-0 Holographic Weapon Sight**

★★★★★ 45 product ratings

**\$337.80**

May-17 21:36

Trending at \$369.00

[Buy It Now](#)[View similar active items](#)[Sell one like this](#)**EOTECH 553 A65 HOLOGRAPHIC SIGHT NIGHTVISION COMPATIBLE 553.A65 SU-231/PEQ M553M**

★★★★★ 5 product ratings

**\$471.01**

May-17 21:04

14 bids

[View similar active items](#)[Sell one like this](#)**Eotech EXPS2 red dot; Quick Release, 65MOA / 1MOA**

★★★★★ 25 product ratings

**\$401.00**

May-17 20:02

5 bids

[View similar active items](#)[Sell one like this](#)**Eotech OPMOD EXPS2-0 Hologsight w/ 65 MOA Ring and 1-Dot Reticle, Black, EXPS2-0OP**

★★★★★ 5 product ratings

**\$415.00**

May-17 20:00

19 bids

**Free shipping**[View similar active items](#)[Sell one like this](#)**Eotech G33 STS Tan Magnifier****\$425.00**

May-17 19:08

3 bids

[View similar active items](#)[Sell one like this](#)**EOTech Model 552.A65 Holographic Weapon Sight Red Dot Black MIL-STD-1913**

★★★★★ 3 product ratings

**\$299.95**

May-17 15:13

[Buy It Now](#)**Free shipping**[View similar active items](#)[Sell one like this](#)**EOTech 512.A65 Holographic Weapon Sight 68 MOA Circle With 1 MOA Dot Reticle**

★★★★★ 107 product ratings

**\$255.00**

May-17 12:03

14 bids

**Free shipping**[View similar active items](#)[Sell one like this](#)**Eotech EXPS2 Holographic Sight**

★★★★★ 25 product ratings

**\$401.00**

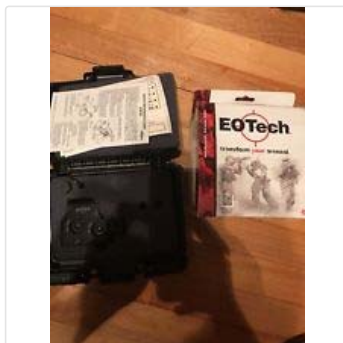
May-17 11:59

15 bids

**Free shipping**[View similar active items](#)[Sell one like this](#)**Eotech M512 Black 512 Holographic Sight****\$295.00**

May-17 11:38

6 bids

[View similar active items](#)[Sell one like this](#)**Eotech XPS3-2 Holographic Sight**

★★★★★ 2 product ratings

**\$400.00**

May-17 11:18

Best offer accepted

[View similar active items](#)[Sell one like this](#)**EOtech Holographic Sight HHS II EXPS2-2 with G33STS HHS2**

★★★★★ 4 product ratings

**\$799.00**

May-17 03:14

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[View similar active items](#)[Sell one like this](#)**eotech 512 holographic weapon sight with laser 512.LBC****\$499.00**

May-16 23:25

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[View similar active items](#)[Sell one like this](#)[EOtech 557 HWS Red Dot Sight with G23 Magnifier & Sts Switch To Side Mount](#)



**\$725.00**

May-16 23:07

Buy It Now

**Free shipping**[View similar active items](#)[Sell one like this](#)**EOtech XPS2-0 68 MOA Circle with 1 MOA Dot Matte Holographic Weapon Sight**

★★★★★ 45 product ratings

**\$390.00**

May-16 19:04

Buy It Now

**Free shipping**[View similar active items](#)[Sell one like this](#)**Used EOtech HHS I Holographic Hybrid Sight EXPS3-4 3x G33 65 MOA Circle 4 1 MOA**

★★★★★ 4 product ratings

**\$810.00**

May-16 15:44

13 bids

**Free shipping**[View similar active items](#)[Sell one like this](#)**EOtech L3 LBC2 Laser Battery Cap AA Assembly Fits 512, 552, 518, 558 HWS****\$235.00**

May-16 10:52

Best offer accepted

**Free shipping**[View similar active items](#)[Sell one like this](#)**EOtech Model 552.A65 Holographic Weapon Sight AA Batteries**

★★★★★ 107 product ratings

**\$325.25**

May-16 07:26

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**Bednarz Decl.**  
**EXHIBIT 5**



communications

L-3 Communications Corporation

600 Third Avenue  
New York, NY 10016  
212-697-1111 Fax: 212-682-9553

## News

Contact: L-3 Communications Holdings, Inc.  
Corporate Communications  
212-697-1111

For Immediate Release

### L-3 Announces Third Quarter 2016 Results

- **Diluted earnings per share (EPS) from continuing operations of \$1.88**
- **Net sales of \$2.5 billion**
- **Net cash from operating activities from continuing operations of \$210 million**
- **Book-to-bill ratio of 1.07x on funded orders of \$2.7 billion**
- **Updated 2016 financial guidance**
- **Preliminary 2017 financial outlook**

NEW YORK, October 27, 2016 – L-3 Communications Holdings, Inc. (NYSE: LLL) today reported diluted EPS from continuing operations of \$1.88 for the quarter ended September 23, 2016 (2016 third quarter) compared to diluted EPS from continuing operations for the quarter ended September 25, 2015 (2015 third quarter) of \$1.54 and adjusted diluted EPS<sup>(1)</sup> from continuing operations for the 2015 third quarter of \$2.03. Net sales of \$2,505 million for the 2016 third quarter decreased by 2% compared to the 2015 third quarter.

The 2016 third quarter results were impacted by: (1) tax benefits of \$17 million, or \$0.22 per diluted share, for the reversal of previously accrued amounts related to various tax matters, and (2) a \$14 million pre-tax charge, or \$0.11 per diluted share, in the Electronic Systems segment for a settlement in principle of the class action litigation, which is subject to court approval, in connection with the EoTech holographic weapons sights (HWS).

“Third quarter results were in line with our expectations,” said Michael T. Strianese, L-3’s Chairman and Chief Executive Officer. “We continue to make progress on our strategy to grow and improve our operational and financial performance. Our book-to-bill ratio was 1.07x for the quarter. Looking ahead, we will continue to strengthen our product and service offerings in higher margin areas while enhancing productivity and efficiency across our businesses. Further, we recently announced three modest acquisitions that complement our core strengths and extend our leadership in key markets, positioning us to deliver shareholder value for the balance of 2016 and beyond.”

<sup>(1)</sup> Adjusted diluted earnings per share from continuing operations is a non-GAAP financial measure. See Table E for a reconciliation and a discussion of why this information is presented.

## L-3 Consolidated Results

The table below provides L-3's selected financial data from continuing operations, which excludes the results of operations of the National Security Solutions (NSS) business. NSS was divested on February 1, 2016, and is reported as discontinued operations for all periods presented.

| (in millions, except per share data)           | Third Quarter Ended |                   |                         | Year-to-Date Ended |                   |                         |
|--|---------------------|-------------------|-------------------------|--------------------|-------------------|-------------------------|
|  | Sept. 23,<br>2016   | Sept. 25,<br>2015 | Increase/<br>(decrease) | Sept. 23,<br>2016  | Sept. 25,<br>2015 | Increase/<br>(decrease) |
| Net sales                                      | \$ 2,505            | \$ 2,564          | (2) %                   | \$ 7,522           | \$ 7,595          | (1)%                    |
| Operating income                               | \$ 215              | \$ 231            | (7) %                   | \$ 714             | \$ 571            | 25 %                    |
| Loss related to business divestitures          | -                   | 9                 | nm                      | -                  | 29                | nm                      |
| Goodwill impairment charges                    | -                   | 35                | nm                      | -                  | 35                | nm                      |
| Segment operating income                       | <u>\$ 215</u>       | <u>\$ 275</u>     | (22) %                  | <u>\$ 714</u>      | <u>\$ 635</u>     | 12 %                    |
| Operating margin                               | 8.6 %               | 9.0 %             | (40) bpts               | 9.5 %              | 7.5 %             | 200 bpts                |
| Segment operating margin                       | 8.6 %               | 10.7 %            | (210) bpts              | 9.5 %              | 8.4 %             | 110 bpts                |
| Interest expense and other                     | \$ (35)             | \$ (40)           | (13) %                  | \$ (115)           | \$ (113)          | 2 %                     |
| Effective income tax rate                      | 16.1 %              | 33.0 %            | nm                      | 21.7 %             | 22.9 %            | (120)bpts               |
| Net income from continuing operations          |                     |                   |                         |                    |                   |                         |
| attributable to L-3                            | \$ 148              | \$ 125            | 18 %                    | \$ 459             | \$ 342            | 34 %                    |
| Adjusted net income from continuing operations |                     |                   |                         |                    |                   |                         |
| attributable to L-3 <sup>(a)</sup>             | \$ 148              | \$ 165            | (10) %                  | \$ 459             | \$ 394            | 16 %                    |
| Diluted earnings per share from                |                     |                   |                         |                    |                   |                         |
| continuing operations                          | \$ 1.88             | \$ 1.54           | 22 %                    | \$ 5.83            | \$ 4.14           | 41 %                    |
| Adjusted diluted earnings per share from       |                     |                   |                         |                    |                   |                         |
| continuing operations <sup>(a)</sup>           | \$ 1.88             | \$ 2.03           | (7) %                   | \$ 5.83            | \$ 4.76           | 22 %                    |
| Diluted weighted average common shares         |                     |                   |                         |                    |                   |                         |
| outstanding                                    | 78.8                | 81.2              | (3) %                   | 78.7               | 82.7              | (5)%                    |

<sup>(a)</sup> Non-GAAP metric that excludes goodwill impairment charges and the aggregate loss related to business divestitures. See Table E for a reconciliation and a discussion of why this information is presented.

nm – not meaningful

**Third Quarter Results of Operations:** For the 2016 third quarter, consolidated net sales of \$2,505 million decreased \$59 million, or 2%, compared to the 2015 third quarter. Organic sales<sup>(2)</sup> decreased by 2.5%, or \$65 million, for the 2016 third quarter. Organic sales exclude \$2 million of sales declines related to business divestitures and \$8 million of sales increases related to business acquisitions. For the 2016 third quarter, organic sales to the U.S. Government increased \$84 million, or 5%, and organic sales to international and commercial customers decreased \$149 million, or 19%.

Segment operating income for the 2016 third quarter decreased by \$60 million, or 22%, compared to the 2015 third quarter. Segment operating income as a percentage of sales (segment operating margin) decreased by 210 basis points to 8.6% for the 2016 third quarter, compared to 10.7% for the 2015 third quarter. Segment operating margins were lower in all three segments. The 2016 third quarter included a \$14 million pre-tax charge in the Electronic Systems segment for a settlement in principle of the class action litigation, which is subject to court approval, in connection with the EoTech HWS. Pension expense declined by \$15 million compared to the 2015 third quarter. See the reportable segment results below for additional discussion of sales and operating margin trends.

<sup>(2)</sup> Organic sales represents net sales excluding the sales impact of acquisitions and divestitures. Sales declines related to business divestitures are sales from divestitures that are included in L-3's actual results for the 12 months prior to the divestitures. Sales increases related to acquired businesses are sales from acquisitions that are included in L-3's actual results for less than 12 months. The company believes organic sales is a useful measure for investors because it provides period-to-period comparisons of the company's ongoing operational and financial performance.



Interest expense and other declined by \$5 million, primarily due to lower outstanding debt as a result of the redemption of: (1) \$300 million aggregate principal amount of 3.95% Senior Notes due November 15, 2016 in the second quarter of 2016 and (2) \$300 million aggregate principal amount of 3.95% Senior Notes due May 28, 2024 in the fourth quarter of 2015.

The effective tax rate for the 2016 third quarter decreased to 16.1% from 33.0% for the same period last year. The 2016 third quarter includes: (1) tax benefits of \$17 million for the reversal of previously accrued amounts related to various U.S. Federal, foreign and state tax matters, (2) a benefit from the reinstatement of the Federal Research and Experimentation (R&E) tax credit and (3) \$4 million due to the early adoption of a new accounting standard related to income tax benefits from employee stock-based compensation awards.

Diluted EPS from continuing operations decreased 7% to \$1.88 compared to adjusted diluted EPS of \$2.03 for the 2015 third quarter. The 2015 third quarter adjusted diluted EPS from continuing operations excludes after tax losses of: (1) \$34 million, or \$0.42 per share, related to goodwill impairment charges and (2) \$6 million, or \$0.07 per share, related to business divestitures. Diluted weighted average common shares outstanding for the 2016 third quarter declined by 3% compared to the 2015 third quarter primarily due to repurchases of L-3 common stock.

*Year-to-Date Results of Operations:* For the year-to-date period ended September 23, 2016 (2016 year-to-date period), consolidated net sales of \$7,522 million decreased \$73 million, or 1%, compared to the year-to-date period ended September 25, 2015 (2015 year-to-date period). Organic sales increased by \$70 million, or 1%, for the 2016 year-to-date period. Organic sales exclude \$206 million of sales declines related to business divestitures and \$63 million of sales increases related to business acquisitions. For the 2016 year-to-date period, organic sales to the U.S. Government increased \$250 million, or 5%, and organic sales to international and commercial customers decreased \$180 million, or 8%.

Segment operating income for the 2016 year-to-date period increased by \$79 million, or 12%, compared to the 2015 year-to-date period. Segment operating margin increased by 110 basis points to 9.5% for the 2016 year-to-date period, compared to 8.4% for the 2015 year-to-date period. Segment operating margin increased by: (1) 100 basis points primarily due to unfavorable contract performance adjustments related to cost growth in 2015 that did not recur in 2016 at Aerospace Systems on international head-of-state aircraft modification contracts and (2) 50 basis points due to lower pension expense of \$36 million. These increases were partially offset by charges in the Electronic Systems segment for a settlement in principle of the class action litigation, which is subject to court approval, in connection with the EoTech HWS and increases to the HWS product returns allowance, which, together, decreased operating margin by 40 basis points. See the reportable segment results below for additional discussion of sales and operating margin trends.

Interest expense and other for the 2016 year-to-date period includes a \$5 million debt retirement charge related to the redemption of \$300 million aggregate principal amount of 3.95% Senior Notes due November 15, 2016.

The effective tax rate for the 2016 year-to-date period decreased to 21.7% from 22.9% for the same period last year. The 2016 year-to-date period includes: (1) a benefit from the reinstatement of the Federal R&E tax credit, (2) tax benefits of \$21 million for the reversal of previously accrued amounts related to various U.S. Federal, foreign and state tax matters and (3) \$16 million due to the early adoption of a new accounting standard related to income tax benefits from employee stock-based compensation awards.

Diluted EPS from continuing operations increased 22% to \$5.83 compared to adjusted diluted EPS of \$4.76 for the 2015 year-to-date period. The 2015 year-to-date period adjusted diluted EPS from continuing operations excludes after tax losses of: (1) \$34 million, or \$0.40 per share, related to goodwill impairment charges and (2) \$18 million, or \$0.22 per share, related to business divestitures. Diluted weighted average common shares outstanding for the 2016 year-to-date period declined by 5% compared to the 2015 year-to-date period primarily due to repurchases of L-3 common stock.

*Orders:* Funded orders for the 2016 third quarter increased 22% to \$2,688 million compared to \$2,200 million for the 2015 third quarter. Funded orders for the 2016 year-to-date period increased 2% to \$7,415 million compared to \$7,301 million for the 2015 year-to-date period. The book-to-bill ratio was 1.07x for the 2016 third quarter and 0.99x for the 2016 year-to-date period. Excluding the impacts of business divestitures and acquisitions, orders increased by \$216 million, or 3%, for the 2016 year-to-date period. Funded backlog declined 2% to \$8,294 million at September 23, 2016, compared to \$8,423 million at December 31, 2015.

The table below summarizes the cash returned to shareholders during the 2016 and 2015 third quarter and year-to-date periods.

| (\$ in millions, except per share data)                             | Third Quarter Ended |                   | Year-to-Date Ended |                   |
|---|---------------------|-------------------|--------------------|-------------------|
|   | Sept. 23,<br>2016   | Sept. 25,<br>2015 | Sept. 23,<br>2016  | Sept. 25,<br>2015 |
| Net cash from operating activities from continuing operations       | \$ 210              | \$ 288            | \$ 579             | \$ 597            |
| Less: Capital expenditures, net of dispositions                     | (47)                | (53)              | (111)              | (135)             |
| Plus: Income tax payments attributable to discontinued operations   | -                   | 1                 | -                  | 2                 |
| Free cash flow <sup>(1)</sup>                                       | <u>\$ 163</u>       | <u>\$ 236</u>     | <u>\$ 468</u>      | <u>\$ 464</u>     |
| Dividends paid (\$2.10 per share in 2016; \$1.95 per share in 2015) | \$ 54               | \$ 52             | \$ 166             | \$ 163            |
| Common stock repurchases  | <u>50</u>           | <u>259</u>        | <u>326</u>         | <u>605</u>        |
| Cash returned to shareholders                                       | <u>\$ 104</u>       | <u>\$ 311</u>     | <u>\$ 492</u>      | <u>\$ 768</u>     |

<sup>(1)</sup> Free cash flow is defined as net cash from operating activities from continuing operations less net capital expenditures (capital expenditures less cash proceeds from dispositions of property, plant and equipment), plus income tax payments attributable to discontinued operations. Free cash flow represents cash generated after paying for interest on borrowings, income taxes, pension benefit contributions, capital expenditures and changes in working capital, but before repaying principal amount of outstanding debt, paying cash dividends on common stock, repurchasing shares of our common stock, investing cash to acquire businesses, and making other strategic investments. Thus, a key assumption underlying free cash flow is that the company will be able to refinance its existing debt. Because of this assumption, free cash flow is not a measure that should be relied upon to represent the residual cash flow available for discretionary expenditures. The company believes free cash flow is a useful measure for investors because it portrays the company's ability to generate cash from operations for purposes such as repaying debt, returning cash to shareholders and funding acquisitions. The company uses free cash flow as a performance measure in evaluating management.

### Reportable Segment Results

The company has three reportable segments. The company evaluates the performance of its segments based on their sales, operating income and operating margin. Corporate expenses are allocated to the company's operating segments using an allocation methodology prescribed by U.S. Government regulations for government contractors. Accordingly, segment results include all costs and expenses, except for goodwill impairment charges, gains or losses related to business divestitures and certain other items that are excluded by management for purposes of evaluating the operating performance of the company's business segments.

*Electronic Systems*

| (\$ in millions) | Third Quarter Ended |           |          | Year-to-Date Ended |           |                         |
|------------------|---------------------|-----------|----------|--------------------|-----------|-------------------------|
|                  | Sept. 23,           | Sept. 25, | Decrease | Sept. 23,          | Sept. 25, | Increase/<br>(decrease) |
|                  | 2016                | 2015      |          | 2016               | 2015      |                         |
| Net sales        | \$ 989              | \$ 991    | (0.2)%   | \$ 2,887           | \$ 3,052  | (5.4)%                  |
| Operating income | \$ 119              | \$ 121    | (1.7)%   | \$ 339             | \$ 352    | (3.7)%                  |
| Operating margin | 12.0 %              | 12.2 %    | (20)bpts | 11.7 %             | 11.5 %    | 20 bpts                 |

*Third Quarter:* Electronic Systems net sales for the 2016 third quarter decreased by \$2 million compared to the 2015 third quarter. Organic sales decreased by \$5 million, or 0.5%, compared to the 2015 third quarter. Organic sales exclude \$2 million of sales declines related to business divestitures and \$5 million of sales increases related to business acquisitions. Sales decreased by \$28 million for Aviation Products and Security due to lower cargo sales and the timing of deliveries on airport security screening systems for international customers, partially offset by \$23 million primarily for Sensor Systems due to increased deliveries of airborne EO/IR turrets to foreign militaries.

Electronic Systems operating income for the 2016 third quarter decreased by \$2 million, or 2%, compared to the 2015 third quarter. Operating margin decreased by 20 basis points to 12.0%. A \$14 million pre-tax charge for a settlement in principle of the class action litigation, which is subject to court approval, in connection with the EoTech HWS, lowered operating margin by 140 basis points. Sales mix changes, primarily for Warrior Systems, lowered operating margin 80 basis points. These decreases were partially offset by 150 basis points for improved contract performance and 50 basis points due to lower pension expense of \$5 million.

*Year-to-Date:* Electronic Systems net sales for the 2016 year-to-date period decreased by \$165 million, or 5%, compared to the 2015 year-to-date period. Organic sales decreased by \$10 million, or 0.3%, compared to the 2015 year-to-date period. Organic sales exclude \$206 million of sales declines related to business divestitures (primarily MSI in May 2015) and \$51 million of sales increases related to business acquisitions. The decrease was driven by \$16 million for Warrior Systems related to an increase in the products returns allowance for EoTech HWS products and \$13 million for Precision Engagement & Training due to lower volume of: (i) ordnance products for the U.S. military and (ii) civil aviation simulation and training devices for commercial customers as contracts near completion. These decreases were partially offset by an increase of \$19 million primarily for Sensor Systems due to increased deliveries of airborne EO/IR turrets and electronic warfare products to foreign militaries.

Electronic Systems operating income for the 2016 year-to-date period decreased by \$13 million, or 4%, compared to the 2015 year-to-date period. Operating margin increased by 20 basis points to 11.7%. Operating margin increased by: (1) 70 basis points due to higher margins related to acquisitions and divestitures, (2) 40 basis points due to lower pension expense of \$11 million, and (3) 10 basis points primarily due to higher net aggregate favorable contract performance adjustments in the 2016 year-to-date period compared to the 2015 year-to-date period. These increases were offset by a decrease of 100 basis points due to \$30 million of pre-tax charges for a settlement in principle, of the class action litigation, which is subject to court approval, in connection with the EoTech HWS and increases to the HWS product returns allowance.

*Aerospace Systems*

| (\$ in millions) | Third Quarter Ended |           |           | Year-to-Date Ended |           |          |
|------------------|---------------------|-----------|-----------|--------------------|-----------|----------|
|                  | Sept. 23,           | Sept. 25, | Decrease  | Sept. 23,          | Sept. 25, | Increase |
|                  | 2016                | 2015      |           | 2016               | 2015      |          |
| Net sales        | \$ 1,012            | \$ 1,066  | (5.1)%    | \$ 3,165           | \$ 3,087  | 2.5 %    |
| Operating income | \$ 56               | \$ 102    | (45.1)%   | \$ 232             | \$ 144    | 61.1 %   |
| Operating margin | 5.5 %               | 9.6 %     | (410)bpts | 7.3 %              | 4.7 %     | 260 bpts |

*Third Quarter:* Aerospace Systems net sales for the 2016 third quarter decreased by \$54 million, or 5%, compared to the 2015 third quarter. Sales decreased \$64 million for ISR Systems and \$2 million for Aircraft Systems, partially offset by a \$12 million increase for Vertex Aerospace. Sales decreased for ISR Systems by: (1) \$46 million for small ISR aircraft fleet management services to the U.S. Air Force due to reduced demand resulting from the U.S. military drawdown in Afghanistan and (2) \$42 million for ISR aircraft systems for foreign military customers as contracts near completion. These decreases were partially offset by higher volume of \$12 million for large ISR aircraft systems for the U.S. Government and \$12 million for small ISR aircraft systems for the U.S. Army. Sales increased for Vertex Aerospace due to higher volume for U.S. Navy training aircraft and the U.S. Army C-12 contract.

Aerospace Systems operating income for the 2016 third quarter decreased by \$46 million, compared to the 2015 third quarter. Operating margin decreased by 410 basis points to 5.5%. Operating margin decreased by: (1) 200 basis points primarily due to lower favorable contract performance adjustments in the 2016 third quarter compared to the 2015 third quarter for ISR Systems primarily on contracts that are nearing completion, (2) 100 basis points due to lower sales and changes in sales mix for ISR Systems, (3) 90 basis points due to lower incentive fees and increases in lower margin task orders on the Fort Rucker Maintenance Support contract and (4) 80 basis points due to an \$8 million contract price adjustment in the 2015 third quarter for a recovery of cost overruns on the previous U.S. Army C-12 contract that did not recur in the 2016 third quarter. These decreases were partially offset by 60 basis points due to lower pension expense of \$6 million.

*Year-to-Date:* Aerospace Systems net sales for the 2016 year-to-date period increased by \$78 million, or 3%, compared to the 2015 year-to-date period. Sales increased \$62 million for Aircraft Systems and \$35 million for Vertex Aerospace, partially offset by a \$19 million decrease for ISR Systems. Sales increased for Aircraft Systems primarily due to unfavorable contract performance adjustments in the 2015 year-to-date period that did not recur in the 2016 year-to-date period on international head-of-state aircraft modification contracts. Sales increased for Vertex Aerospace due to higher volume and pre-production activities for U.S. Navy training aircraft and the U.S. Army C-12 contract. Sales decreases for ISR Systems were due to trends similar to the 2016 third quarter, partially offset by an increase in sales due to the procurement and delivery of two business jets to a foreign military customer in the 2016 second quarter.

Aerospace Systems operating income for the 2016 year-to-date period increased by \$88 million, or 61%, compared to the 2015 year-to-date period. Operating margin increased by 260 basis points to 7.3%. Operating margin increased by: (1) 210 basis points primarily due to net aggregate unfavorable contract performance adjustments in the 2015 year-to-date period, which included \$101 million of cost growth on international head-of-state aircraft modification contracts, that did not recur in the 2016 year-to-date period, and (2) 50 basis points due to lower pension expense of \$15 million.

*Communication Systems*

| (\$ in millions) | Third Quarter Ended |           |           | Year-to-Date Ended |           |          |
|------------------|---------------------|-----------|-----------|--------------------|-----------|----------|
|                  | Sept. 23,           | Sept. 25, | Decrease  | Sept. 23,          | Sept. 25, | Increase |
|                  | 2016                | 2015      |           | 2016               | 2015      |          |
| Net sales        | \$ 504              | \$ 507    | (0.6)%    | \$ 1,470           | \$ 1,456  | 1.0 %    |
| Operating income | \$ 40               | \$ 52     | (23.1)%   | \$ 143             | \$ 139    | 2.9 %    |
| Operating margin | 7.9%                | 10.3%     | (240)bpts | 9.7%               | 9.5%      | 20 bpts  |

*Third Quarter:* Communication Systems net sales for the 2016 third quarter decreased by \$3 million compared to the 2015 third quarter. Organic sales decreased by \$6 million, or 1%, compared to the 2015 third quarter. Organic sales exclude \$3 million of sales increases related to business acquisitions. Sales decreased by \$30 million in the Tactical Satcom sector due to fewer deliveries on a satellite communications (Satcom) land terminals contract for the Australian Defence Force (ADF), which was completed in the second quarter of 2016. In the Space & Power Systems sector, sales declined by \$22 million due to reduced demand for power devices for commercial satellites. These decreases were largely offset by increased volume and deliveries to the U.S. Department of Defense (DoD) of secure networked communication systems in the Broadband Communication Systems sector and mobile and ground-based Satcom systems in the Tactical Satcom sector.

Communication Systems operating income for the 2016 third quarter decreased by \$12 million, or 23%, compared to the 2015 third quarter. Operating margin decreased by 240 basis points to 7.9%. The lower sales on the ADF Satcom land terminals contract and power devices for commercial satellites reduced operating margin by 220 basis points. Increased design and production costs on new commercial ground-based power amplifier products partially offset by sales growth and favorable contract performance, primarily in Broadband Communication Systems sector, reduced operating margin by 100 basis points. Lower pension expense of \$4 million increased operating margin by 80 basis points.

*Year-to-Date:* Communication Systems net sales for the 2016 year-to-date period increased by \$14 million, or 1%, compared to the 2015 year-to-date period. Organic sales increased by \$2 million, or 0.1%, compared to the 2015 year-to-date period. Organic sales exclude \$12 million of sales increases related to business acquisitions. The increase was due to: (1) \$62 million for Broadband Communication Systems, primarily due to increased volume and deliveries of secure networked communication systems for the DoD and (2) \$7 million primarily for Advanced Communications products due to increased deliveries of secure mission data storage systems for the Joint Strike Fighter program. These increases were largely offset by a decrease of \$67 million for Space & Power Systems, primarily due to reduced demand for power devices for commercial satellites.

Communication Systems operating income for the 2016 year-to-date period increased by \$4 million, or 3%, compared to the 2015 year-to-date period. Operating margin increased by 20 basis points to 9.7%. Operating margin increased by 70 basis points due to lower pension expense of \$10 million, partially offset by a decrease of 50 basis points primarily due to sales mix changes.

## Financial Guidance

Based on information known as of today, the company has updated its consolidated and segment financial guidance for the year ending December 31, 2016, previously provided on July 28, 2016, and has provided a preliminary financial outlook for 2017, as presented in the tables below. All financial guidance amounts are estimates subject to change in the future, including as a result of matters discussed under the “Forward-Looking Statements” cautionary language beginning on page 10. The company undertakes no duty to update its guidance.

| Consolidated 2016 Financial Guidance<br>(\$ in millions, except per share data)   |                      |                                   |
|---|----------------------|-----------------------------------|
|   | Current Guidance     | Prior Guidance<br>(July 28, 2016) |
| Net sales   | \$10,250 to \$10,350 | \$10,150 to \$10,250              |
| Segment operating margin  | 9.6%                 | 9.8%                              |
| Interest expense and other <sup>(1)</sup>   | \$157                | \$157                             |
| Effective tax rate  | 23.5%                | 26.4%                             |
| Minority interest expense <sup>(2)</sup>  | \$14                 | \$13                              |
| Diluted shares  | 78.8                 | 78.2                              |
| Diluted EPS   | \$7.85 to \$7.95     | \$7.65 to \$7.85                  |
| Net cash from operating activities  | \$1,030              | \$1,030                           |
| Capital expenditures, net of dispositions of property, plant and equipment  | (205)                | (205)                             |
| Free cash flow  | \$825                | \$825                             |
| <sup>(1)</sup> Interest expense and other is comprised of: (i) interest expense of \$168 million, (ii) interest and other income, net, and (iii) a debt retirement charge of \$5 million. |                      |                                   |
| <sup>(2)</sup> Minority interest expense represents net income from continuing operations attributable to non-controlling interests.  |                      |                                   |

| Segment 2016 Financial Guidance<br>(\$ in millions) |                    |                                   |
|---|--------------------|-----------------------------------|
|   | Current Guidance   | Prior Guidance<br>(July 28, 2016) |
| <u>Net Sales:</u>                                   |                    |                                   |
| Electronic Systems                                  | \$4,125 to \$4,175 | \$4,100 to \$4,200                |
| Aerospace Systems                                   | \$4,150 to \$4,200 | \$4,050 to \$4,150                |
| Communication Systems                               | \$1,950 to \$2,000 | \$1,900 to \$2,000                |
| <u>Operating Margins:</u>                           |                    |                                   |
| Electronic Systems                                  | 12.0% to 12.1%     | 12.0% to 12.2%                    |
| Aerospace Systems                                   | 7.0% to 7.1%       | 7.0% to 7.2%                      |
| Communication Systems                               | 10.0% to 10.1%     | 10.3% to 10.5%                    |

The revisions to our Current Guidance compared to our Prior Guidance primarily include:

- An increase in estimated sales for Aerospace Systems primarily related to higher pass-through volume in the Vertex Aerospace sector;
- A decrease in Electronic Systems operating margin primarily due to a charge in Warrior Systems for a settlement in principle of the class action litigation, which is subject to court approval, in connection with the EoTech HWS, partially offset by an improvement in contract performance across several business areas;
- A reduction in the effective tax rate from 26.4% to 23.5%, primarily due to the tax benefits recorded in the 2016 third quarter; and

- An increase in diluted share count from 78.2 to 78.8 million shares primarily as a result of an \$85 million reduction in our share repurchases estimate from \$750 million to \$665 million.

The following tables present our preliminary consolidated and segment financial outlook for 2017.

| <b>2017 Consolidated Preliminary Outlook</b><br>(\$ in millions, except per share data) |                 |
|---|-----------------|
| Net sales growth  | 1% to 2%*       |
| Operating margin  | 10.0% (10.3%**) |
| Interest expense and other  | \$154           |
| Effective tax rate  | 27.5%           |
| Minority interest expense   | \$14            |
| Diluted shares  | 76.5            |
| Diluted EPS   | \$8.25          |
| Net cash from operating activities  | \$1,060         |
| Capital expenditures, net of dispositions of property, plant and equipment              | (210)           |
| Free cash flow  | \$850           |
| * Also represents the estimated organic sales growth rate for 2017.                     |                 |
| ** Represents operating margin before an expected increase in pension expense.          |                 |

| <b>2017 Segment Preliminary Outlook</b><br>(\$ in millions)                    |                  |
|--|------------------|
| <u>Net Sales Growth:</u>   |                  |
| Electronic Systems   | 3% to 4%         |
| Aerospace Systems  | -1% to -2%       |
| Communication Systems  | 4% to 5%         |
| <u>Operating Margin:</u>   |                  |
| Electronic Systems   | ~12.8% (13.0%**) |
| Aerospace Systems  | ~6.8% (7.1%**)   |
| Communication Systems  | ~10.3% (10.7%**) |
| ** Represents operating margin before an expected increase in pension expense. |                  |

The 2017 consolidated preliminary outlook for operating income includes an increase in estimated pension expense (net Financial Accounting Standards/Cost Accounting Standards, or FAS/CAS) of approximately \$29 million for 2017 compared to 2016. The 2017 preliminary pension expense estimate assumes a weighted average discount rate of 3.91%, compared to 4.66% for 2016 and a weighted average asset return of approximately 8% in 2016, consistent with our planned weighted average asset return. The preliminary outlook also assumes share repurchases for 2017 of \$600 million. However, the amount of 2017 share repurchases could be reduced to pay for potential future business acquisitions, which would cause an increase in the estimated diluted shares outstanding for 2017.

The current guidance for 2016 and the preliminary outlook for 2017 excludes: (i) any potential non-cash goodwill impairment charges for which the information is presently unknown, (ii) potential adverse results related to litigation contingencies and (iii) other items such as gains or losses related to potential business divestitures and the impact of potential acquisitions.

Additional financial information regarding the 2016 third quarter results, the 2016 financial guidance and the preliminary 2017 outlook is available on the company's website at [www.L-3com.com](http://www.L-3com.com).

**Conference Call**

In conjunction with this release, L-3 will host a conference call today, Thursday, October 27, 2016 at 11:00 a.m. ET that will be simultaneously broadcast over the Internet. Michael T. Strianese, chairman and chief executive officer, Christopher E. Kubasik, president and chief operating officer, and Ralph G. D'Ambrosio, senior vice president and chief financial officer, will host the call.

Listeners may access the conference call live over the Internet at the company's website at:

<http://www.L-3com.com>

Please allow fifteen minutes prior to the call to visit our website to download and install any necessary audio software. The archived version of the call may be accessed at our website or by dialing (800) 585-8367/ passcode: 95332526 (for domestic callers) or (404) 537-3406/passcode: 95332526 (for international callers) beginning approximately two hours after the call ends and will be available until the company's next quarterly earnings release.

Headquartered in New York City, L-3 employs approximately 38,000 people worldwide and is a leading provider of a broad range of communication and electronic systems and products used on military and commercial platforms. L-3 is also a prime contractor in aerospace systems.

To learn more about L-3, please visit the company's website at [www.L-3com.com](http://www.L-3com.com). L-3 uses its website as a channel of distribution of material company information. Financial and other material information regarding L-3 is routinely posted on the company's website and is readily accessible.

**Forward-Looking Statements**

Certain of the matters discussed in this press release, including information regarding the company's 2016 financial guidance and 2017 preliminary outlook are forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. All statements other than historical facts, may be forward-looking statements, such as "may," "will," "should," "likely," "projects," "financial guidance," "expects," "anticipates," "intends," "plans," "believes," "estimates," and similar expressions are used to identify forward-looking statements. The Company cautions investors that these statements are subject to risks and uncertainties many of which are difficult to predict and generally beyond the Company's control that could cause actual results to differ materially from those expressed in, or implied or projected by, the forward-looking information and statements. Some of the factors that could cause actual results to differ include, but are not limited to, the following: our dependence on the defense industry; backlog processing and program slips resulting from delayed awards and/or funding from the Department of Defense (DoD) and other major customers; the U.S. Government fiscal situation; changes in DoD budget levels and spending priorities; U.S. Government failure to raise the debt ceiling; our reliance on contracts with a limited number of customers and the possibility of termination of government contracts by unilateral government action or for failure to perform; the extensive legal and regulatory requirements surrounding many of our contracts; our ability to retain our existing business and related contracts; our ability to successfully compete for and win new business, or, identify, acquire and integrate additional businesses; our ability to maintain and improve our operating margin; the availability of government funding and changes in customer requirements for our products and services; the outcome of litigation matters (see Notes to our annual report on Form 10-K and quarterly reports on Form 10-Q); results of audits by U.S. Government agencies and of ongoing governmental investigations, including the Aerospace Systems segment; our significant amount of debt and the restrictions contained in our debt agreements and actions taken by rating agencies that could result in a downgrade of our debt; our ability to continue to recruit, retain and train our employees; actual future interest rates, volatility and other assumptions used in the determination of pension benefits and equity based compensation, as well as the market performance of benefit plan assets; our collective bargaining agreements; our ability to successfully negotiate contracts with labor unions and our ability to favorably resolve labor disputes should they arise; the business, economic and political conditions in the markets in which we operate; global economic uncertainty; the DoD's Better Buying Power and other efficiency initiatives; events beyond our control such as acts of terrorism; our ability to perform contracts on schedule; our international operations including currency risks and compliance with foreign laws; our extensive use of fixed-price type revenue arrangements; the rapid change of technology and high level of competition in which our businesses participate; risks relating to technology and data security; our introduction of new products into commercial



markets or our investments in civil and commercial products or companies; our ability to predict the level of participation in and the related costs of our voluntary return program for certain EoTech holographic weapons sight products, and our ability to change and terminate the voluntary return program at our discretion; the impact on our business of improper conduct by our employees, agents or business partners; goodwill impairments and the fair values of our assets; and ultimate resolution of contingent matters, claims and investigations relating to acquired businesses, and the impact on the final purchase price allocations.

Our forward-looking statements speak only as of the date of this press release or as of the date they were made, and we undertake no obligation to update forward-looking statements. For a more detailed discussion of these factors, also see the information under the captions “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” in our most recent report on Form 10-K for the year ended December 31, 2015 and any material updates to these factors contained in any of our future filings.

As for the forward-looking statements that relate to future financial results and other projections, actual results will be different due to the inherent uncertainties of estimates, forecasts and projections and may be better or worse than projected and such differences could be material. Given these uncertainties, you should not place any reliance on these forward-looking statements.

# # #

**– Financial Tables Follow –**

**Table A**

**L-3 COMMUNICATIONS HOLDINGS, INC.**  
**UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS**  
(in millions, except per share data)

|  | Third Quarter Ended <sup>(a)</sup> |                   | Year-to-Date Ended |                   |
|--|------------------------------------|-------------------|--------------------|-------------------|
|  | Sept. 23,<br>2016                  | Sept. 25,<br>2015 | Sept. 23,<br>2016  | Sept. 25,<br>2015 |
| Net sales  | \$ 2,505                           | \$ 2,564          | \$ 7,522           | \$ 7,595          |
| Cost of sales  | (2,290)                            | (2,289)           | (6,808)            | (6,960)           |
| Loss related to business divestitures <sup>(b)</sup>                                 | -                                  | (9)               | -                  | (29)              |
| Goodwill impairment charges <sup>(c)</sup>   | -                                  | (35)              | -                  | (35)              |
| Operating income   | 215                                | 231               | 714                | 571               |
| Interest expense   | (41)                               | (43)              | (125)              | (124)             |
| Interest and other income, net   | 6                                  | 3                 | 15                 | 11                |
| Debt retirement charge   | -                                  | -                 | (5)                | -                 |
| Income from continuing operations before income taxes                                | 180                                | 191               | 599                | 458               |
| Provision for income taxes   | (29)                               | (63)              | (130)              | (105)             |
| Income from continuing operations  | 151                                | 128               | 469                | 353               |
| (Loss) income from discontinued operations, net of income tax <sup>(d)</sup>         | -                                  | (424)             | 63                 | (416)             |
| Net income (loss)  | 151                                | (296)             | 532                | (63)              |
| Net income attributable to noncontrolling interests                                  | (3)                                | (3)               | (10)               | (11)              |
| Net income (loss) attributable to L-3  | \$ 148                             | \$ (299)          | \$ 522             | \$ (74)           |
| Basic earnings (loss) per share attributable to L-3 Holdings' common shareholders:   |                                    |                   |                    |                   |
| Continuing operations  | \$ 1.91                            | \$ 1.56           | \$ 5.93            | \$ 4.19           |
| Discontinued operations  | -                                  | (5.30)            | 0.81               | (5.10)            |
| Basic earnings (loss) per share  | \$ 1.91                            | \$ (3.74)         | \$ 6.74            | \$ (0.91)         |
| Diluted earnings (loss) per share attributable to L-3 Holdings' common shareholders: |                                    |                   |                    |                   |
| Continuing operations  | \$ 1.88                            | \$ 1.54           | \$ 5.83            | \$ 4.14           |
| Discontinued operations  | -                                  | (5.22)            | 0.80               | (5.03)            |
| Diluted earnings (loss) per share  | \$ 1.88                            | \$ (3.68)         | \$ 6.63            | \$ (0.89)         |
| L-3 Holdings' weighted average common shares outstanding:                            |                                    |                   |                    |                   |
| Basic  | 77.3                               | 80.0              | 77.4               | 81.5              |
| Diluted  | 78.8                               | 81.2              | 78.7               | 82.7              |

- (a) It is generally the company's established practice to close its books for the quarters ending March, June and September on the Friday preceding the end of the calendar quarter. The interim financial statements and tables of financial information included herein have been prepared and are labeled based on that convention. The company closes its annual books on December 31 regardless of what day it falls on.
- (b) The loss related to business divestitures for the 2015 third quarter included an \$8 million loss on the divestiture of the Tinsley Product Line and a \$1 million loss on the divestiture of Broadcast Sports, Inc. (BSI). The loss related to business divestitures for the 2015 year-to-date period included a \$17 million loss related to the divestiture of Marine Systems International (MSI), an \$8 million loss on the divestiture of the Tinsley Product Line and a \$4 million loss on the divestiture of BSI.
- (c) The goodwill impairment charges for the 2015 third quarter and 2015 year-to-date period represents non-cash goodwill impairment charges due to the re-allocation of goodwill of the business retained by L-3 in connection with the sale of the National Security Solutions business.
- (d) Income from discontinued operations, net of income taxes for the 2016 year-to-date period includes an after-tax gain of \$64 million on the sale of the National Security Solutions business.

**Table B**

**L-3 COMMUNICATIONS HOLDINGS, INC.**  
**UNAUDITED SELECT FINANCIAL DATA**  
(in millions)

|                                       | <u>Third Quarter Ended</u> |                  | <u>Year-to-Date Ended</u> |                  |
|---------------------------------------|----------------------------|------------------|---------------------------|------------------|
|                                       | <u>Sept. 23,</u>           | <u>Sept. 25,</u> | <u>Sept. 23,</u>          | <u>Sept. 25,</u> |
|                                       | <u>2016</u>                | <u>2015</u>      | <u>2016</u>               | <u>2015</u>      |
| <b><u>Segment operating data</u></b>  |                            |                  |                           |                  |
| <b>Net sales:</b>                     |                            |                  |                           |                  |
| Electronic Systems                    | \$ 989                     | \$ 991           | \$ 2,887                  | \$ 3,052         |
| Aerospace Systems                     | 1,012                      | 1,066            | 3,165                     | 3,087            |
| Communication Systems                 | 504                        | 507              | 1,470                     | 1,456            |
| Total                                 | <u>\$ 2,505</u>            | <u>\$ 2,564</u>  | <u>\$ 7,522</u>           | <u>\$ 7,595</u>  |
| <b>Operating income:</b>              |                            |                  |                           |                  |
| Electronic Systems                    | \$ 119                     | \$ 121           | \$ 339                    | \$ 352           |
| Aerospace Systems                     | 56                         | 102              | 232                       | 144              |
| Communication Systems                 | 40                         | 52               | 143                       | 139              |
| Total                                 | <u>\$ 215</u>              | <u>\$ 275</u>    | <u>\$ 714</u>             | <u>\$ 635</u>    |
| <b>Operating margin:</b>              |                            |                  |                           |                  |
| Electronic Systems                    | 12.0 %                     | 12.2 %           | 11.7 %                    | 11.5 %           |
| Aerospace Systems                     | 5.5 %                      | 9.6 %            | 7.3 %                     | 4.7 %            |
| Communication Systems                 | 7.9 %                      | 10.3 %           | 9.7 %                     | 9.5 %            |
| Total                                 | 8.6 %                      | 10.7 %           | 9.5 %                     | 8.4 %            |
| <b>Depreciation and amortization:</b> |                            |                  |                           |                  |
| Electronic Systems                    | \$ 26                      | \$ 26            | \$ 78                     | \$ 81            |
| Aerospace Systems                     | 13                         | 13               | 40                        | 37               |
| Communication Systems                 | 12                         | 12               | 35                        | 37               |
| Total                                 | <u>\$ 51</u>               | <u>\$ 51</u>     | <u>\$ 153</u>             | <u>\$ 155</u>    |
| <b><u>Funded order data</u></b>       |                            |                  |                           |                  |
| Electronic Systems                    | \$ 1,377                   | \$ 961           | \$ 3,263                  | \$ 3,099         |
| Aerospace Systems                     | 821                        | 692              | 2,738                     | 2,614            |
| Communication Systems                 | 490                        | 547              | 1,414                     | 1,588            |
| Total                                 | <u>\$ 2,688</u>            | <u>\$ 2,200</u>  | <u>\$ 7,415</u>           | <u>\$ 7,301</u>  |
|                                       |                            |                  | <u>Sept. 23,</u>          | <u>Dec. 31,</u>  |
|                                       |                            |                  | <u>2016</u>               | <u>2015</u>      |
| <b><u>Period end data</u></b>         |                            |                  |                           |                  |
| Funded backlog                        |                            |                  | \$ 8,294                  | \$ 8,423         |

**Table C**

**L-3 COMMUNICATIONS HOLDINGS, INC.**  
**UNAUDITED CONDENSED CONSOLIDATED**  
**BALANCE SHEETS**  
(in millions)

|   | Sept. 23,<br>2016 | December 31,<br>2015 |
|---|-------------------|----------------------|
| <b>ASSETS</b>   |                   |                      |
| Cash and cash equivalents                                 | \$ 411            | \$ 207               |
| Billed receivables, net                                   | 812               | 746                  |
| Contracts in process                                      | 2,265             | 2,081                |
| Inventories   | 361               | 333                  |
| Other current assets                                      | 160               | 201                  |
| Assets of discontinued operations                         | —                 | 664                  |
| <b>Total current assets</b>                               | <b>4,009</b>      | <b>4,232</b>         |
| Property, plant and equipment, net                        | 1,083             | 1,097                |
| Goodwill  | 6,284             | 6,281                |
| Identifiable intangible assets                            | 181               | 199                  |
| Deferred income taxes                                     | 4                 | 3                    |
| Other assets  | 250               | 255                  |
| <b>Total assets</b>                                       | <b>\$ 11,811</b>  | <b>\$ 12,067</b>     |
| <b>LIABILITIES AND EQUITY</b>                             |                   |                      |
| Current portion of long-term debt                         | \$ 549            | \$ 499               |
| Accounts payable, trade                                   | 426               | 297                  |
| Accrued employment costs                                  | 519               | 504                  |
| Accrued expenses  | 391               | 390                  |
| Advance payments and billings in excess of costs incurred | 453               | 562                  |
| Income taxes  | 8                 | 13                   |
| Other current liabilities                                 | 404               | 394                  |
| Liabilities of discontinued operations                    | —                 | 220                  |
| <b>Total current liabilities</b>                          | <b>2,750</b>      | <b>2,879</b>         |
| Pension and postretirement benefits                       | 1,027             | 1,047                |
| Deferred income taxes                                     | 286               | 219                  |
| Other liabilities   | 326               | 368                  |
| Long-term debt  | 2,782             | 3,125                |
| <b>Total liabilities</b>                                  | <b>7,171</b>      | <b>7,638</b>         |
| Shareholders' equity                                      | 4,568             | 4,355                |
| Noncontrolling interests                                  | 72                | 74                   |
| <b>Total equity</b>                                       | <b>4,640</b>      | <b>4,429</b>         |
| <b>Total liabilities and equity</b>                       | <b>\$ 11,811</b>  | <b>\$ 12,067</b>     |

**Table D**

**L-3 COMMUNICATIONS HOLDINGS, INC.**  
**UNAUDITED CONDENSED CONSOLIDATED**  
**STATEMENTS OF CASH FLOWS**  
(in millions)

|  | Year-to-Date Ended |                   |
|--|--------------------|-------------------|
|  | Sept. 23,<br>2016  | Sept. 25,<br>2015 |
| <b><u>Operating activities</u></b>   |                    |                   |
| Net income (loss)  | \$ 532             | \$ (63)           |
| Less: (Income) loss from discontinued operations, net of tax   | (63)               | 416               |
| Income from continuing operations  | 469                | 353               |
| Depreciation of property, plant and equipment  | 121                | 123               |
| Amortization of intangibles and other assets   | 32                 | 32                |
| Deferred income tax provision  | 48                 | 5                 |
| Stock-based employee compensation expense  | 34                 | 35                |
| Contributions to employee savings plans in L-3 Holdings' common stock  | 92                 | 87                |
| Goodwill impairment charges  | -                  | 35                |
| Amortization of pension and postretirement benefit plans net loss and prior service cost                                       | 37                 | 50                |
| Amortization of bond discounts and deferred debt issue costs (included in interest expense)                                    | 6                  | 6                 |
| Loss related to business divestitures  | -                  | 29                |
| Other non-cash items   | 8                  | (5)               |
| Changes in operating assets and liabilities, excluding amounts from acquisitions and divestitures and discontinued operations: |                    |                   |
| Billed receivables   | (69)               | 36                |
| Contracts in process   | (193)              | (181)             |
| Inventories  | (31)               | (77)              |
| Other assets   | 21                 | (11)              |
| Accounts payable, trade  | 130                | 117               |
| Accrued employment costs   | 8                  | 41                |
| Accrued expenses   | 3                  | (34)              |
| Advance payments and billings in excess of costs incurred  | (102)              | 6                 |
| Income taxes   | -                  | (8)               |
| Other current liabilities  | (3)                | (6)               |
| Pension and postretirement benefits  | (19)               | (18)              |
| All other operating activities   | (13)               | (18)              |
| Net cash from operating activities from continuing operations  | 579                | 597               |
| <b><u>Investing activities</u></b>   |                    |                   |
| Business acquisitions, net of cash acquired  | (27)               | (260)             |
| Proceeds from the sale of businesses, net of closing date cash balances  | 561                | 308               |
| Capital expenditures   | (126)              | (137)             |
| Dispositions of property, plant and equipment  | 15                 | 2                 |
| Other investing activities   | 7                  | 5                 |
| Net cash from (used in) investing activities from continuing operations  | 430                | (82)              |
| <b><u>Financing activities</u></b>   |                    |                   |
| Borrowings under revolving credit facility   | 335                | 861               |
| Repayment of borrowings under revolving credit facility  | (335)              | (861)             |
| Redemption of senior notes   | (298)              | -                 |
| Common stock repurchased   | (326)              | (605)             |
| Dividends paid on L-3 Holdings' common stock   | (166)              | (163)             |
| Proceeds from exercise of stock options  | 49                 | 41                |
| Proceeds from employee stock purchase plan   | 23                 | 26                |
| Repurchases of common stock to satisfy tax withholding obligations   | (20)               | (33)              |
| Other financing activities   | (8)                | (1)               |
| Net cash used in financing activities from continuing operations   | (746)              | (735)             |
| Effect of foreign currency exchange rate changes on cash and cash equivalents  | (3)                | (14)              |
| Net cash (used in) from discontinued operations:   |                    |                   |
| Operating activities   | (56)               | 58                |
| Investing activities   | -                  | (4)               |
| Net cash (used in) from discontinued operations  | (56)               | 54                |
| Change in cash balance in assets held for sale   | -                  | 61                |
| Net increase (decrease) in cash and cash equivalents   | 204                | (119)             |
| Cash and cash equivalents, beginning of the period   | 207                | 442               |
| Cash and cash equivalents, end of the period   | \$ 411             | \$ 323            |

**Table E**

**L-3 COMMUNICATIONS HOLDINGS, INC.**  
**NON-GAAP FINANCIAL MEASURES**  
(in millions, except per share amounts)

|   | <b>Third Quarter Ended</b> |                           | <b>Year-to-Date Ended</b> |                           |
|---|----------------------------|---------------------------|---------------------------|---------------------------|
|   | <b>Sept. 23,<br/>2016</b>  | <b>Sept. 25,<br/>2015</b> | <b>Sept. 23,<br/>2016</b> | <b>Sept. 25,<br/>2015</b> |
| <b>Diluted EPS from continuing operations attributable to L-3 Holdings' common stockholders</b> | <b>\$ 1.88</b>             | <b>\$ 1.54</b>            | <b>\$ 5.83</b>            | <b>\$ 4.14</b>            |
| <b>EPS impact of loss on business divestitures<sup>(1)</sup></b>                                | <b>—</b>                   | <b>0.07</b>               | <b>—</b>                  | <b>0.22</b>               |
| <b>EPS impact of goodwill impairment charges<sup>(2)</sup></b>                                  | <b>—</b>                   | <b>0.42</b>               | <b>—</b>                  | <b>0.40</b>               |
| <b>Adjusted diluted EPS from continuing operations<sup>(3)</sup></b>                            | <b>\$ 1.88</b>             | <b>\$ 2.03</b>            | <b>\$ 5.83</b>            | <b>\$ 4.76</b>            |
| <b>Net income from continuing operations attributable to L-3</b>                                | <b>\$ 148</b>              | <b>\$ 125</b>             | <b>\$ 459</b>             | <b>\$ 342</b>             |
| <b>Loss on business divestitures<sup>(1)</sup></b>  | <b>—</b>                   | <b>6</b>                  | <b>—</b>                  | <b>18</b>                 |
| <b>Goodwill impairment charges<sup>(2)</sup></b>  | <b>—</b>                   | <b>34</b>                 | <b>—</b>                  | <b>34</b>                 |
| <b>Adjusted net income from continuing operations attributable to L-3<sup>(3)</sup></b>         | <b>\$ 148</b>              | <b>\$ 165</b>             | <b>\$ 459</b>             | <b>\$ 394</b>             |
| <br>  |                            |                           |                           |                           |
| (1) Loss on business divestitures   |                            | \$ (9)                    |                           | \$ (29)                   |
| Tax benefit   |                            | 3                         |                           | 11                        |
| After-tax impact  |                            | (6)                       |                           | (18)                      |
| Diluted weighted average common shares outstanding  |                            | 81.2                      |                           | 82.7                      |
| Per share impact  |                            | <u>(0.07)</u>             |                           | <u>(0.22)</u>             |
| <br>  |                            |                           |                           |                           |
| (2) Goodwill impairment charges   |                            | \$ (35)                   |                           | \$ (35)                   |
| Tax benefit   |                            | 1                         |                           | 1                         |
| After-tax impact  |                            | (34)                      |                           | (34)                      |
| Diluted weighted average common shares outstanding  |                            | 81.2                      |                           | 82.7                      |
| Per share impact <sup>(4)</sup>   |                            | <u>(0.42)</u>             |                           | <u>(0.40)</u>             |

(3) Adjusted diluted EPS is diluted EPS attributable to L-3 Holdings' common stockholders, excluding the charges or credits relating to business divestitures and non-cash goodwill impairment charges. Adjusted net income attributable to L-3 is net income attributable to L-3, excluding the charges or credits relating to business divestitures and non-cash goodwill impairment charges. These amounts are not calculated in accordance with accounting principles generally accepted in the United States of America (U.S. GAAP). The company believes that the charges or credits relating to business divestitures and non-cash goodwill impairment charges affect the comparability of the results of operations for 2015 to the results of operations and financial guidance for 2016. The company also believes that disclosing net income and diluted EPS excluding the charges or credits relating to business divestitures and non-cash goodwill impairment charges will allow investors to more easily compare the 2016 results and financial guidance to the 2015 results. However, these measures may not be defined or calculated by other companies in the same manner.

(4) Amounts may not calculate directly due to rounding.