SIFCO INDUSTRIES INC
Form 10-K
December 15, 2010

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 10-K

x **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the fiscal year ended September 30, 2010

or

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

Commission file number 1-5978

SIFCO Industries, Inc.

(Exact name of registrant as specified in its charter)

Ohio	**34-0553950**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**
970 East 64th Street, Cleveland Ohio	**44103**
(Address of principal executive offices)	**(Zip Code)**

(216) 881-8600
(Registrant s telephone number, including area code)

Securities Registered Pursuant to Section 12(b) of the Act: Common Shares, $1 Par Value — **NYSE AMEX**

(Title of each class) — **(Name of each exchange on which registered)**

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

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Exchange Act.

Yes ¨ No x

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

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 x No ¨

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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company (as defined in Rule 12b-2 of the Securities Exchange Act).

large accelerated filer ¨ accelerated filer ¨ non-accelerated filer ¨ smaller reporting company x

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

Yes ¨ No x

The aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was last sold, as of the last business day of the registrant s most recently completed second fiscal quarter is $56,346,363.

The number of the Registrant s Common Shares outstanding at October 31, 2010 was 5,258,574.

Documents incorporated by reference: Portions of the definitive Proxy Statement for the Annual Meeting of Shareholders to be held on January 20, 2011 (Part III).

PART I

Item 1. Business

A. The Company

SIFCO Industries, Inc. (SIFCO or Company), an Ohio corporation, was incorporated in 1916. The executive offices of the Company are located at 970 East 64th Street, Cleveland, Ohio 44103, and its telephone number is (216) 881-8600.

The Company is engaged in the production and sale of a variety of metalworking processes, services and products produced primarily to the specific design requirements of its customers. The processes and services include forging, heat-treating, coating, welding, machining, and selective electrochemical finishing. The products include forged components, machined forged parts and other machined metal components, remanufactured component parts for aerospace turbine engines, and selective electrochemical finishing solutions and equipment. The Company s operations are conducted in three business segments: (i) Aerospace Component Manufacturing Group, (ii) Turbine Component Services and Repair Group and (iii) Applied Surface Concepts Group.

B. Principal Products and Services

1. Aerospace Component Manufacturing Group

The Aerospace Component Manufacturing Group (ACM Group) has a single operation in Cleveland, Ohio. This segment of the Company s business consists principally of the manufacture of forged components for aerospace applications. As a part of the ACM Group s manufacturing process, the business performs forging, heat-treating and precision component machining.

Operations

The Company s ACM Group is a manufacturer of forged components with capability ranging in size from 2 to 1,100 pounds (depending on configuration and alloy), primarily in various steel and titanium alloys, utilizing a variety of processes for applications principally in the aerospace industry. The ACM Group s forged products include: original equipment manufacturers (OEM) and aftermarket components for aircraft and land-based turbine engines; structural airframe components; aircraft landing gear components; wheels and brakes; critical rotating components for helicopters; and commercial/industrial products. The ACM Group also provides heat-treatment, surface-treatment, non-destructive testing and select machining of forged components.

The ACM Group generally has multiple sources for its raw materials, which consist primarily of high quality metals essential to this business. Suppliers of such materials are located throughout North and South America and Europe. The ACM Group generally does not depend on a single source for the supply of its materials. Due to the scarcity of certain raw materials, some material is provided by a limited number of suppliers; however, the ACM Group believes that its sources are adequate for its business. The business is ISO 9001:2000 registered and AS 9100:2001 certified. In addition, the ACM Group s chemical etching/milling, non-destructive testing, and heat-treating facilities are NADCAP (National Aerospace and Defense Contractors Accreditation Program) accredited.

Industry

The performance of the domestic and international air transport industry as well as government defense spending directly and significantly impact the performance of the ACM Group. The air transport industry s long-term outlook is for continued, steady growth. Such outlook suggests the need for additional aircraft and, therefore, growth in the requirement for airframe and turbine engine components. After the more recent periods of negative operating results in the global commercial airline industry that was due in large part to the global economic downturn, the financial condition of the global commercial airline industry has improved. This improvement is due to strong demand in both air freight and passenger traffic resulting principally from improvements in both business and consumer confidence levels, which improvements can be attributed to the subsiding of the global economic downturn. The air transport industry has recently benefited from several favorable trends, including: (i) projected growth in air traffic, (ii) major replacement and refurbishment cycles driven by the desire for more fuel efficient aircraft and fleet commonality and (iii) relatively stable fuel prices. There has been recent improvement in aircraft capacity utilization due to the increase in air freight and passenger traffic, which is driving demand for additional capacity. Aircraft capacity is returning to the market at about the same pace as the growth in demand for such capacity. The ACM Group believes this pattern should continue with the long-term steady growth projected by the air transport industry. The ACM Group also supplies new and spare components for military aircraft, including helicopters. Military spending has continued to be strong and level in recent years. As a result of military initiatives, there has been continuing demand for both new and spare components for military customers. The ACM Group s current outlook for the air transport industry is cautiously optimistic

while the military segment remains

stable, yet subject to potential changes in defense spending decisions. It is difficult to determine at this time what the long-term impact of these factors may be on the demand for products provided by the ACM Group. Lack of continued improvement in the global economy could result in credit risk associated with serving the airlines and/or their suppliers. However, the ACM Group believes that it is poised to take advantage of improvement in order demand from the commercial airframe and engine manufacturers if and when it may occur.

Competition

While there has been some consolidation in the forging industry, the ACM Group believes there is limited opportunity to increase prices, other than for the pass-through of raw material steel and titanium alloys price increases. The ACM Group believes, however, that its demonstrated aerospace expertise along with focus on quality, customer service, SMART (Streamlined Manufacturing Activities to Reduce Time/Cost) initiatives, as well as offering a broad range of capabilities provide it with an advantage in the primary markets it serves. The ACM Group competes with both U.S. and non-U.S. suppliers of forgings, some of which are significantly larger than the ACM Group. As customers establish new facilities throughout the world, the ACM Group will continue to encounter non-U.S. competition. The ACM Group believes it can expand its markets by (i) broadening its product lines through investment in equipment that expands its manufacturing capabilities and (ii) developing new customers in markets whose participants require similar technical competence and service (as the aerospace industry) and are willing to pay a premium for quality.

Customers

During fiscal 2010, the ACM Group had two customers, various business units of Rolls-Royce Corporation and United Technologies Corporation, which accounted for 24% and 12%, respectively, of the ACM Group s net sales. The net sales to these two customers, and the direct subcontractors to these two customers, accounted for 66% of the ACM Group s net sales in fiscal 2010. The ACM Group believes that the loss of sales to such customers would result in a materially adverse impact on the business and income of the ACM Group. However, the ACM Group has maintained a business relationship with these customers for well over ten years and is currently conducting business with some of them under multi-year agreements. Although there is no assurance that this will continue, historically as one or more major customers have reduced their purchases, the ACM Group has generally been successful in replacing such reduced purchases, thereby avoiding a material adverse impact on the ACM Group. The ACM Group attempts to rely on its ability to adapt its services and operations to changing requirements of the market in general and its customers in particular. No material part of the ACM Group s business is seasonal.

Backlog of Orders

The ACM Group s backlog as of September 30, 2010 increased to $71.2 million, of which $55.0 million is scheduled for delivery during fiscal 2011, compared with $70.6 million as of September 30, 2009, of which $52.1 million was scheduled for delivery during fiscal 2010. All orders are subject to modification or cancellation by the customer with limited charges. Delivery lead times for certain raw materials (e.g. aerospace grades of steel and titanium alloy) continue to lengthen due to increased demand and the ACM Group believes that such lead time increase may ultimately result in a fundamental shift in the ordering pattern of its customers. The ACM Group believes that a likely consequence of such a shift is that customers may be placing orders further in advance than they more recently did, which may result in an increase, relative to comparable prior year periods, in the ACM Group s backlog. Accordingly, such backlog increase, to the extent it may occur, is not necessarily indicative of actual sales expected for any succeeding period. Due principally to the overall weak global economic conditions and the related impact such conditions have continued to have on commercial aviation, the ACM Group continued to experience a decrease in fiscal 2010, in orders for products that principally support commercial aircraft.

2. Turbine Component Services and Repair Group

The Company s Turbine Component Services and Repair Group (Repair Group) has a single operation in Minneapolis, Minnesota. This segment of the Company s business consists principally of the repair and remanufacture of small aerospace turbine engine components. As a part of the repair and remanufacture process, the business performs precision component machining and applies high temperature-resistant coatings to turbine engine components.

Operations

The Repair Group requires the procurement of licenses/authority, which certifies that the Repair Group has obtained approval to perform certain proprietary repair processes. Such approvals are generally specific to an engine and its components, a repair process, and a repair facility/location. Without possession of such approvals, a company would be

precluded from competing in the aerospace turbine engine component repair business. Approvals are issued by either the original equipment manufacturers (OEM) of aerospace turbine engines or the Federal Aviation Administration (FAA).

In general, the Company considers aerospace turbine engines that (i) possess a thrust of less than 17,500 pounds and/or (ii) are used to power aircraft that carry fewer than 100 passengers, to be small aerospace turbine engines. Historically, the Repair Group has elected to procure approvals primarily from the OEMs and currently maintains proprietary repair process approvals issued by certain of the primary small engine OEMs (e.g. Pratt & Whitney Canada, Rolls-Royce, Turbomeca, and Hamilton Sundstrand). In exchange for being granted an OEM approval, the Repair Group is obligated, in most cases, to pay royalties to the OEM for each type of component repair that it performs utilizing the OEM-approved proprietary repair process. The Repair Group continues to be successful in procuring FAA repair process approvals. There is generally no royalty payment obligation associated with the use of a repair process approved by the FAA. To procure an OEM or FAA approval, the Repair Group is required to demonstrate its technical competence in the process of repairing such turbine engine components.

The development of remanufacturing and repair processes is an ordinary part of the Repair Group s business. The Repair Group continues to invest time and money on research and development activities. The Company s research and development activities in repair processes and high temperature-resistant coatings applied to super-alloy materials have applications in the small aerospace turbine engine markets. Operating costs related to such activities are expensed during the period in which they are incurred. The Repair Group s research and development expense was $0.4 million in both fiscal 2010 and 2009.

The Repair Group generally has multiple sources for its raw materials, which consist primarily of investment castings and industrial coating materials essential to this business. Certain items are procured directly from the OEM, or from OEM-certified suppliers, to satisfy repair process requirements. Suppliers of such materials are located throughout North America and Europe. Although certain raw materials may be provided by a limited number of suppliers, the Repair Group generally does not depend on a single source for the supply of its materials and management believes that its sources are adequate for its business.

Industry

The performance of the air transport industry directly and significantly impacts the performance of the Repair Group. The air transport industry s long-term outlook is for continued, steady growth. Such outlook suggests the need for additional aircraft and, therefore, growth in the requirement for aerospace turbine engines and related engine repairs. After the more recent periods of negative operating results in the global commercial airline industry that was due in large part to the global economic downturn, the financial condition of the global commercial airline industry has improved. This improvement is due to strong demand in both air freight and passenger traffic resulting principally from improvements in both business and consumer confidence levels, which improvements can be attributed to the subsiding of the global economic downturn. The air transport industry has recently benefited from several favorable trends, including: (i) projected growth in air traffic, (ii) the beginning of major replacement and refurbishment cycles driven by the desire for more fuel efficient aircraft and fleet commonality and (iii) relatively stable fuel prices. It is difficult to determine at this time what the long-term impact of these factors may be on air travel and the demand for products and services provided by the Repair Group. However, a lack of continued improvement in the global economy could result in further reduced demand for the products and services that the Repair Group provides. Management s current outlook for the air transport industry continues to remain cautiously optimistic in the near term.

Competition

In recent years, while the absolute number of competitors has decreased as a result of industry consolidation and vertical integration, competition in the turbine engine component repair business has nevertheless increased, principally due to the increased direct involvement of the aerospace turbine engine manufacturers in the turbine engine overhaul and component repair businesses. With the presence of the OEMs in the market, there has been a general reluctance on the part of the OEMs to issue, to independent component repair companies, approvals for the repair of their newer model engines and related components. The Company believes that the Repair Group will, more likely than not, become more dependent in the future on (i) its ability to successfully procure and market FAA approved licenses and related repair processes and/or (ii) close collaboration with engine manufacturers.

Customers

The identity and ranking of the Repair Group s principal customers can vary from year to year. The Repair Group attempts to rely on its ability to adapt its services and operations to changing requirements of the market in general and its customers in particular, rather than relying on high volume production of a particular item or group of items for a particular customer

or customers. During fiscal 2010, the Repair Group had three customers, consisting of various business units of Safran Group, United Technologies Corporation, and Rolls-Royce Corporation, which accounted for 29%, 24% and 17%, respectively, of the Repair Group s net sales. Although there is no assurance that this will continue, historically as one or more major customers have reduced their purchases, the business has generally been successful in replacing such reduced purchases, thereby avoiding a material adverse impact on the business. No material part of the Repair Group s business is seasonal.

Backlog of Orders

The Repair Group s backlog as of September 30, 2010 decreased to $3.1 million, of which $1.8 million is scheduled for delivery during fiscal 2011 and $1.3 million is on hold, compared with $3.4 million as of September 30, 2009, of which $2.3 million was scheduled for delivery during fiscal 2010 and $1.1 million was on hold. All orders are subject to modification or cancellation by the customer with limited charges. The Repair Group believes that the backlog may not necessarily be indicative of actual sales for any succeeding period.

3. Applied Surface Concepts Group

The Company s Applied Surface Concepts Group (ASC Group) provides surface enhancement technologies principally related to selective electrochemical finishing and anodizing. Principal product offerings include (i) the development, production and sale of metal plating solutions and equipment required for selective electrochemical finishing and (ii) providing selective electrochemical finishing contract services.

Operations

Selective electrochemical finishing of a component is done without the use of an immersion tank. A wide variety of pure metals and alloys, principally determined by the customer s design requirements, can be used for applications including corrosion protection, wear resistance, anti-galling, increased lubricity, increased hardness, increased electrical conductivity, and re-sizing. SIFCO Process® metal solutions include: cadmium, cobalt, copper, nickel, tin and zinc. In addition, precious metal solutions such as gold, iridium, palladium, platinum, rhodium, and silver are also provided to customers. The ASC Group has also developed a number of alloy-plating solutions such as a nickel-cobalt solution that can be used as a more environmentally friendly replacement for a chromium plating solution, or a zinc-nickel solution that can be used as a more environmentally friendly replacement for a cadmium plating solution. In fiscal 2010, the ASC Group completed development of a new aluminum anodizing seal and a conversion coating solution as replacements for hexavalent chromium solutions.

The ASC Group can either (i) supply selective electrochemical finishing chemicals and equipment to customers desiring to perform selective electrochemical finishing in-house or (ii) provide manual or semi-automated contract selective electrochemical finishing services at either the customer s site or at one of the Group s facilities. The Group operates four U.S. facilities in geographic areas strategically located in proximity to its major customers (Cleveland, Ohio / Hartford, Connecticut / Norfolk, Virginia / Houston, Texas) and three in Europe (Birmingham, England / Paris, France / Rattvik, Sweden). The scope of selective electrochemical finishing work includes part salvage and repair, part refurbishment, and new part enhancement. Selective electrochemical finishing solutions are produced in the Cleveland, Ohio and Birmingham, England facilities.

The ASC Group generally has multiple sources for its raw materials, which consist primarily of industrial chemicals and metal salts and, therefore, does not depend on a single source for the supply of key raw materials. Management believes that its sources of raw materials are adequate to support its business.

The ASC Group maintains recognized industry brand names including: SIFCO Process®, Dalic®, USDL® and Selectron®, all of which are specified in military and industrial specifications. The ASC Group s manufacturing operations have ISO 9001:2008 and AS 9100B certifications. In addition, two of its facilities are NADCAP (National Aerospace and Defense Contractors Accreditation Program) certified. Two of the service centers are FAA approved repair shops. Other ASC Group approvals include ABS (American Bureau of Ships), ARR (American Railroad Registry), JRS (Japan Registry of Shipping), and KRS (Korean Registry of Shipping).

Industry

Selective electrochemical finishing occupies a niche within the broader metal finishing industry. The ASC Group s selective electrochemical finishing process is used to provide functional, engineered finishes rather than decorative finishes, and it serves many markets including aerospace, medical, electric power generation, and oil and gas. In its planning and

decision making processes, management of the ASC Group monitors and evaluates precious metal prices, global manufacturing activity, internal labor capacity, technological developments in surface enhancement, and the exploration and production activities relative to oil and gas products. The diversity of industries served helps to mitigate the impact of economic cycles on the ASC Group.

Competition

Although the Company believes that the ASC Group is the world s largest selective electrochemical finishing company, there are several companies globally that manufacture and sell selective electrochemical finishing solutions and equipment and/or provide contract selective electrochemical finishing services. The ASC Group seeks to differentiate itself through its technical support and research and development capabilities. The ASC Group also competes with other surface enhancement technologies such as welding and metal spray.

Customers

The ASC Group has a customer base of over 1,000 customers. However, approximately 10 customers, who operate in a variety of industries, accounted for approximately 25% of the ASC Group s fiscal 2010 net sales. No material part of the ASC Group s business is seasonal.

Backlog of Orders

Due to the nature of its business (i.e. shorter lead times for its products and services) the ASC Group had no material backlog at September 30, 2010 and 2009.

4. General

For financial information concerning the Company s reportable segments see Management s Discussion and Analysis of Financial Condition and Results of Operations included in Item 7 and Note 12 to consolidated financial statements included in Item 8.

C. Environmental Regulations

In common with other companies engaged in similar businesses, the Company is required to comply with various laws and regulations relating to the protection of the environment. The costs of such compliance have not had, and are not presently expected to have, a material effect on the capital expenditures, earnings or competitive position of the Company and its subsidiaries under existing regulations and interpretations.

D. Employees

The number of the Company s employees decreased from approximately 310 at the beginning of fiscal 2010 to approximately 300 employees at the end of fiscal 2010. The Company is party to a collective bargaining agreement with certain employees located at its ACM Group s Cleveland, Ohio facility. The ACM Group s union contract expires in May 2015 (effective since May 2010). The Company was also party to a collective bargaining agreement with certain employees located at its Repair Group s Minneapolis, Minnesota facility that expired in July 2009 and was extended for 60 days until September 2009. As of September 30, 2010 the Repair Group is operating without a collective bargaining agreement. Management considers its relations with the Company s employees to be good.

E. Non-U.S. Operations

The Company s products and services are distributed and performed in U.S. as well as non-U.S. markets. The Company commenced its operations in the United Kingdom and France as a result of an acquisition of a business in 1992. The Company commenced its operations in Sweden as a result of an acquisition of a business in 2006. Wholly-owned subsidiaries operate the Company s service and distribution facilities in the United Kingdom, France and Sweden.

Financial information about the Company s U.S. and non-U.S. operations is set forth in Note 12 to the consolidated financial statements included in Item 8.

As of September 30, 2010, a portion of the Company s cash and cash equivalents and short-term investments are in the possession of its non-U.S. subsidiaries and relate to undistributed earnings of these non-U.S. subsidiaries. Distributions

from the Company s non-U.S. subsidiaries to the Company may be subject to statutory restrictions, adverse tax consequences or other limitations.

Item 2. Properties

The Company s property, plant and equipment include the facilities described below and a substantial quantity of machinery and equipment, most of which consists of industry specific machinery and equipment using special jigs, tools and fixtures and in many instances having automatic control features and special adaptations. In general, the Company s property, plant and equipment are in good operating condition, are well maintained and substantially all of its facilities are in regular use. The Company considers its investment in property, plant and equipment as of September 30, 2010 suitable and adequate given the current product offerings for the respective business segments operations in the current business environment. The square footage numbers set forth in the following paragraphs are approximations:

The Repair Group operates a single, owned facility in Minneapolis, Minnesota with a total of 59,000 square feet and is involved in the repair and remanufacture of small aerospace turbine engine components.

The ACM Group operates in a single, owned 240,000 square foot facility located in Cleveland, Ohio. This facility is also the site of the Company s corporate headquarters.

The ASC Group is headquartered in an owned 34,000 square foot facility in Cleveland, Ohio. The Group leases space aggregating 52,000 square feet for sales offices and/or for its contract selective electrochemical finishing services in Norfolk, Virginia; Hartford, Connecticut; Houston, Texas; Paris, France; and Birmingham, England. The ASC Group also operates in an owned 3,000 square foot facility in Rattvik, Sweden.

The Company owns a building located in Cork, Ireland (59,000 square feet) that is subject to a long-term lease arrangement with the acquirer of the Repair Group s industrial turbine engine component repair business that was sold in fiscal 2007.

Item 3. Legal Proceedings

In the normal course of business, the Company may be involved in ordinary, routine legal actions. The Company cannot reasonably estimate future costs, if any, related to these matters and does not believe any such matters are material to its financial condition or results of operations. The Company maintains various liability insurance coverages to protect its assets from losses arising out of or involving activities associated with ongoing and normal business operations; however, it is possible that the Company s future operating results could be affected by future cost of litigation.

PART II

Item 5. Market for Registrant s Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

The Company s Common Shares are traded on the NYSE AMEX exchange (NYSE AMEX) under the symbol SIF . The following table sets forth, for the periods indicated, the high and low closing sales price for the Company s Common Shares.

	Years Ended September 30,			
	2010		2009	
	High	Low	High	Low
First Quarter	$ 16.25	$ 13.18	$ 7.85	$ 4.10
Second Quarter	17.07	12.30	7.60	4.92
Third Quarter	17.25	10.11	11.37	5.94
Fourth Quarter	12.13	9.40	14.76	9.34

Dividends and Shares Outstanding

The Company declared a special cash dividend of $0.15 per Common Share in fiscal 2010 but does not necessarily anticipate paying regular dividends on an annual basis in the future. The Company currently intends to retain all of its earnings for the operation and growth of its

businesses. The Company s ability to declare or pay cash dividends is limited by its credit agreement covenants. At October 31, 2010, there were approximately 664 shareholders of record of the Company s Common Shares, as reported by Computershare, Inc., the Company s Transfer Agent and Registrar, which maintains its U.S. corporate offices at 250 Royall Street, Canton, MA 02021.

Common Share Repurchase

During fiscal 2010, the Company invested $0.7 million to repurchase 66,093 common shares under a stock repurchase program initiated in June 2010, at which time the Company indicated that it was prepared to invest up to $1.0 million to repurchase its shares. The common shares were repurchased (i) during the period from June 7, 2010 through September 13, 2010, (ii) at a price range of $9.88 to $10.99 per share and (iii) at an average volume of 1,120 common shares per day transacted.

Reference Part III, Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters for information related to the Company s equity compensation plans.

Item 6. Selected Financial Data

The following table sets forth selected consolidated financial data of the Company. The data presented below should be read in conjunction with the audited consolidated financial statements and notes to consolidated financial statements included in Item 8.

	Years Ended September 30,				
	2010	**2009**	**2008**	**2007**	**2006**
	(Amounts in thousands, except per share data)				
Statement of Operations Data					
Net sales	**$ 83,270**	$ 93,888	$ 101,391	$ 87,255	$ 68,606
Income (loss) from continuing operations before income tax provision	**8,394**	12,327	8,820	10,255	(35)
Income tax provision	**3,032**	4,480	3,277	1,483	14
Income (loss) from continuing operations	**5,362**	7,847	5,543	8,772	(49)
Income (loss) from continuing operations per share (basic)	**1.01**	1.48	1.05	1.67	(0.01)
Income (loss) from continuing operations per share (diluted)	**1.00**	1.47	1.04	1.66	(0.01)
Income (loss) from discontinued operations, net of tax		188	287	(2,044)	1,009
Net income	**5,362**	8,035	5,830	6,728	960
Net income per share (basic)	**1.01**	1.52	1.10	1.28	0.18
Net income per share (diluted)	**1.00**	1.51	1.09	1.27	0.18
Cash dividends per share	**0.15**	0.10			
Shares Outstanding at Year End	**5,259**	5,298	5,295	5,281	5,222
Balance Sheet Data					
Working capital	**$ 35,632**	$ 35,540	$ 34,315	$ 32,350	$ 15,011
Property, plant and equipment, net	**20,749**	16,940	10,253	10,570	14,059
Total assets	**69,650**	65,770	60,149	60,889	48,775
Long-term debt, net of current maturities	**35**	154	269	2,986	427
Other long-term liabilities	**6,883**	6,207	2,450	1,958	5,838
Total shareholders equity	**48,039**	45,245	40,679	36,778	25,183
Shareholders equity per share	**9.13**	8.54	7.68	6.96	4.82
Financial Ratios					
Return on beginning shareholders equity	**11.9%**	19.8%	15.9%	26.7%	4.3%
Long-term debt to equity percent	**0.1%**	0.3%	0.7%	8.1%	1.7%
Current ratio	**3.9**	3.9	3.6	3.1	1.9

Item 7. Management s Discussion and Analysis of Financial Condition and Results of Operations

This Form 10-K, including Management s Discussion and Analysis of Financial Condition and Results of Operations, may contain various forward-looking statements and includes assumptions concerning the Company s operations, future results and prospects. These forward-looking statements are based on current expectations and are subject to risk and uncertainties. In connection with the safe harbor provisions of the Private Securities Litigation Reform Act of 1995, the Company provides this cautionary statement identifying important economic, political and technological factors, among others, the absence or effect of which could cause the actual results or events to differ materially from those set forth in or implied by the forward-looking statements and related assumptions. Such factors include the following: (1) the impact on business conditions, and on the demand for product in the aerospace industry in particular, of the global economic downturn, including the reduction in available capital and liquidity from banks and other providers of credit; (2) future business environment, including capital and consumer spending; (3) competitive factors, including the ability to replace business which may be lost; (4) successful development of turbine component repair processes and/or procurement of new repair process licenses from turbine engine manufacturers and/or the Federal Aviation Administration; (5) metals and commodities price increases and the Company s ability to recover such price increases; (6) successful development and market introduction of new products and services (7) regressive pricing pressures on the Company s products and services, with productivity improvements as the primary means to maintain margins; (8) continued reliance on consumer acceptance of regional and business aircraft powered by more fuel efficient turboprop engines; (9) continued reliance on military spending, in general, and/or several major customers, in particular, for revenues; (10) the impact on future contributions the Company s defined benefit pension plans due to changes in actuarial assumptions, government regulations and the market value of plan assets; and (11) stable governments, business conditions, laws, regulations and taxes in economies where business is conducted.

The Company and its subsidiaries engage in the production and sale of a variety of metalworking processes, services and products produced primarily to the specific design requirements of its customers. The processes and services include forging, heat-treating, coating, welding, precision component machining, and selective electrochemical metal finishing. The products include forged components, machined forged components, other machined metal components, remanufactured component parts for turbine engines, and selective electrochemical finishing solutions and equipment. The Company s operations are conducted in three business segments: (1) Aerospace Component Manufacturing Group, (2) Turbine Component Services and Repair Group, and (3) Applied Surface Concepts Group. The Company endeavors to plan and evaluate its businesses operations while taking into consideration certain factors including the following (i) the projected build rate for commercial, business and military aircraft as well as the engines that power such aircraft, (ii) the projected maintenance, repair and overhaul schedules for commercial, business and military aircraft as well as the engines that power such aircraft, and (iii) anticipated exploration and production activities relative to oil and gas products, etc.

A. Results of Operations

1. Fiscal Year 2010 Compared with Fiscal Year 2009

Net sales in fiscal 2010 decreased 11.3% to $83.3 million, compared with $93.9 million in fiscal 2009. Income from continuing operations in fiscal 2010 was $5.4 million, compared with $7.8 million in fiscal 2009. Included in the $5.4 million of income from continuing operations in fiscal 2010 was LIFO expense of $0.2 million. Included in the $7.8 million of income from continuing operations in fiscal 2009 was LIFO income of $1.6 million. Income from discontinued operations, net of tax, was $0.2 million in fiscal 2009. Net income in fiscal 2010 was $5.4 million, compared with $8.0 million in fiscal 2009.

Aerospace Component Manufacturing Group (ACM Group)

Net sales in fiscal 2010 decreased 9.5% to $62.1 million, compared with $68.6 million in fiscal 2009. For purposes of the following discussion, the ACM Group considers aircraft that can accommodate less than 100 passengers to be small aircraft and those that can accommodate 100 or more passengers to be large aircraft. The ACM Group produces turbine engine components for small aircraft such as business and regional jets, military transport and surveillance aircraft. Turbine engine components are also produced for armored military vehicles powered by small turbine engines. Net sales comparative information for fiscal 2010 and 2009, respectively, is as follows:

Net Sales	Year Ended September 30, 2010	2009	Increase (Decrease)
Airframe components for small aircraft	**$ 36.3**	$ 38.5	$ (2.2)
Small turbine engine components	**20.7**	21.0	(0.3)
Airframe components for large aircraft	**3.4**	4.6	(1.2)
Turbine engine components for large aircraft	**0.8**	2.2	(1.4)
Commercial product sales and other revenue	**0.9**	2.3	(1.4)
Total	**$ 62.1**	$ 68.6	$ (6.5)

The decrease in net sales of airframe components for both small and large aircraft, as well as turbine engine components for large aircraft, during fiscal 2010, compared with fiscal 2009, is principally due to a decrease in the sales volumes of such components to customers. Such volume declines were caused by the overall weak global economic conditions that resulted in reduced build rates of commercial aircraft. The decrease in net sales of small turbine engine components during fiscal 2010, compared with fiscal 2009, is primarily attributable to declines in the production and delivery of armored military vehicles that are powered by small turbine engines. This decrease is partially offset by an increase in sales of turbine engine components for small aircraft such as military transport and surveillance aircraft. The decline in commercial product net sales is due to volume decline caused by the overall weak global economic conditions.

The ACM Group s airframe and turbine engine component products have both military and commercial applications. Net sales of such components that solely have military applications were $33.9 million in fiscal 2010, compared with $35.0 million in fiscal 2009. Ongoing wartime demand, such as for additional military helicopters and related replacement components, is the primary driver of net sales of the components that have military applications, as well as net sales of components that have both military and commercial applications.

The ACM Group s selling, general and administrative expenses decreased $0.1 million to $4.1 million, or 6.5% of net sales, in fiscal 2010, compared with $4.2 million, or 6.1% of net sales, in fiscal 2009. The decrease in selling, general and administrative expenses is principally due to (i) lower variable selling expenses as a result of both lower net sales and lower sales representative commission rates as well as (ii) lower expenses associated with uncollectible accounts receivable in fiscal 2010, compared with fiscal 2009. This was partially offset by higher employee incentive expense and consulting costs related to the implementation of a company-wide management information system.

The ACM Group s operating income decreased $3.5 million to $9.9 million in fiscal 2010, compared with $13.4 million in fiscal 2009. The following is a comparison of operating income on both a LIFO and FIFO basis:

Operating Income	Year Ended September 30, 2010	2009	Increase (Decrease)
Operating income	**$ 9.9**	$ 13.4	$ (3.5)
LIFO expense (income)	**0.2**	(1.6)	1.8
Operating income without LIFO expense (income)	**$ 10.1**	$ 11.8	$ (1.7)

Operating income was negatively impacted to a modest degree by the raw material component of manufacturing costs being approximately 40.4% of net sales in fiscal 2010, compared with 39.9% of net sales in fiscal 2009, due primarily to product mix.

Operating income in fiscal 2010, compared with fiscal 2009, was negatively impacted by lower production levels, due to lower net sales volumes. The lower production levels resulted in the ACM Group s fixed manufacturing cost structure being allocated to fewer units of production resulting in higher per unit overhead expenses. This negative impact was partially offset by the following changes in certain other components of the ACM Group s manufacturing expenditures in fiscal 2010, compared with fiscal 2009:

Manufacturing expenditures	Year Ended September 30, 2010	2009	Increase (Decrease)
Overhead:			
Utilities	**$ 3.4**	$ 4.2	$ (0.8)
Repairs, maintenance and supplies	**2.7**	3.1	(0.4)
Depreciation	**1.0**	0.8	0.2
Tooling	**1.2**	1.6	(0.4)

Manufacturing costs benefited in fiscal 2010, compared with fiscal 2009, from (i) a 21.3% decline in the ACM Group s price paid for natural gas as a result of global economic conditions, (ii) a 9.4% decline in the volume of natural gas consumed as a result of the aforementioned lower production levels, and (iii) a decrease in expenditures for repairs and maintenance and production supplies also due primarily to the lower production levels. Depreciation expense was higher in fiscal 2010, compared with fiscal 2009, due to the effect of recent capital expenditures for equipment.

Turbine Component Services and Repair Group (Repair Group)

During fiscal 2010, net sales, which consist principally of component repair services (including precision component machining and industrial coating) for small aerospace turbine engines, decreased 22.5% to $8.9 million, compared with $11.5 million in fiscal 2009. The Repair Group s decrease in net sales volumes is due to (i) a component repair program being on hold subject to the original equipment manufacturer s (OEM) evaluation / redesign of the repair, (ii) the overall weak global economic conditions and (iii) a larger customer consolidating its sources for component repair.

During fiscal 2010, the Repair Group s selling, general and administrative expenses were $1.2 million, or 13.8% of net sales, compared with $1.3 million, or 11.0% of net sales, in fiscal 2009.

The Repair Group s operating results were essentially breakeven in fiscal 2010, compared with an operating income of $0.1 million in fiscal 2009. A decrease in operating income principally attributable to the negative impact on margins from decreased sales volumes that occurred in fiscal 2010, compared to fiscal 2009, was partially offset by lower manufacturing labor and benefits costs due to a reduction in manufacturing employee wage rates and benefit levels.

Applied Surface Concepts Group (ASC Group)

Net sales in fiscal 2010 decreased 10.8% to $12.2 million, compared with $13.7 million in fiscal 2009. For purposes of the following discussion, (i) product net sales consist of selective electrochemical metal finishing equipment and solutions and (ii) contract service net sales consist of customized selective electrochemical metal finishing services. Net sales comparative information for fiscal 2010 and 2009, respectively, is as follows:

Net Sales	Year Ended September 30, 2010	2009	Increase (Decrease)
Product	**$ 6.1**	$ 7.0	$ (0.9)
Contract service	**5.9**	6.5	(0.6)
Other	**0.2**	0.2	
Total	**$ 12.2**	$ 13.7	$ (1.5)

The decrease in product net sales in fiscal 2010 is primarily due to the loss of two (2) customers, one due to a product redesign and the other due to a change in its production methods. Partially offsetting these declines in product net sales is an increase in product net sales to customers in the aerospace industry. The overall weak global economic conditions, particularly a decrease in demand from the ASC Group s customers in the oil /gas and the power generation industries, negatively impacted contract service net sales in fiscal 2010, compared with fiscal 2009. A portion of the ASC Group s business is conducted in Europe and is denominated in local European currencies. Fluctuations in the exchange rates between the local European currencies and the U.S. dollar did not have a significant impact on net sales in fiscal 2010.

The ASC Group s selling, general and administrative expenses were $4.4 million, or 36.1% of net sales, in fiscal 2010, compared with $4.2 million, or 30.3% of net sales in fiscal 2009. The increase in selling, general and administrative expenses is principally attributable to (i) higher depreciation and consulting costs related to the implementation of a

company-wide management information system during fiscal 2010; (ii) higher expenses associated with uncollectible accounts receivable; and (iii) higher sales and marketing expenses. These increases were partially offset by decreases in expenditures for legal and professional services, incentive and research and development.

The ASC Group s operating income in fiscal 2010 was $0.2 million, compared with $0.8 million in fiscal 2009. The decrease in operating income is principally due to the negative impact on margins from decreased net sales volumes that occurred in fiscal 2010, compared with fiscal 2009, without a corresponding decrease in selling, general and administrative expenses. This negative impact was partially offset by the following changes in certain other components of the ASC Group s operating expenditures in fiscal 2010, compared with fiscal 2009:

	Year Ended September 30,		Increase
Operating expenditures	**2010**	**2009**	**(Decrease)**
Material	**$ 2.2**	$ 3.2	$ (1.0)
Compensation and benefits	**2.8**	3.0	(0.2)

Operating costs benefited in fiscal 2010, compared with fiscal 2009, from (i) a decline in the ASC Group s material cost due primarily to the aforementioned decline in product sales and a product mix change away from products that contain precious metals and (ii) a decrease in expenditures for compensation and benefits due primarily to lower healthcare costs and a reduction in the number of employees.

Corporate Unallocated Expenses

Corporate unallocated expenses, consisting of corporate salaries and benefits, legal and professional and other expenses that are not related to and, therefore, not allocated to the business segments, were $2.2 million in fiscal 2010, compared with $1.9 million in fiscal 2009 principally due to the following changes in certain components of these expenses:

	Year Ended September 30,		Increase
Corporate Unallocated Expenses	**2010**	**2009**	**(Decrease)**
Compensation and benefit expenses	**$ 1.0**	$ 0.8	$ 0.2
Consulting expenses	**0.3**		0.3
Ireland facility expenses	**0.2**	0.4	(0.2)

The increase in corporate unallocated expenses in fiscal 2010 compared to the same period in fiscal 2009 is principally due to (i) higher consulting expenses associated with the Company s Chief Executive Officer (full year in fiscal 2010) and (ii) an increase in compensation and related benefit expenses due principally to higher incentive compensation and salary retirement plan expenses. These expenses were partially offset by a decrease in depreciation expense related to the activity of leasing the Cork, Ireland facility. Such activity was included in discontinued operations during the first nine months of fiscal 2009, the period during which such facility was classified as held for sale. In the fourth quarter of fiscal 2009, such facility was no longer classified as held for sale and, therefore, a $0.2 million higher aggregate depreciation expense was recorded to account for both fiscal 2009 depreciation expense as well as prior period catch-up depreciation.

Other/General

Interest expense was nominal in both fiscal 2010 and 2009 principally because there were no amounts outstanding under the Company s revolving credit agreement during either period.

Other income, net consists principally of $0.4 million of rental income earned from the lease of the Cork, Ireland facility.

The Company believes that inflation did not materially affect its results of operations in either fiscal 2010 or 2009, and does not expect inflation to be a significant factor in fiscal 2011.

2. Fiscal Year 2009 Compared with Fiscal Year 2008

Net sales in fiscal 2009 decreased 7.4% to $93.9 million, compared with $101.4 million in fiscal 2008.

Income from continuing operations in fiscal 2009 was $7.8 million, compared with $5.5 million in fiscal 2008. Included in the $7.8 million of income from continuing operations in fiscal 2009 was LIFO income of $1.6 million. Included in the $5.5 million of income from continuing operations in fiscal 2008 was (i) $0.5 million of expense related to an amicable business settlement of a product dispute that originated in fiscal 2007, (ii) $0.8 million of expense related to the impairment of a long-lived asset and (iii) LIFO expense of $1.7 million. Income from discontinued operations, net of tax, was $0.2 million in fiscal 2009, compared with $0.3 million in fiscal 2008. Net income in fiscal 2009 was $8.0 million, compared with $5.8 million in fiscal 2008.

Aerospace Component Manufacturing Group (ACM Group)

Net sales in fiscal 2009 decreased 4.6% to $68.6 million, compared with $72.0 million in fiscal 2008. For purposes of the following discussion, the ACM Group considers aircraft that can accommodate less than 100 passengers to be small aircraft and those that can accommodate 100 or more passengers to be large aircraft. Net sales of airframe components for small aircraft increased $0.3 million to $38.5 million in fiscal 2009, compared with $38.2 million in fiscal 2008. Net sales of turbine engine components for small aircraft, which consist primarily of business and regional jets, as well as military transport and surveillance aircraft, increased $1.1 million to $21.0 million in fiscal 2009, compared with $19.9 million in fiscal 2008. Net sales of airframe components for large aircraft decreased $3.0 million to $4.6 million in fiscal 2009, compared with $7.6 million in fiscal 2008. Net sales of turbine engine components for large aircraft decreased $0.8 million to $2.2 million in fiscal 2009, compared with $3.0 million in fiscal 2008. Commercial product sales and other revenues were $2.3 million and $3.3 million in fiscal 2009 and 2008, respectively. The decline in net sales of airframe and turbine engine components for large aircraft is primarily attributable to the overall weak global economic conditions and the related impact such conditions have had on commercial aviation.

The ACM Group s airframe and turbine engine component products have both military and commercial applications. Net sales of airframe and turbine engine components that solely have military applications were $35.0 million in fiscal 2009, compared with $33.6 million in fiscal 2008. This increase is attributable in part to increased military spending due to ongoing wartime demand such as for additional military helicopters and related replacement components.

The ACM Group s selling, general and administrative expenses decreased $0.7 million to $4.2 million, or 6.1% of net sales, in fiscal 2009, compared with $4.9 million, or 6.8% of net sales, in fiscal 2008. Included in selling, general and administrative expenses in fiscal 2008 was $0.5 million related to the payment to a customer that (i) was made to achieve an amicable business settlement of a product dispute and (ii) that the Company agreed to make as a business gesture of good faith and cooperation without admission of liability. The remaining selling, general and administrative expenses in fiscal 2008 were $4.4 million, or 6.1% of net sales. The remaining $0.2 million decrease in selling, general and administrative expenses in fiscal 2009 compared with fiscal 2008 was principally due to a $0.1 million decrease in variable selling cost principally due to the decrease in net sales.

During the fourth quarter of fiscal 2008, the ACM group recorded $0.8 million of expense related the impairment of a long-lived asset.

The ACM Group s operating income in fiscal 2009 was $13.4 million, compared with $9.9 million in fiscal 2008. Operating results in fiscal 2009 were favorably impacted by (i) an approximate $3.3 million reduction in the LIFO expense in fiscal 2009, compared with fiscal 2008, (ii) lower expenditures for natural gas principally due to lower consumption and (iii) the negative impact in fiscal 2008, of the aforementioned $0.5 million settlement expense and $0.8 million impairment expense. These improvements were partially offset by the negative impact of (i) higher manufacturing labor and benefits expense due to higher average levels of employment and (ii) an increase in other manufacturing overhead costs incurred in fiscal 2009, compared with fiscal 2008.

Turbine Component Services and Repair Group (Repair Group)

During fiscal 2009, net sales, which consist principally of component repair services (including precision component machining and industrial coating) for small aerospace turbine engines, decreased 19.6% to $11.5 million, compared with $14.3 million in fiscal 2008. The Repair Group s decrease in net sales is primarily due to the overall weak global economic conditions.

During fiscal 2009, the Repair Group s selling, general and administrative expenses were $1.3 million, or 11.0% of net sales, compared with $1.3 million, or 9.2% of net sales, in fiscal 2008.

The Repair Group s operating income in fiscal 2009 was $0.1 million, compared with an operating loss of $0.3 million in fiscal 2008. Operating results in fiscal 2009 were positively impacted principally by (i) an increase in selling prices, (ii) $0.1 million of income related to the favorable settlements of certain obligations and (iii) the improved management of operating expenses, principally labor costs. Although sales volumes were higher in fiscal 2008, operating results were negatively impacted in fiscal 2008 by startup costs related to the production launch of a new component repair program.

As discussed in the Company s Form 8-K filed on January 20, 2009, the Company explored strategic alternatives for the Repair Group for the purpose of enhancing shareholder value. The Company conducted an orderly and comprehensive review and evaluation of strategic alternatives available to it, including a divestiture of the Repair Group.

Applied Surface Concepts Group (ASC Group)

Net sales decreased 9.0% to $13.7 million in fiscal 2009, compared with $15.1 million in fiscal 2008. In fiscal 2009, product net sales, consisting of selective electrochemical metal finishing equipment and solutions, decreased $0.4 million to $7.1 million, compared with $7.5 million in fiscal 2008. In fiscal 2009, customized selective electrochemical metal finishing contract service net sales decreased $0.9 million to $6.5 million, compared with $7.4 million in fiscal 2008. The overall weak global economic conditions, particularly in the oil and gas industry, negatively impacted the ASC Group s net sales in fiscal 2009. A portion of the ASC Group s business is conducted in Europe and is denominated in local European currencies, which have weakened in relation to the US dollar, resulting in an unfavorable currency impact on net sales in fiscal 2009 of approximately $1.0 million.

The ASC Group s selling, general and administrative expenses decreased $0.2 million to $4.1 million, or 30.3% of net sales, in fiscal 2009, compared with $4.3 million, or 28.7% of net sales, in fiscal 2008. The decrease in selling, general and administrative expenses in fiscal 2009 was principally due to a reduction in compensation and benefit related expenses attributable to the elimination of certain positions and the temporary reduction of employee compensation.

The ASC Group s operating income in fiscal 2009 was $0.8 million, compared with $1.3 million in fiscal 2008. This decrease in operating income was principally due to the effect of lower net sales without a corresponding decrease in operating expenses.

Corporate Unallocated Expenses

Corporate unallocated expenses, consisting of corporate salaries and benefits, legal and professional and other corporate expenses, were $1.9 million in fiscal 2009, compared with $2.0 million in fiscal 2008. The $0.1 million net decrease in fiscal 2009 is principally due to a $0.4 million decrease in legal and professional expenses in fiscal 2009, compared with fiscal 2008. This decrease was partially offset by $0.2 million of depreciation expense recorded in the fourth quarter of fiscal 2009 related to an asset that was classified as held for sale, beginning in fiscal 2008 and through the third quarter of fiscal 2009, for which no depreciation expense was required to be recorded while it was classified as held for sale.

Other/General

Interest expense from continuing operations was $0.1 million in both fiscal 2009 and 2008. The following table sets forth the weighted average interest rates and weighted average outstanding balances under the Company s revolving credit agreement in fiscal years 2009 and 2008.

	Weighted Average Interest Rate Year Ended September 30,		Weighted Average Outstanding Balance Year Ended September 30,	
Credit Agreement	**2009**	**2008**	**2009**	**2008**
Revolving credit agreement	N/A	6.8%	N/A	$ 1.4 million

B. Liquidity and Capital Resources

Cash and cash equivalents decreased to $18.7 million at September 30, 2010, compared with $19.9 million at September 30, 2009, while short-term investments increased to $3.0 million at September 30, 2010, compared with zero at September 30, 2009. At September 30, 2010, $6.1 million of the Company s cash and cash equivalents and short-term investments are in the possession of its non-U.S. subsidiaries. Distributions from the Company s non-U.S. subsidiaries to the Company may be subject to statutory restriction, adverse tax consequences or

other limitations.

The Company s operating activities provided $9.9 million of cash in fiscal 2010, compared with $14.5 million of cash provided by operating activities (of which $14.7 million was provided by continuing operations) in fiscal 2009. The $9.9 million of cash provided by operating activities in fiscal 2010 was primarily due to (i) net income of $5.4 million, (ii) $2.5 million from the impact of such non-cash items as depreciation expense, deferred taxes and LIFO expense and (iii) a $1.1 million decrease in inventory. These changes in the components of working capital were due primarily to factors resulting from normal business conditions of the Company, including (i) the relative timing of collections from customers, (ii) the collection of refundable income taxes and (iii) the relative timing of payments to suppliers and tax authorities.

Capital expenditures were $6.7 million in fiscal 2010 compared with $5.3 million in fiscal 2009. Capital expenditures during fiscal 2010 consisted of $6.1 million by the ACM Group, $0.4 million by the ASC Group and $0.2 million by the Repair Group. In addition to the $6.7 million expended during fiscal 2010, $0.5 million has been committed as of September 30, 2010. The Company anticipates that total fiscal 2011 capital expenditures will be within the range of $4.0 to $5.0 million and will relate principally to the further enhancement of production and product offering capabilities across all three of the Company s business groups.

During fiscal 2010, the Company invested $0.7 million to repurchase its common shares under a stock repurchase program initiated in June 2010, at which time the Company indicated that it was prepared to invest up to $1.0 million to repurchase its shares.

In the fourth quarter of fiscal 2010, the Company declared a special cash dividend of $0.15 per common share, which will result in a cash expenditure of $0.8 million during first quarter of fiscal 2011.

At September 30, 2010, the Company had an $8.0 million revolving credit agreement with a bank, subject to sufficiency of collateral, which expires on January 1, 2012 and bears interest at the bank s base rate plus 0.50%. The interest rate was 3.25% at September 30, 2010. A 0.35% commitment fee is incurred on the unused balance of the revolving credit agreement. At September 30, 2010, no amount was outstanding and the Company had $7.9 million available under its $8.0 million revolving credit agreement. The Company s revolving credit agreement is secured by substantially all of the Company s assets located in the U.S. and a guarantee by its U.S. subsidiaries. Under its revolving credit agreement with the bank, the Company is subject to certain customary covenants. These include, without limitation, covenants (as defined) that require maintenance of certain specified financial ratios, including a minimum tangible net worth level and a minimum EBITDA level. The Company was in compliance with all applicable covenants at September 30, 2010.

The Company believes that cash flows from its operations together with existing cash reserves and the funds available under its revolving credit agreement will be sufficient to meet its working capital requirements through the end of fiscal year 2011.

C. Off-Balance Sheet Arrangements

The Company does not have any obligations that meet the definition of an off-balance sheet arrangement that have had, or are reasonably likely to have, a material effect on the Company s financial condition or results of operations.

D. Other Contractual Obligations

The following table summarizes the Company s outstanding contractual obligations and other commercial commitments at September 30, 2010 and the effect such obligations are expected to have on liquidity and cash flow in future periods.

		Payments Due by Period (Amounts in thousands)			
Other Contractual Obligations	**Total**	**Up to 1 year**	**>1 up to 3 years**	**>3 up to 5 years**	**More than 5 years**
Debt obligations	$ 5	$ 2	$ 3	$	$
Capital lease obligations	145	117	28		
Operating lease obligations	1,188	456	474	258	
Total	$ 1,338	$ 575	$ 505	$ 258	$

14

Excluded from the foregoing Other Contractual Obligations table are open purchase orders at September 30, 2010 for raw materials and supplies required in the normal course of business. Excluded from the foregoing Other Contractual Obligations table is a $0.1 million liability for uncertain tax positions as the Company is unable to determine at this time if and/or when this amount, or any portion thereof, may become payable. Included in other long-term liabilities in the Company s consolidated balance sheet as of September 30, 2010 is $6.1 million of liabilities related to the Company s defined benefit pension plans. The Company is expected to make contributions of approximately $0.6 million to fund its defined benefit pension plans in fiscal 2011.

E. Outlook

The Company s Repair and ACM Groups businesses continue to be heavily dependent upon the strength of the commercial airlines as well as the aircraft and related engine manufacturers. The ACM group is also dependent on the military aerospace industry. Consequently, the performance of the domestic and international air transport industry as well as government defense spending directly and significantly impacts the performance of the Repair and ACM Groups businesses.

After the recent two year period of negative operating results in the global commercial airline industry that was due in large part to the global economic downturn, the financial condition of the global commercial airline industry improved in 2010 with a return to profitability. This return to profitability is due to strong demand in both air freight and passenger traffic resulting principally from improvements in both business and consumer confidence levels. The improved confidence levels can be attributed to the subsiding of the global economic downturn. During fiscal 2010, both air freight and passenger traffic returned to pre-recession levels.

The Company supplies new and spare components for military aircraft. Military spending has continued to be strong and level in recent years. As a result of continued military initiatives, there has been strong demand for both new and spare components for military customers. The 2011-12 defense budget includes the planned elimination of certain military aircraft. These eliminations are countered by the new programs being supported such as the tanker program, the F-35 and V-22.

The air transport industry s long-term outlook is for continued, steady growth. Such longer-term outlook suggests the need for additional aircraft and, therefore, growth in the requirement for airframe and engine components as well as aerospace turbine engine component repairs. The air transport industry has recently benefited from several favorable trends, including: (i) projected growth in air traffic, (ii) major replacement and refurbishment cycles driven by the desire for more fuel efficient aircraft and fleet commonality and (iii) relatively stable fuel prices. Recent improvement in aircraft capacity utilization is due to the increase in air freight and passenger traffic, which is driving demand for additional capacity. While aircraft capacity was reduced sharply in 2009, it has returned to the market at about the same pace as the growth in demand for such capacity. The Company believes this pattern should continue with the long-term steady growth projected by the air transport industry. The Company s current outlook for the air transport industry is cautiously optimistic while the military segment remains stable, yet subject to potential changes in defense spending decisions. However, the Company believes that it is poised to take advantage of the resulting improvement in order demand from the commercial airframe and engine manufacturers if and when it may occur.

It is difficult to determine, at this time, the potential long-term impact that the aforementioned factors may have on air travel and the demand for the products and services provided by the Company. Lack of continued improvement in the global economy could result in credit risk associated with serving the airlines and/or their suppliers. All of these consequences, to the extent that they may occur, could negatively impact the Company s net sales, operating profits and cash flows. However, in light of the current business environment, the Company believes that cash on-hand, short-term investments, funds available under its revolving credit agreement, and anticipated funds generated from operations will be adequate to meet its liquidity needs through the foreseeable future.

F. Critical Accounting Policies and Estimates

Allowances for Doubtful Accounts

The Company maintains allowances for doubtful accounts for estimated losses resulting from the inability of certain customers to make required payments. The Company evaluates the adequacy of its allowances for doubtful accounts each quarter based on the customers credit-worthiness, current economic trends or market conditions, past collection history, aging of outstanding accounts receivable and specific identified risks. As these factors change, the Company s allowances

for doubtful accounts may change in subsequent periods. Historically, losses have been within management s expectations and have not been significant.

Inventories

The Company maintains allowances for obsolete and excess inventory. The Company evaluates its allowances for obsolete and excess inventory each quarter. Each business segment maintains formal policies, which require at a minimum that reserves be established based on an analysis of the age of the inventory. In addition, if the Company learns of specific obsolescence, other than that identified by the aging criteria, an additional reserve will be recognized as well. Specific obsolescence may arise due to a technological or market change, or based on cancellation of an order. Management s judgment is necessary in determining the realizable value of these products to arrive at the proper allowance for obsolete and excess inventory.

Impairment of Long-Lived Assets

The Company reviews the carrying value of its long-lived assets, including property, plant and equipment, at least annually or when events and circumstances warrant such a review. This review involves judgment and is performed using estimates of future undiscounted cash flows, which include proceeds from disposal of assets and which the Company considers a critical accounting estimate. If the carrying value of a long-lived asset is greater than the estimated undiscounted future cash flows, then the long-lived asset is considered impaired and an impairment charge is recorded for the amount by which the carrying value of the long-lived asset exceeds its fair value.

In projecting future undiscounted cash flows, the Company relies on internal budgets and forecasts, and projected proceeds upon disposal of long-lived assets. The Company s budgets and forecasts are based on historical results and anticipated future market conditions, such as the general business climate and the effectiveness of competition. The Company believes that its estimates of future undiscounted cash flows and fair value are reasonable; however, changes in estimates of such undiscounted cash flows and fair value could change the Company s estimates of fair value, which could result in future impairment charges.

Defined Benefit Pension Plan Expense

The Company maintains three defined benefit pension plans in accordance with the requirements of the Employee Retirement Income Security Act of 1974 (ERISA). The amounts recognized in the consolidated financial statements for pension benefits under these three defined benefit pension plans are determined on an actuarial basis utilizing various assumptions. The discussion that follows provides information on the significant assumptions/elements associated with these defined benefit pension plans.

One significant assumption in determining net pension expense is the expected return on plan assets. The Company determines the expected return on plan assets principally based on (i) the expected return for the various asset classes in the respective plans investment portfolios and (ii) the targeted allocation of the respective plans assets. The expected return on plan assets is developed using historical asset return performance as well as current and anticipated market conditions such as inflation, interest rates and market performance. Should the actual rate of return differ materially from the assumed/expected rate, the Company could experience a material adverse effect on the funded status of its plans and, accordingly, on its related future net pension expense.

Another significant assumption in determining the net pension expense is the discount rate. The discount rate for each plan is determined, as of the fiscal year end measurement date, using prevailing market spot-rates (from an appropriate yield curve) with maturities corresponding to the expected timing/date of the future defined benefit payment amounts for each of the respective plans. Such corresponding spot-rates are used to discount future years projected defined benefit payment amounts back to the fiscal year end measurement date as a present value. A composite discount rate is then developed for each plan by determining the single rate of discount that will produce the same present value as that obtained by applying the annual spot-rates. The discount rate may be further revised if the market environment indicates that the above methodology generates a discount rate that does not accurately reflect the prevailing interest rates as of the fiscal year end measurement date

Deferred Tax Valuation Allowance

The Company accounts for deferred taxes in accordance with the provisions of the Accounting Standards Codification (ASC) guidance related to accounting for income taxes, whereby the Company recognizes an income tax benefit related to its consolidated net losses and other temporary differences between financial reporting basis and tax reporting basis. At

September 30, 2010 and 2009, the Company s net deferred tax liability before any valuation allowance was $0.4 million and a nominal amount, respectively.

G. Impact of Newly Issued Accounting Standards

In February 2010, the Financial Accounting Standards Board (FASB), issued an Accounting Standard Update (ASU) No. 2010-09, which addresses certain implementation issues related to an entity s requirement to perform and disclose subsequent events procedures. The ASU (i) exempts entities that file their financial statements with the SEC from disclosing the date through which subsequent events procedures have been performed and (ii) clarifies the circumstances in which an entity s financial statements would be considered restated and the entity would therefore be required to update its subsequent events evaluation. The guidance provided by the FASB became effective immediately upon issuance, and the Company has adopted its disclosure requirements within this Form 10-K for the year ended September 30, 2010.

In January 2010, the FASB issued ASU No. 2010-06 to improve disclosures about fair value measurements, which amends the ASC related to fair value measurements and disclosures. This amendment to the ASC will add new requirements for disclosures about transfers into and out of fair value hierarchy Levels 1, 2 and 3 and separate disclosures about purchases, sales, issuances and settlements relating to fair value hierarchy Level 3 measurements. The ASU also clarifies existing fair value disclosures about the level of disaggregation and about inputs and valuation techniques used to measure fair value. Further, the ASU amends guidance on employers disclosure requirements for plan assets for defined benefit pensions and other postretirement benefit plans. Under the new guidance it is required that disclosures be provided by classes of assets instead of by major categories of assets. This ASU is effective for the first reporting period beginning after December 15, 2009, except for the requirement to provide fair value hierarchy Level 3 activity of purchases, sales, issuances and settlements on a gross basis, which will be effective for fiscal years beginning on or after December 15, 2010, and for interim periods within those fiscal years. The Company does not expect the adoption of this guidance to have a material impact on its consolidated financial statements and disclosures.

Item 8. Financial Statements and Supplementary Data

Report of Independent Registered Public Accounting Firm

To the Board of Directors and Shareholders of SIFCO Industries, Inc. and Subsidiaries:

We have audited the accompanying consolidated balance sheets of SIFCO Industries, Inc. (an Ohio Corporation) and Subsidiaries as of September 30, 2010 and 2009, and the related consolidated statements of operations, shareholders equity and cash flows for each of the three years in the period ended September 30, 2010. Our audits of the basic financial statements included the financial statement schedule appearing under Schedule II. These financial statements and financial statement schedule are the responsibility of the Company s management. Our responsibility is to express an opinion on these financial statements and financial statement schedule based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. The Company is not required to have, nor were we engaged to perform an audit of its internal control over financial reporting. Our audit included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company s internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of SIFCO Industries, Inc. and Subsidiaries as of September 30, 2010 and 2009, and the results of their operations and their cash flows for each of the three years in the period ended September 30, 2010 in conformity with accounting principles generally accepted in the United States of America. Also, in our opinion, the related financial statement schedule, when considered in relation to the basic financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

/s/ GRANT THORNTON LLP

Cleveland, Ohio

December 15, 2010

SIFCO Industries, Inc. and Subsidiaries

Consolidated Statements of Operations

(Amounts in thousands, except per share data)

	Years Ended September 30,		
	2010	**2009**	**2008**
Net sales	**$ 83,270**	$ 93,888	$ 101,391
Operating expenses:			
Cost of goods sold	**63,529**	69,947	79,161
Selling, general and administrative expenses	**11,860**	11,465	12,495
Loss (gain) on disposal or impairment of operating assets	**(34)**		757
Total operating expenses	**75,355**	81,412	92,413
Operating income	**7,915**	12,476	8,978
Interest income	**(57)**	(16)	(24)
Interest expense	**71**	67	149
Foreign currency exchange loss (gain)	**(23)**	217	35
Other income, net	**(470)**	(119)	(2)
Income from continuing operations before income tax provision	**8,394**	12,327	8,820
Income tax provision	**3,032**	4,480	3,277
Income from continuing operations	**5,362**	7,847	5,543
Income from discontinued operations, net of tax		188	287
Net income	**$ 5,362**	$ 8,035	$ 5,830
Income per share from continuing operations			
Basic	**$ 1.01**	$ 1.48	$ 1.05
Diluted	**$ 1.00**	$ 1.47	$ 1.04
Income per share from discontinued operations, net of tax			
Basic	**$**	$ 0.04	$ 0.05
Diluted	**$**	$ 0.04	$ 0.05
Net income per share			
Basic	**$ 1.01**	$ 1.52	$ 1.10
Diluted	**$ 1.00**	$ 1.51	$ 1.09
Weighted-average number of common shares (basic)	**5,300**	5,295	5,291
Weighted-average number of common shares (diluted)	**5,344**	5,325	5,340

See notes to consolidated financial statements.

SIFCO Industries, Inc. and Subsidiaries

Consolidated Balance Sheets

(Amounts in thousands, except per share data)

	September 30, 2010	2009
ASSETS		
Current assets:		
Cash and cash equivalents	**$ 18,671**	$ 19,875
Short-term investments	**3,020**	
Receivables, net	**17,182**	17,010
Inventories	**6,272**	7,568
Refundable income taxes	**692**	889
Deferred income taxes	**1,502**	1,651
Prepaid expenses and other current assets	**627**	601
Total current assets	**47,966**	47,594
Property, plant and equipment:		
Land	**579**	578
Buildings	**13,642**	14,748
Machinery and equipment	**44,350**	38,785
	58,571	54,111
Accumulated depreciation	**37,822**	37,171
Property, plant and equipment, net	**20,749**	16,940
Other assets	**935**	1,236
Total assets	**$ 69,650**	$ 65,770
LIABILITIES AND SHAREHOLDERS EQUITY		
Current liabilities:		
Current maturities of long-term debt	**$ 108**	$ 101
Accounts payable	**7,939**	7,629
Accrued liabilities	**4,287**	4,324
Total current liabilities	**12,334**	12,054
Long-term debt, net of current maturities	**35**	154
Deferred income taxes	**2,359**	2,110
Other long-term liabilities	**6,883**	6,207
Shareholders equity:		
Serial preferred shares, no par value, authorized 1,000 shares		
Common shares, par value $1 per share, authorized 10,000 shares; issued 5,325 shares in 2010 and 5,298 shares in 2009; outstanding 5,259 shares in 2010 and 5,298 shares in 2009	**5,325**	5,298
Additional paid-in capital	**6,983**	6,490
Retained earnings	**47,733**	43,160
Accumulated other comprehensive loss	**(11,310)**	(9,703)
Common shares held in treasury at cost, 66 shares in 2010, no shares in 2009	**(692)**	
Total shareholders equity	**48,039**	45,245
Total liabilities and shareholders equity	**$ 69,650**	$ 65,770

See notes to consolidated financial statements.

SIFCO Industries, Inc. and Subsidiaries

Consolidated Statements of Cash Flows

(Amounts in thousands)

	Years Ended September 30,		
	2010	**2009**	**2008**
Cash flows from operating activities:			
Net income	**$ 5,362**	$ 8,035	$ 5,830
Income from discontinued operations, net of tax		(188)	(287)
Adjustments to reconcile net income to net cash provided by (used for) operating activities:			
Depreciation and amortization	**1,895**	1,825	1,483
(Gain) loss on disposal of property, plant and equipment	**(34)**	(5)	1
LIFO (income) provision	**175**	(1,583)	1,712
Deferred income taxes	**436**	580	1,184
Share transactions under employee stock plan	**519**	94	60
Asset impairment charges			757
Changes in operating assets and liabilities:			
Receivables	**(218)**	2,128	(58)
Inventories	**1,090**	5,726	(3,412)
Refundable income taxes	**197**	420	(1,311)
Prepaid expenses and other current assets	**(32)**	(136)	(110)
Other assets	**299**	4	(184)
Accounts payable	**321**	(746)	(650)
Accrued liabilities	**(280)**	(765)	(705)
Other long-term liabilities	**148**	(644)	(1,337)
Net cash provided by operating activities of continuing operations	**9,878**	14,745	9,797
Net cash used for operating activities of discontinued operations		(191)	(62)
Cash flows from investing activities:			
Capital expenditures	**(6,747)**	(5,256)	(2,012)
Purchase of short-term investments	**(3,039)**		
Proceeds from disposal of property, plant and equipment	**55**	5	1
Net cash used for investing activities of continuing operations	**(9,731)**	(5,251)	(2,011)
Cash flows from financing activities:			
Proceeds from revolving credit agreement			21,029
Repayments of revolving credit agreement			(23,629)
Repayments of long-term debt		(2)	
Dividends paid	**(529)**		
Repurchase of common shares	**(692)**		
Repayments of capital lease obligations	**(109)**	(106)	(109)
Net cash used for financing activities of continuing operations	**(1,330)**	(108)	(2,709)
(Decrease) increase in cash and cash equivalents	**(1,183)**	9,195	5,015
Cash and cash equivalents at beginning of year	**19,875**	10,440	5,510
Effect of exchange rate changes on cash and cash equivalents	**(21)**	240	(85)
Cash and cash equivalents at end of year	**$ 18,671**	$ 19,875	$ 10,440
Supplemental disclosure of cash flow information:			
Cash paid for interest	**$ (58)**	$ (52)	$ (172)
Cash paid for income taxes, net	**$ (2,070)**	$ (4,061)	$ (3,598)

See notes to consolidated financial statements.

SIFCO Industries, Inc. and Subsidiaries

Consolidated Statements of Shareholders Equity

(Amounts in thousands)

	Common Shares	Additional Paid-In Capital	Retained Earnings	Accumulated Other Comprehensive Loss	Common Shares Held in Treasury	Total Shareholders Equity
Balance September 30, 2007	$ 5,281	$ 6,352	$ 29,828	$ (4,683)	$	$ 36,778
Comprehensive income:						
Net income			5,830			5,830
Foreign currency translation adjustment				(500)		(500)
Pension liability adjustment, net of tax				(1,490)		(1,490)
Total comprehensive income						3,840
Stock option expense		50				50
Share transactions under employee stock plans	14	(3)				11
Balance September 30, 2008	$ 5,295	$ 6,399	$ 35,658	$ (6,673)	$	$ 40,679
Comprehensive income:						
Net income			8,035			8,035
Foreign currency translation adjustment				212		212
Pension liability adjustment, net of tax			(4)	(3,242)		(3,246)
Total comprehensive income						5,001
Dividend declared			(529)			(529)
Stock option and performance share expense		82				82
Share transactions under employee stock plans	3	9				12
Balance September 30, 2009	$ 5,298	$ 6,490	$ 43,160	$ (9,703)	$	$ 45,245
Comprehensive income:						
Net income			**5,362**			**5,362**
Foreign currency translation adjustment				**(1,079)**		**(1,079)**
Pension liability adjustment, net of tax				**(528)**		**(528)**
Total comprehensive income						**3,755**
Dividend declared			**(789)**			**(789)**
Performance share expense		**325**				**325**
Repurchase of common shares					**(692)**	**(692)**
Share transactions under employee stock plans	**27**	**168**				**195**
Balance September 30, 2010	**$ 5,325**	**$ 6,983**	**$ 47,733**	**$ (11,310)**	**$ (692)**	**$ 48,039**

See notes to consolidated financial statements.

SIFCO Industries, Inc. and Subsidiaries

Notes to Consolidated Financial Statements

Years ended September 30, 2010, 2009 and 2008

(Dollars in thousands, except share and per share data)

1. Summary of Significant Accounting Policies

A. DESCRIPTION OF BUSINESS

SIFCO Industries, Inc. and Subsidiaries (the Company) are engaged in the production and sale of a variety of metalworking processes, services and products produced primarily to the specific design requirements of its customers. The processes and services include forging, heat-treating, coating, welding, machining, and selective electrochemical metal finishing. The products include forged components, machined forged parts and other machined metal parts, remanufactured components for turbine engines, and selective electrochemical metal finishing solutions and equipment. The Company s operations are conducted in three business segments: (i) Aerospace Component Manufacturing Group, (ii) Turbine Component Services and Repair Group and (iii) Applied Surface Concepts Group.

B. PRINCIPLES OF CONSOLIDATION

The accompanying consolidated financial statements include the accounts of the Company and its wholly-owned subsidiaries. All significant intercompany accounts and transactions have been eliminated. The U.S. dollar is the functional currency for all the Company s U.S. operations. For these operations, all gains and losses from completed currency transactions are included in income currently. Effective October 1, 2009, the functional currency of the Company s Irish subsidiary was changed from the euro to the U.S. dollar. A substantial majority of the Irish subsidiary s transactions, as well as its largest monetary asset, are denominated in U.S. dollars and, accordingly, the Company determined that such transactions should be reflected in U.S. dollars. The impact of making this change was not material to any year within the accompanying consolidated financial statements prior to October 1, 2009. The functional currency for the Company s other non-U.S. subsidiaries is the local currency. Assets and liabilities are translated into U.S. dollars at the rates of exchange at the end of the period, and revenues and expenses are translated using average rates of exchange. Foreign currency translation adjustments are reported as a component of accumulated other comprehensive loss in the consolidated statements of shareholders equity.

C. CASH EQUIVALENTS

The Company considers all highly liquid short-term investments with original maturities of three months or less to be cash equivalents.

D. SHORT-TERM INVESTMENTS

In general, short-term investments have a maturity of three months to one year at the date of purchase. Short-term investments classified as held-to-maturity are recorded at cost, which approximates fair value.

E. CONCENTRATIONS OF CREDIT RISK

Receivables are presented net of allowance for doubtful accounts of $582 and $633 at September 30, 2010 and 2009, respectively. During fiscal 2010 and 2009, $236 and $141 of accounts receivable were written off against the allowance for doubtful accounts, respectively. Bad debt expense totaled $185, $195 and $254 in fiscal 2010, 2009 and 2008, respectively.

Most of the Company s receivables represent trade receivables due from manufacturers of turbine engines and aircraft components and turbine engine overhaul companies located throughout the world, including a significant concentration of U.S. based companies. Approximately 44% of the Company s net sales in fiscal 2010 were to four (4) of its largest customers, with an additional 17% of combined net sales to various direct subcontractors to these customers. No other single group or customer represents greater than 5% of total net sales in fiscal 2010. The Company performs ongoing credit evaluations of its customers financial conditions. The Company believes its allowance for doubtful accounts is sufficient based on the credit exposures outstanding at September 30, 2010.

F. INVENTORY VALUATION

Inventories are stated at the lower of cost or market. Cost is determined by the Company s ACM Group using the last-in, first-out (LIFO) method for approximately 58% and 63% of the Company s inventories at September 30, 2010 and 2009, respectively. The first-in, first-out (FIFO) method is used to value the remainder of the Company s inventories.

The Company maintains allowances for obsolete and excess inventory. The Company evaluates its allowances for obsolete and excess inventory each quarter. Each business segment maintains policies, which require at a minimum that reserves be established based on an analysis of the age of the inventory. In addition, if the Company identifies specific obsolescence, other than that identified by the aging criteria, an additional reserve will be recognized. Specific obsolescence and excess reserve requirements may arise due to technological or market changes, or based on cancellation of an order. The

SIFCO Industries, Inc. and Subsidiaries

Notes to Consolidated Financial Statements *(Continued)*

Company s reserves for obsolete and excess inventory were $1,212 and $1,319 at September 30, 2010 and 2009, respectively.

G. PROPERTY, PLANT AND EQUIPMENT

Property, plant and equipment are stated at cost. Depreciation is generally computed using the straight-line and the double declining balance methods. Depreciation is provided in amounts sufficient to amortize the cost of the assets over their estimated useful lives. Depreciation provisions are based on estimated useful lives: (i) buildings, including building improvements 5 to 50 years; (ii) machinery and equipment, including office and computer equipment 3 to 30 years, (iii) software 1-10 years and (iv) leasehold improvements 3-5 years.

The Company reviews the carrying value of its long-lived assets, including property, plant and equipment, at least annually or when events and circumstances warrant such a review. This review is performed using estimates of future undiscounted cash flows, which include proceeds from disposal of assets. If the carrying value of a long-lived asset is greater than the estimated undiscounted future cash flows, then the long-lived asset is considered impaired and an impairment charge is recorded for the amount by which the carrying value of the long-lived asset exceeds its fair value. Asset impairment charges of $757 were recorded in fiscal 2008 related to certain machinery and equipment of the Company s ACM Group. The machinery and equipment was determined to be impaired and, therefore, the carrying value of such assets was reduced to its net realizable value.

H. NET INCOME PER SHARE

The Company s net income per basic share has been computed based on the weighted-average number of common shares outstanding. Net income per diluted share reflects the effect of the Company s outstanding stock options under the treasury stock method. However, during periods of operating losses, outstanding stock options are not included in the calculation of net loss per diluted share because such inclusion would be anti-dilutive.

I. REVENUE RECOGNITION

The Company recognizes revenue in accordance with the relevant portions of the guidance provided by the United States Securities and Exchange Commission (SEC) related to revenue recognition in financial statements. Revenue is generally recognized when products are shipped or services are provided to customers.

J. IMPACT OF RECENTLY ADOPTED ACCOUNTING

In February 2010, the Financial Accounting Standards Board (FASB), issued an Accounting Standard Update (ASU) No. 2010-09, which addresses certain implementation issues related to an entity s requirement to perform and disclose subsequent events procedures. The ASU (i) exempts entities that file their financial statements with the SEC from disclosing the date through which subsequent events procedures have been performed and (ii) clarifies the circumstances in which an entity s financial statements would be considered restated and the entity would therefore be required to update its subsequent events evaluation. The guidance provided by the FASB became effective immediately upon issuance, and the Company has adopted its disclosure requirements for the year ended September 30, 2010.

The FASB issued a technical amendment to employers disclosure requirement for plan assets for defined benefit pensions and other postretirement benefit plans, which is integrated into ASC 715-20-50, *Compensation Retirement Benefits Defined Benefit Pension Plans General Disclosure.* The objective is to provide users of financial statements with an understanding of (i) how investment allocation decisions are made, (ii) major categories of plan assets held by the plans, (iii) how fair value of plan assets are measured, (iv) the effect of fair value measurements on changes in plan assets during a period and (v) significant concentrations of risk within plan assets. Company has adopted its disclosure requirements for the year ended September 30, 2010.

K. IMPACT OF NEWLY ISSUED ACCOUNTING STANDARDS

In January 2010, the FASB issued ASU No. 2010-06 to improve disclosures about fair value measurements, which amends the Accounting Standard Codification (ASC) related to fair value measurements and disclosures. This amendment to the ASC will add new requirements for disclosures about transfers into and out of fair value hierarchy Levels 1, 2 and 3 and separate disclosures about purchases, sales, issuances and

settlements relating to fair value hierarchy Level 3 measurements. The ASU also clarifies existing fair value disclosures about the level of disaggregation and about inputs and valuation techniques used to measure fair value. Further, the ASU amends guidance on employers disclosure requirements for plan assets for defined benefit pensions and other postretirement benefit plans. Under the new guidance it is required that disclosures be provided by classes of assets instead of by major categories of assets. This ASU is effective for the first reporting period beginning after December 15, 2009, except for the requirement to provide fair value hierarchy Level 3 activity of purchases, sales, issuances and settlements on a gross basis, which will be effective for fiscal years

SIFCO Industries, Inc. and Subsidiaries

Notes to Consolidated Financial Statements *(Continued)*

beginning on or after December 15, 2010, and for interim periods within those fiscal years. The Company does not expect the adoption of this guidance to have a material impact on its consolidated financial statements and disclosures.

L. USE OF ESTIMATES

Accounting Principles Generally Accepted in the U.S. (GAAP) requires management to make a number of estimates and assumptions relating to the reported amounts of assets and liabilities and the disclosure of contingent liabilities, at the date of the consolidated financial statements, and the reported amounts of revenues and expenses during the period in preparing these financial statements. Actual results could differ from those estimates.

M. DERIVATIVE FINANCIAL INSTRUMENTS

The Company has from time-to-time utilized foreign currency exchange contracts as part of the management of its foreign currency risk exposure. The Company has no financial instruments held for trading purposes. All financial instruments are put into place to hedge specific risk exposure. To qualify as a hedge, the item to be hedged must expose the Company to foreign currency risk and the hedging instrument must effectively reduce that risk. If the financial instrument is designated as a cash flow hedge, the effective portions of changes in the fair value of the financial instrument are recorded in accumulated other comprehensive loss in the shareholders equity section of the consolidated balance sheets. Ineffective portions of changes in the fair value of the financial instrument, to the extent they may exist, are recognized in the consolidated statements of operations.

Historically, the Company has been able to mitigate the impact of foreign currency risk by means of hedging such risk through the use of foreign currency exchange contracts, which typically expire within one year. However, such risk is mitigated only for the periods for which the Company has foreign currency exchange contracts in effect, and only to the extent of the U.S. dollar amounts of such contracts. At September 30, 2010 and 2009, the Company had no forward exchange contracts outstanding.

N. RESEARCH AND DEVELOPMENT

Research and development costs are expensed as incurred. Research and development expense was approximately $661, $705 and $672 in fiscal 2010, 2009 and 2008, respectively.

O. ACCUMULATED OTHER COMPREHENSIVE LOSS

Comprehensive income is included on the consolidated statements of shareholders equity. The components of accumulated other comprehensive loss as shown on the consolidated balance sheets at September 30 are as follows:

	2010	2009	2008
Foreign currency translation adjustment	**$ (5,725)**	$ (4,646)	$ (4,858)
Net pension liability adjustment, net of income tax benefit of $3,484, $3,180 and $1,105, respectively	**(5,585)**	(5,057)	(1,815)
Total accumulated other comprehensive loss	**$ (11,310)**	$ (9,703)	$ (6,673)

P. INCOME TAXES

The Company files a consolidated U.S. federal income tax return and tax returns in various state and local jurisdictions. The Company s non-U.S. subsidiaries also file tax returns in various jurisdictions, including Ireland, the United Kingdom, France and Sweden. The Company has not provided U. S. deferred income taxes on certain cumulative earnings of non-U.S. subsidiaries that have been reinvested indefinitely. A U.S. deferred income tax provision has been made for the balance of the earnings of the non-U.S. subsidiaries.

The Company accounts for income taxes in accordance with the guidance related to accounting for income taxes, as amended. Deferred income taxes are (i) provided for the temporary difference between the financial reporting basis and tax basis of the Company s assets and liabilities and (ii) measured using the enacted tax rates that are assumed to be in effect when the differences reverse. Deferred tax assets result principally from recording certain expenses in the financial statements in excess of amounts currently deductible for tax purposes. Deferred tax liabilities result principally from tax depreciation in excess of book depreciation and unremitted foreign earnings.

The Company maintains a valuation allowance against its deferred tax assets when management believes it is more likely than not that all or a portion of a deferred tax asset may not be realized. Changes in valuation allowances are included in the income tax provision in the period of change. In determining whether a valuation allowance is warranted, the Company

SIFCO Industries, Inc. and Subsidiaries

Notes to Consolidated Financial Statements ***(Continued)***

evaluates factors such as prior earnings history, expected future earnings, carry-back and carry-forward periods and tax strategies that could potentially enhance the likelihood of the realization of a deferred tax asset.

Q. RECLASSIFICATIONS

Certain amounts in prior years may have been reclassified to conform to the 2010 consolidated financial statement presentation.

2. Short-Term Investments

At September 30, 2010, short-term investments consist of corporate debt instruments that are due in less than one year, are intended to be held until maturity and amount to $3,020, which approximates fair value.

3. Inventories

Inventories at September 30 consist of:

	2010	2009
Raw materials and supplies	**$ 1,846**	$ 2,539
Work-in-process	**2,624**	2,350
Finished goods	**1,802**	2,679
Total inventories	**$ 6,272**	$ 7,568

If the FIFO method had been used for the entire Company, inventories would have been $7,495 and $7,320 higher than reported at September 30, 2010 and 2009, respectively.

4. Accrued Liabilities

Accrued liabilities at September 30 consist of:

	2010	2009
Accrued employee compensation and benefits	**$ 1,642**	$ 1,764
Accrued workers compensation	**945**	1,260
Accrued utilities	**336**	261
Accrued dividends	**789**	529
Other accrued liabilities	**575**	510
Total accrued liabilities	**$ 4,287**	$ 4,324

5. Government Grants

In previous periods the Company received grants from certain government entities as an incentive to invest in facilities, research and employees. Capital grants are amortized into income over the estimated useful lives of the related assets. Employment grants are amortized into income over five years. The unamortized portion of deferred grant revenue is recorded in other long-term liabilities at September 30, 2010 and 2009, which amounted to $401 and $454, respectively. The majority of the Company s grants are denominated in Euros. The Company adjusts its deferred grant revenue balance in response to currency exchange rate fluctuations for as long as such grants are treated as obligations.

26

SIFCO Industries, Inc. and Subsidiaries

Notes to Consolidated Financial Statements ***(Continued)***

6. Long-Term Debt

Long-term debt at September 30 consists of:

	2010	2009
Revolving credit agreement	**$**	$
Capital lease obligations	**138**	248
Other	**5**	7
	143	255
Less current maturities	**108**	101
Total long-term debt	**$ 35**	$ 154

At September 30, 2010, the Company had an $8,000 revolving credit agreement with a bank subject to sufficiency of collateral that expires on January 1, 2012 and bears interest at the bank s base rate plus 0.50%. The interest rate was 3.25% at both September 30, 2010 and 2009. There was no balance outstanding against the revolving credit agreement in either fiscal 2010 or 2009. A commitment fee of 0.35% is incurred on the unused balance. At September 30, 2010 the Company had $7,955 available under its $8,000 revolving credit agreement. The Company s revolving credit agreement is secured by substantially all of the Company s assets located in the U.S. and a guarantee by its U.S. subsidiaries. Under its revolving credit agreement with the bank, the Company is subject to certain customary covenants. These include, without limitation, covenants (as defined) that require maintenance of certain specified financial ratios, including a minimum tangible net worth level and a minimum EBITDA level. The Company was in compliance with all applicable covenants at September 30, 2010.

7. Income Taxes

The components of income from continuing operations before income tax provision are as follows:

	Years Ended September 30,		
	2010	2009	2008
U.S.	**$ 8,045**	$ 12,253	$ 8,282
Non-U.S.	**349**	74	538
Income from continuing operations before income tax provision	**$ 8,394**	$ 12,327	$ 8,820

The income tax provision consists of the following:

	Years Ended September 30,		
	2010	2009	2008
Current income tax provision:			
U.S. federal	**$ 1,967**	$ 3,209	$ 1,550
U.S. state and local	**320**	512	336
Non-U.S.	**103**	150	210
Total current tax provision	**2,390**	3,871	2,096

Deferred income tax provision (benefit):			
U.S. federal	**582**	423	1,066
U.S. state and local	**84**	161	163
Non-U.S.	**(24)**	25	(48)
Total deferred tax provision	**642**	609	1,181
Income tax provision	**$ 3,032**	$ 4,480	$ 3,277

SIFCO Industries, Inc. and Subsidiaries

Notes to Consolidated Financial Statements ***(Continued)***

The income tax provision differs from amounts currently payable or refundable due to certain items reported for financial statement purposes in periods that differ from those in which they are reported for tax purposes. The income tax provision in the accompanying consolidated statements of operations differs from amounts determined by using the statutory rate as follows:

	Years Ended September 30,		
	2010	**2009**	**2008**
Income from continuing operations before income tax provision	**$ 8,394**	$ 12,327	$ 8,820
Less-U.S. state and local income tax provision	**404**	673	499
Income from continuing operations before U.S. and non-U.S. federal income tax provision	**$ 7,990**	$ 11,654	$ 8,321
Income tax provision at U.S. federal statutory rates	**$ 2,716**	$ 3,979	$ 2,829
Tax effect of:			
Business expenses not deductible for tax	**13**	(177)	27
Undistributed earnings of non-U.S. subsidiaries	**(18)**	(91)	11
State and local income taxes	**412**	631	499
Other	**(91)**	138	(89)
Income tax provision	**$ 3,032**	$ 4,480	$ 3,277

Deferred tax assets and liabilities at September 30 consist of the following:

	2010	**2009**
Deferred tax assets:		
Net non-U.S. operating loss carryforwards	**$ 645**	$ 626
Employee benefits	**2,331**	2,019
Inventory reserves	**614**	705
Asset impairment reserve	**352**	348
Allowance for doubtful accounts	**158**	175
Foreign tax credits	**3,099**	3,055
Other	**148**	59
Total deferred tax assets	**7,347**	6,987
Deferred tax liabilities:		
Depreciation	**(2,810)**	(2,129)
Unremitted foreign earnings	**(4,839)**	(4,850)
Other	**(91)**	
Total deferred tax liabilities	**(7,740)**	(6,979)
Net deferred tax liabilities	**(393)**	8
Valuation allowance	**(464)**	(467)
Net deferred tax liabilities	**$ (857)**	$ (459)

At September 30, 2010 the Company has non-U.S. tax loss carryforwards of approximately $6,107. The non-U.S. tax loss carryforwards do not expire.

The Company recognized reductions of the valuation allowance against its net deferred tax assets in fiscal years 2010 and 2009 of $3 and $13, respectively.

SIFCO Industries, Inc. and Subsidiaries

Notes to Consolidated Financial Statements ***(Continued)***

Cumulative undistributed earnings of non-U.S. subsidiaries for which no U.S. deferred federal income tax liabilities have been established were approximately $1,837 at September 30, 2010. The incremental U.S. federal income tax related to any repatriation of these cumulative foreign earnings is indeterminable currently. The incremental foreign withholding taxes associated with a repatriation of all such earnings would approximate $49.

The Company reported liabilities for uncertain tax positions, which includes any related interest and penalties, in fiscal 2010 and 2009 of $63 and $58, respectively. The Company classifies interest and penalties on uncertain tax positions as income tax expense. A summary of activity related to the Company s uncertain tax position is as follows:

	2010
Balance at beginning of year	**$ 58**
Increase due to tax positions taken in prior years	**5**
Balance at end of year	**$ 63**

The Company is subject to income taxes in the U.S. federal jurisdiction, and various state, local and non-U.S. jurisdictions. In 2010, the Internal Revenue Service completed an audit of the Company s federal income tax return for fiscal 2007, the outcome of which resulted in $92 of additional taxes being owed by the Company. With few exceptions, the Company is no longer subject to U.S. federal, state and local or non-U.S. income tax examinations for the years prior to fiscal year 2002.

8. Retirement Benefit Plans

The Company and certain of its subsidiaries sponsor defined benefit pension plans covering most of its employees. The Company s funding policy for its defined benefit pension plans is based on an actuarially determined cost method allowable under Internal Revenue Service regulations. One of the Company s defined benefit pension plans, which plan covers substantially all non-union employees of the Company s U.S. operations who were hired prior to March 1, 2003, was frozen in 2003. Consequently, although the plan otherwise continues, the plan ceased the accrual of additional pension benefits for service subsequent to March 1, 2003.

Prior to October 1, 2008, the Company used a July 1 measurement date for its defined benefit pension plans. For fiscal 2009, the measurement date changed from July 1 to September 30 as required under the amended guidance from the FASB related to employers accounting for defined benefit pension and other postretirement benefit plans. The Company previously adopted the amended guidance of the FASB related to the requirement to recognize the funded status of the Company s defined benefit pension plans as an asset or liability in the consolidated balance sheet. The net impact, as of October 1, 2008, of the measurement date change was a nominal charge to retained earnings. As of September 30, 2010 and 2009, the Company s defined benefit pension plans had accumulated benefit obligations of $21,889 and $19,600, respectively. Net pension expense (income) for the Company-sponsored defined benefit pension plans consists of the following:

	Years Ended September 30,		
	2010	2009	2008
Service cost	**$ 302**	$ 269	$ 242
Interest cost	**1,050**	1,067	951
Expected return on plan assets	**(1,411)**	(1,490)	(1,430)
Amortization of prior service cost	**142**	140	132
Amortization of net (gain) loss	**537**	54	(71)
Net pension expense (income) for defined benefit plan	**$ 620**	$ 40	$ (176)

29

SIFCO Industries, Inc. and Subsidiaries

Notes to Consolidated Financial Statements ***(Continued)***

The status of all defined benefit pension plans at September 30 is as follows:

	2010	2009
Benefit obligations:		
Benefit obligations at beginning of year	**$ 19,600**	$ 16,282
Service cost	**302**	337
Interest cost	**1,050**	1,334
Amendments		65
Actuarial loss	**1,486**	2,543
Benefits paid	**(549)**	(961)
Benefit obligations at end of year	**$ 21,889**	$ 19,600
Plan assets:		
Plan assets at beginning of year	**$ 15,388**	$ 16,704
Actual return on plan assets	**1,484**	(1,094)
Employer contributions	**330**	739
Benefits paid	**(549)**	(961)
Plan assets at end of year	**$ 16,653**	$ 15,388

	Plans in which Assets Exceed Benefit Obligations at September 30,		Plans in which Benefit Obligations Exceed Assets at September 30,	
	2010	2009	2010	2009
Reconciliation of funded status:				
Plan assets in excess of (less than) projected benefit obligations	**$ 910**	$ 1,208	**$ (6,146)**	$ (5,420)
Amounts recognized in accumulated other comprehensive loss:				
Net loss (gain)	**344**	(49)	**8,437**	7,953
Prior service cost	**132**	225	**63**	112
Net amount recognized in the consolidated balance sheets	**$ 1,386**	$ 1,384	**$ 2,354**	$ 2,645
Amounts recognized in the consolidated balance sheets are:				
Other assets	**$ 910**	$ 1,208	**$**	$
Other long-term liabilities			**(6,146)**	(5,420)
Accumulated other comprehensive loss pretax	**476**	176	**8,500**	8,065
Net amount recognized in the consolidated balance sheets	**$ 1,386**	$ 1,384	**$ 2,354**	$ 2,645

The amounts in accumulated other comprehensive loss that are expected to be recognized as components of net periodic benefit costs during fiscal 2011 are as follows:

	Plans in which Assets Exceed Benefit Obligations	Plans in which Benefit Obligations Exceed Assets
Net loss	**$**	$ 699
Prior service cost	**93**	24
Total	**$ 93**	$ 723

SIFCO Industries, Inc. and Subsidiaries

Notes to Consolidated Financial Statements ***(Continued)***

Where applicable, the following weighted-average assumptions were used in developing the benefit obligation and the net pension expense for defined benefit pension plans:

	Years Ended September 30,		
	2010	**2009**	**2008**
Discount rate for liabilities	**4.9%**	5.4%	6.7%
Discount rate for expenses	**5.5%**	6.6%	6.3%
Expected return on assets	**8.5%**	8.7%	8.7%

The Company classifies and discloses pension plan assets in one of the following three categories: (i) Level 1 quoted market prices in active markets for identical assets; (ii) Level 2 observable market based inputs or unobservable inputs that are corroborated by market data or (iii) Level 3 unobservable inputs that are not corroborated by market data. The following table sets forth the asset allocation of the Company s defined benefit pension plan assets and summarizes the fair values and levels within the fair value hierarchy for such plan assets as of September 30, 2010:

	Asset Amount	**% Asset Allocation**	**Level 1**	**Level 2**	**Level 3**
Funds invested in equity securities:					
U.S. companies	**$ 8,543**	**51%**	$	$ 8,543	$
Non-U.S. companies	**1,250**	**8%**		1,250	
Total equity securities	**9,793**	**59%**			
Funds invested in debt securities:					
U.S. companies	**6,613**	**40%**		4,703	1,910
Non-U.S. companies	**176**	**1%**		176	
Total debt securities	**6,789**	**41%**			
Other securities	**71**	**<1%**	71		
Total plan assets at fair value	**$ 16,653**	**100%**	$ 71	$ 14,672	$ 1,910

Changes in the fair value of the Company s Level 3 investments during the year ending September 30, 2010 were as follows:

	2010
Balance at beginning of year	**$ 1,654**
Actual return on plan assets	**247**
Purchases and sales of plan assets, net	**10**
Balance at end of year	**$ 1,911**

Investment objectives relative to the assets of the Company s defined benefit pension plans are to (i) optimize the long-term return on the plans assets while assuming an acceptable level of investment risk, (ii) maintain an appropriate diversification across asset categories and among investment managers, and (iii) maintain a careful monitoring of the risk level within each asset category. Asset allocation objectives are established to promote optimal expected returns and volatility characteristics given the long-term time horizon for fulfilling the obligations of the Company s defined benefit pension plans. Selection of the appropriate asset allocation for the plans assets was based upon a review of the expected return and risk characteristics of each asset category in relation to the anticipated timing of future plan benefit payment obligations.

The Company has a long-term strategic objective for the allocation of plan assets. However, the Company realizes that actual allocations at any point in time will likely vary from this strategic objective due principally to (i) the impact of market conditions on plan asset values and (ii) required cash contributions to and distribution from the plans. The Asset Allocation Range anticipates this fluctuation and provides flexibility for the investment managers to vary around the objective without a mandatory immediate rebalancing.

SIFCO Industries, Inc. and Subsidiaries

Notes to Consolidated Financial Statements ***(Continued)***

	Strategic Objective	Asset Allocation Range
U.S. equities	50%	30% to 70%
Non-U.S. equities	7%	0% to 20%
U.S. debt securities	42%	20% to 70%
Non-U.S. debt securities	0%	0% to 10%
Other securities	1%	0% to 60%
Total	100%	

External consultants assist the Company with monitoring the appropriateness of the investment strategy and the related asset mix and performance. To develop the expected long-term rate of return assumptions on plan assets, generally the Company uses long-term historical information for the target asset mix selected. Adjustments are made to the expected long-term rate of return assumptions when deemed necessary based upon revised expectations of future investment performance of the overall investments markets.

The Company expects to make contributions of approximately $622 to its defined benefit pension plans during fiscal 2011. The Company has carryover balances from previous periods that may be available for use as a credit to reduce the amount of contributions that the Company is required to make to certain of its defined benefit pension plans in fiscal 2011. The Company s ability to elect to use such carryover balances will be determined based on the actual funded status of each defined benefit pension plan relative to the plan s minimum regulatory funding requirements. The following defined benefit payment amounts are expected to be made in the future:

Years Ending September 30,	Projected Benefit Payments
2011	$ 784
2012	891
2013	2,076
2014	1,311
2015	1,237
2016-2020	7,356

The Company also contributes to a U.S. multi-employer retirement plan for certain union employees. The Company s contributions to the plan in 2010, 2009 and 2008 were $44, $57 and $44, respectively.

Substantially all non-union U.S. employees of the Company and its U.S. subsidiaries are eligible to participate in the Company s U.S. defined contribution plan. The Company makes non-discretionary, regular matching contributions to this plan equal to an amount that represents up to 5% of eligible participant compensation. The Company s regular matching contribution expense for this defined contribution plan in 2010, 2009 and 2008 was $304, $283 and $273, respectively. This defined contribution plan provides that the Company may also make an additional discretionary matching contribution during those periods in which the Company achieves certain performance levels. The Company s additional discretionary matching contribution expense in 2010, 2009 and 2008 was $171, $196 and $211, respectively.

The Company s United Kingdom subsidiary sponsors a defined contribution plan for certain of its employees. The Company contributes annually 5% of eligible employees compensation, as defined. Total contribution expense in 2010, 2009 and 2008 was $26, $24 and $19, respectively.

The Company s Swedish subsidiary sponsors defined contribution plans for its employees. The Company contributes annually a percentage of eligible employees compensation, as defined. Total contribution expense in 2010, 2009 and 2008 was $6, $5 and $7, respectively.

32

SIFCO Industries, Inc. and Subsidiaries

Notes to Consolidated Financial Statements ***(Continued)***

9. Stock-Based Compensation

In previous periods, the Company awarded stock options under its shareholder approved 1995 Stock Option Plan (1995 Plan) and 1998 Long-term Incentive Plan (1998 Plan). Under the 1995 Plan, the initial aggregate number of stock options that were available to be granted was 200,000. The aggregate number of stock options that were available to be granted under the 1998 Plan in any fiscal year was limited to 1.5% of the total outstanding common shares of the Company as of September 30, 1998, up to a maximum of 5% of such total outstanding shares, subject to adjustment for forfeitures. As of September 30, 2009, no further options may be granted under either the 1995 Plan or the 1998 Plan. Option exercise price is not less than fair market value on date of grant and options are exercisable no later than ten years from date of grant. Options issued under both plans generally vest at a rate of 25% per year.

Option activity is as follows:

	Years Ended September 30,		
	2010	**2009**	**2008**
Options at beginning of year	**92,000**	93,250	110,500
Weighted average exercise price	**$ 4.53**	$ 4.60	$ 4.46
Options reinstated during the year		2,000	
Weighted average exercise price	**$**	$ 3.74	$
Options exercised during the year	**(32,000)**	(3,250)	(17,250)
Weighted average exercise price	**$ 4.90**	$ 6.20	$ 3.69
Options at end of year	**60,000**	92,000	93,250
Weighted average exercise price	**$ 4.33**	$ 4.53	$ 4.60
Options exercisable at end of year	**60,000**	92,000	86,750
Weighted average exercise price	**$ 4.33**	$ 4.53	$ 4.67

As of September 30, 2010 and 2009, there was no unrecognized compensation cost related to the stock options granted under the Company s stock option plans.

The following table provides additional information regarding options outstanding as of September 30, 2010:

Option Exercise Price	**Options Outstanding**	**Options Exercisable**	**Options Vested or Expected to Vest**
$ 3.50	15,000	15,000	15,000
$ 3.74	23,000	23,000	23,000
$ 5.50	22,000	22,000	22,000
Total	60,000	60,000	60,000
Weighted average remaining term	3.1 years	3.1 years	3.1 years
Aggregate intrinsic value	$ 453	$ 453	$ 453

Total compensation expense related to stock options recognized in fiscal years 2010, 2009 and 2008 was zero, $3 and $12, respectively. No tax benefit was recognized for this compensation expense.

The Company has also awarded performance shares under its 2007 Long-Term Incentive Plan (2007 Plan). The Company adopted the 2007 Plan in fiscal 2008. The aggregate number of shares that may be awarded under the 2007 Plan is 250,000, subject to an adjustment for the forfeiture of any issued shares. In addition, shares that may be awarded are subject to individual award limitations. The shares awarded under the 2007 Plan may be made in multiple forms including stock options, stock appreciation rights, restricted or unrestricted stock, and performance related

shares. Any such awards are exercisable no later than ten years from date of grant.

SIFCO Industries, Inc. and Subsidiaries

Notes to Consolidated Financial Statements *(Continued)*

The performance shares that have been awarded under the 2007 Plan generally provide for the issuance of the Company s common shares upon the Company achieving certain defined financial performance objectives during a period up to three years following the making of such award. The ultimate number of common shares of the Company that may be earned pursuant to an award will range from a minimum of no shares to a maximum of 150% of the initial number of performance shares awarded, depending on the level of the Company s achievement of its financial performance objectives.

Compensation expense is being accrued at (i) 100% of the target levels for recipients of the performance shares awarded during fiscal 2010, (ii) 0% to 50% of the target levels for recipients of the performance shares awarded during fiscal 2009 and (iii) approximately 70% of the target levels for recipients of the performance shares awarded during fiscal 2008. During each future reporting period, such expense may be subject to adjustment based upon the Company s subsequent estimate of the number of common shares that it expects to issue upon the completion of the performance period. The performance shares were valued at the closing market price of the Company s common shares on the date of grant, and the vesting of such shares is determined at the end of the performance period. Compensation expense related to all performance shares awarded under the 2007 Plan was $325, $80 and $38 during fiscal 2010, 2009 and 2008, respectively. As of September 30, 2010, 2009 and 2008 there was $389, $85 and $153 of total unrecognized compensation cost related to the performance shares awarded under the 2007 Plan. The Company expects to recognize this cost over the next two (2) years.

The following is a summary of activity related to performance shares:

	Number of Shares	Weighted Average Fair Value at Date of Grant
Outstanding at September 30, 2009	75,500	$ 8.29
Performance shares awarded	36,200	15.75
Performance shares forfeited	(4,500)	10.33
Outstanding at September 30, 2010	107,200	$ 10.72

10. Asset Divestiture

Prior to fiscal 2008, the Company and its Irish subsidiary, SIFCO Turbine Components Limited (SIFCO Turbine), completed the sale of its industrial turbine engine component repair business, which operated in SIFCO Turbine s Cork, Ireland facility. Upon completion of this transaction, the Company no longer maintains any operations in Ireland. SIFCO Turbine retained ownership of the Cork, Ireland facility subject to a long-term lease arrangement with the acquirer of the business.

SIFCO Turbine s Cork, Ireland facility was classified as held for sale in the consolidated balance sheets during fiscal 2008 and up through June 30, 2009. The Company attempted to sell this facility since the beginning of fiscal 2008, with the intention and expectation that it would dispose of this asset within the requisite period of time to allow for classification as an asset held for sale. However, while the Company will continue its effort to sell the facility, due to the current global economic downturn, the Company reassessed it expectations during the fourth quarter of fiscal 2009 and determined that it is more likely than not that it will be unable to sell the Cork, Ireland facility during the next 12 month period. Accordingly, such asset no longer qualifies for classification as held for sale and, at September 30, 2009, this asset was reclassified to property, plant and equipment and included in corporate identifiable assets (see Note 12). As a result of this reassessment, during fiscal 2009, the Company recorded aggregate depreciation expense related to the Cork, Ireland facility of $230, of which $113 related to fiscal 2009 and $117 represented depreciation related to periods prior to fiscal 2009 during which time this asset was classified as held for sale.

In accordance with the guidance as it relates to accounting for the impairment or disposal of long-lived assets, the portion of the Company s financial results related principally to the activity of leasing the Cork, Ireland facility, which makes up essentially all of SIFCO Turbine s activity, were reported in fiscal 2009 and 2008 as discontinued operations in the accompanying consolidated statements of operations. Due to the aforementioned reassessment of the status of the Cork, Ireland facility during fiscal 2009, such leasing activity is no longer considered to be a discontinued operation.

34

SIFCO Industries, Inc. and Subsidiaries

Notes to Consolidated Financial Statements ***(Continued)***

The financial results included in discontinued operations were as follows:

	2009	2008
Net sales	$	$
Income before income tax provision	247	370
Income from discontinued operations, net of tax	188	287

11. Contingencies

In the normal course of business, the Company may be involved in ordinary, routine legal actions. The Company cannot reasonably estimate future costs, if any, related to these matters and does not believe any such matters are material to its financial condition or results of operations. The Company maintains various liability insurance coverages to protect its assets from losses arising out of or involving activities associated with ongoing and normal business operations; however, it is possible that the Company s future operating results could be affected by future cost of litigation.

The Company leases various facilities and equipment under capital and operating leases expiring at various dates. The Company recorded rent expense of $546, $544, and $624 in fiscal 2010, 2009 and 2008, respectively. At September 30, 2010, minimum rental commitments under non-cancelable leases are as follows:

Year ending September 30,	Capital Leases	Operating Leases
2011	$ 117	$ 457
2012	28	327
2013		146
2014		128
Thereafter		130
Total minimum lease payments	145	$ 1,188
Less amount representing interest	7	
Present value of net minimum lease payments	138	
Less current maturities	106	
Long-term capital lease obligation	$ 32	

Amortization of the cost of equipment under capital leases is included in depreciation expense. At September 30, assets recorded under capital leases consist of the following:

	2010	2009
Machinery and equipment	**$ 523**	$ 553
Accumulated depreciation	**(356)**	(317)

SIFCO Industries, Inc. and Subsidiaries

Notes to Consolidated Financial Statements *(Continued)*

12. Business Segments

The Company identifies reportable segments based upon distinct products manufactured and services performed. The Aerospace Component Manufacturing Group consists of the production, heat-treatment, surface-treatment, non-destructive testing, and some machining of forged components in various steel alloys utilizing a variety of processes for application principally in the aerospace industry. The Turbine Component Services and Repair Group consists primarily of the repair and remanufacture of small aerospace and industrial turbine engine components. The Repair Group is also involved in precision component machining and industrial coatings for turbine engine applications. The Applied Surface Concepts Group is a provider of specialized selective electrochemical metal finishing processes and services used to apply metal coatings to a selective area of a component. The Company s reportable segments are separately managed.

One customer of all three of the Company s segments accounted for 20%, 15% and 13% of the Company s consolidated net sales in fiscal 2010, 2009 and 2008, respectively. Another customer of all three of the Company s segments accounted for 12%, 14% and 14% of the Company s consolidated net sales in fiscal 2010, 2009 and 2008, respectively. The combined net sales to these two customers, and to the direct subcontractors to these two customers, accounted for 54%, 48% and 38% of the Company s consolidated net sales in 2010, 2009 and 2008, respectively.

Geographic net sales are based on location of customer. The United States of America is the single largest country for unaffiliated customer sales, accounting for 75% of consolidated net sales in each of fiscal 2010, 2009 and 2008. No other single country represents greater than 10% of consolidated net sales in 2010, 2009 and 2008. Net sales to unaffiliated customers located in various European countries accounted for 10%, 9%, and 10% of consolidated net sales in 2010, 2009 and 2008, respectively. Net sales to unaffiliated customers located in various Asian countries accounted for 9%, 11%, and 7% of consolidated net sales in 2010, 2009 and 2008, respectively.

Corporate unallocated expenses represent expenses that are not of a business segment operating nature and, therefore, are not allocated to the business segments for reporting purposes. Corporate identifiable assets consist primarily of cash and cash equivalents, short-term investments and the Company s Cork, Ireland facility (see Note 10).

SIFCO Industries, Inc. and Subsidiaries

Notes to Consolidated Financial Statements ***(Continued)***

The following table summarizes certain information regarding segments of the Company s continuing operations:

	Years Ended September 30,		
	2010	**2009**	**2008**
Net sales:			
Aerospace Component Manufacturing Group	**$ 62,098**	$ 68,640	$ 71,980
Turbine Component Services and Repair Group	**8,933**	11,529	14,336
Applied Surface Concepts Group	**12,239**	13,719	15,075
Consolidated net sales	**$ 83,270**	$ 93,888	$ 101,391
Operating income (loss):			
Aerospace Component Manufacturing Group	**$ 9,855**	$ 13,376	$ 9,892
Turbine Component Services and Repair Group	**(36)**	144	(304)
Applied Surface Concepts Group	**249**	817	1,341
Corporate unallocated expenses	**(2,153)**	(1,861)	(1,951)
Consolidated operating income	**7,915**	12,476	8,978
Interest expense, net	**14**	51	125
Foreign currency exchange loss (gain), net	**(23)**	217	35
Other income, net	**(470)**	(119)	(2)
Consolidated income from continuing operations before income tax provision	**$ 8,394**	$ 12,327	$ 8,820
Depreciation and amortization expense:			
Aerospace Component Manufacturing Group	**$ 1,047**	$ 809	$ 628
Turbine Component Services and Repair Group	**335**	408	467
Applied Surface Concepts Group	**403**	362	380
Corporate unallocated expenses	**110**	246	8
Consolidated depreciation and amortization expense	**$ 1,895**	$ 1,825	$ 1,483
LIFO expense (income) for the Aerospace Component Manufacturing Group	**$ 175**	$ (1,583)	$ 1,712
Capital expenditures:			
Aerospace Component Manufacturing Group	**$ 6,094**	$ 4,394	$ 1,162
Turbine Component Services and Repair Group	**174**	259	457
Applied Surface Concepts Group	**479**	603	393
Consolidated capital expenditures	**$ 6,747**	$ 5,256	$ 2,012
Identifiable assets:			
Aerospace Component Manufacturing Group	**$ 31,617**	$ 28,314	$ 30,587
Turbine Component Services and Repair Group	**4,642**	4,566	9,273
Applied Surface Concepts Group	**6,037**	6,225	6,903
Corporate	**27,354**	26,665	13,386

Consolidated total assets	**$ 69,650**	$ 65,770	$ 60,149
Non-U.S. operations:			
Net sales	**$ 4,560**	$ 4,898	$ 5,373
Operating income (loss) from continuing operations	**(162)**	43	593
Identifiable assets (excluding cash) of continuing operations	**4,286**	5,487	2,805

SIFCO Industries, Inc. and Subsidiaries

Notes to Consolidated Financial Statements ***(Continued)***

13. Summarized Quarterly Results of Operations (Unaudited)

	2010 Quarter Ended			
	Dec. 31	**March 31**	**June 30**	**Sept. 30**
Net sales	**$ 21,302**	**$ 19,886**	**$ 19,481**	**$ 22,601**
Cost of goods sold	**15,281**	**15,735**	**15,188**	**17,325**
Income before income tax provision	**3,192**	**1,478**	**1,507**	**2,217**
Income tax provision	**1,179**	**474**	**523**	**856**
Net income	**2,013**	**1,004**	**984**	**1,361**
Net income (loss) per share:				
Basic	**0.38**	**0.19**	**0.18**	**0.26**
Diluted	**0.38**	**0.19**	**0.18**	**0.26**

	2009 Quarter Ended			
	Dec. 31	**March 31**	**June 30**	**Sept. 30**
Net sales	$ 23,537	$ 25,941	$ 23,548	$ 20,862
Cost of goods sold	18,155	19,812	16,517	15,463
Income from continuing operations before income tax provision	2,441	3,396	4,101	2,389
Income tax provision	903	1,296	1,484	797
Income from continuing operations	1,538	2,100	2,617	1,592
Income (loss) from discontinued operations, net of tax	92	294	(198)	
Net income	1,630	2,394	2,419	1,592
Income per share from continuing operations:				
Basic	0.29	0.40	0.49	0.30
Diluted	0.29	0.40	0.49	0.30
Income (loss) per share from discontinued operations:				
Basic	0.02	0.06	(0.04)	
Diluted	0.02	0.06	(0.04)	
Net income per share:				
Basic	0.31	0.45	0.46	0.30
Diluted	0.31	0.45	0.45	0.30

Schedule II

SIFCO Industries, Inc. and Subsidiaries

Valuation and Qualifying Accounts

Years Ended September 30, 2010, 2009 and 2008

(Amounts in thousands)

	Balance at Beginning of Period	Additions (Reductions) Charged to Expense	Additions (Reductions) Charged to Other Accounts	Deductions		Balance at End of Period
Year Ended September 30, 2010						
Deducted from asset accounts						
Allowance for doubtful accounts	**$ 633**	**$ 185**	**$**	**$ (236)**	**(a)**	**$582**
Return and allowance reserve						
Inventory obsolescence reserve	**1,319**	**162**		**(269)**	**(c)**	**1,212**
Inventory LIFO reserve	**7,320**	**175**				**7,495**
Asset impairment reserve	**933**					**933**
Deferred tax valuation allowance	**467**	**(3)**				**464**
Accrual for estimated liability						
Workers compensation reserve	**1,260**	**51**		**(366)**	**(e)**	**945**
Year Ended September 30, 2009						
Deducted from asset accounts						
Allowance for doubtful accounts	$ 583	$ 195	$ (4)	$ (141)	(a)	$ 633
Return and allowance reserve						
Inventory obsolescence reserve	1,061	283		(25)	(c)	1,319
Inventory LIFO reserve	8,903	(1,583)				7,320
Asset impairment reserve	981			(48)	(d)	933
Deferred tax valuation allowance	480	(13)				467
Accrual for estimated liability						
Workers compensation reserve	1,107	512		(359)	(e)	1,260
Year Ended September 30, 2008						
Deducted from asset accounts						
Allowance for doubtful accounts	$ 603	$ 254	$ (17)	$ (257)	(a)	$ 583
Return and allowance reserve	29	13	(24)	(18)	(b)	
Inventory obsolescence reserve	1,469	86		(494)	(c)	1,061
Inventory LIFO reserve	7,191	1,712				8,903
Asset impairment reserve	318	757		(94)	(d)	981
Deferred tax valuation allowance	516	(36)				480
Accrual for estimated liability						
Workers compensation reserve	1,190	250		(333)	(e)	1,107

(a) Accounts determined to be uncollectible, net of recoveries
(b) Actual returns received
(c) Inventory sold or otherwise disposed
(d) Equipment sold or otherwise disposed
(e) Payment of workers compensation claims

39

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

None.

Item 9A. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

As defined in Rule 13a-15(e) under the Securities Exchange Act of 1934 (the Exchange Act), disclosure controls and procedures are controls and procedures designed to provide reasonable assurance that information required to be disclosed in reports filed or submitted under the Exchange Act is recorded, processed, summarized and reported on a timely basis, and that such information is accumulated and communicated to management, including the Company s Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure. The Company s disclosure controls and procedures include components of the Company s internal control over financial reporting. In designing and evaluating the disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and management is required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

Management of the Company, under the supervision and with the participation of the Chief Executive Officer and Chief Financial Officer, carried out an evaluation of the effectiveness of the design and operation of the Company s disclosure controls and procedures pursuant to Exchange Act Rule 13a-15(e) as of September 30, 2010 (the Evaluation Date). Based upon that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that, as of the Evaluation Date, the Company s disclosure controls and procedures were not effective due solely to the material weakness in the Company s internal control over financial reporting as described below in Management s Report on Internal Control over Financial Reporting. In light of this material weakness, the Company performed additional analysis as deemed necessary to ensure, to the best of its knowledge, that the consolidated financial statements were prepared in accordance with U.S. generally accepted accounting principles. Accordingly, notwithstanding the existence of the material weakness described below, management has concluded that the consolidated financial statements in this Form 10-K fairly present, in all material respects, the Company s financial position, results of operations and cash flows for the periods presented.

Management s Report on Internal Control over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Exchange Act Rules 13a-15(f). Under the supervision of the Chief Executive Officer and Chief Financial Officer, management conducted an evaluation of the effectiveness of the Company s internal control over financial reporting as of September 30, 2010 based on (i) the framework set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in Internal Control-Integrated Framework and Internal Control over Financial Reporting Guidance for Smaller Public Companies and (ii) The U.S. Securities and Exchange Commission (SEC) Guidance Regarding Management s Report on Internal Control Over Financial Reporting. Based on that evaluation, management has concluded that the Company did not maintain effective internal control over financial reporting solely as a result of the following material weakness:

Missing and/or ineffective controls were noted in the area of the Company s management information systems related principally to (i) logical access/security, (ii) program change management and (iii) segregation of duties. While none of the individual deficiencies noted in these areas appear to rise to the level of a material weakness, based on the nature and interrelationship of the noted deficiencies, management believes that such deficiencies, when considered in the aggregate, do create a reasonable possibility that a material misstatement to the Company s financial statements could occur and not be detected in a timely manner and, therefore, a material weakness in internal controls over financial reporting does exist as of September 30, 2010.

This annual report does not include an attestation report of the Company s registered public accounting firm regarding controls over financial reporting. Management s report was not subject to attestation by the Company s registered public accounting firm pursuant to rules of the SEC that permit smaller reporting companies to provide only management s report in this annual report.

Changes in Internal Control over Financial Reporting and other Remediation

The noted material weaknesses in the effectiveness of the Company s internal controls with respect to its existing management information system (i.e. logical access/security, program change management and segregation of duties) were not all remediated at this time because Company management believes that (i) the relevant risk associated with not

40

remediating such controls at this time is not deemed to be high and (ii) the cost/benefit analysis does not justify remediating such controls at this time given the fact that the Company is in the process of completing the implementation of a new management information system (implementation expected to be completed in the next three months) and plans to incorporate the remediation of a majority of the deficiencies noted above as part of the new management information system.

There was no significant change in our internal control over financial reporting that occurred during the fourth fiscal quarter ended September 30, 2010 that has materially affected, or that is reasonably likely to materially affect our internal control over financial reporting.

Item 9B. Other Information

None.

PART III

Item 10. Directors, Executive Officers and Corporate Governance

The following table sets forth certain information regarding the executive officers of the Company.

Name	Age	Title and Business Experience
Jeffrey P. Gotschall	62	Chairman of the Board since 2001; director of the Company since 1986; Chief Executive Officer from 1990 to August 2009; President from 1989 to 2002; Chief Operating Officer from 1986 to 1990; Executive Vice President from 1986 to 1989; and from 1985 to 1989, President of SIFCO Turbine Component Services.
Michael S. Lipscomb	64	President and Chief Executive officer since August 2009 and a director of the Company since April 2010. Mr. Lipscomb previously served as a director of the Company from 2002 to 2006. Mr. Lipscomb is also currently the Chief Executive Officer of Aviation Component Solutions. Prior to joining the Company, Mr. Lipscomb was Chairman, President and Chief Executive Officer of Argo-Tech Corporation from 1994 to 2007, President from 1990 to 1994, Executive V.P. and Chief Operating Officer from 1988 to 1990, and Vice President of Operations from 1986, when Argo-Tech was formed, to 1988. Mr. Lipscomb joined TRW s corporate staff in 1981 and was appointed Director of Operations for the Power Accessories Division in 1985. Mr. Lipscomb previously served as a director of Argo-Tech and AT Holdings Corporation from 1990 to 2007. He serves on the boards of Ruhlin Construction Company and Altra Holdings, Inc. He is a former board member of the Aerospace Industries Association and General Aviation Manufacturers Association.
James P. Woidke	48	Chief Operating Officer since March 2010. Prior to the assumption of his new role, Mr. Woidke served as General Manager of SIFCO s Aerospace Component Manufacturing Group since March, 2006. Prior to joining the Company, Mr. Woidke was the Director of Engineering and Quality as well as Business Unit Manager for Anchor Manufacturing Group from 2003 to 2006. From 1993 to 2003, Mr. Woidke held a number of different positions with Lake Erie Screw Corporation, last serving as Director of Manufacturing Operations. Mr. Woidke currently serves on the board of Forging Industry Educational and Research Foundation (FIERF).
Frank A. Cappello	52	Vice President-Finance and Chief Financial Officer since 2000. Prior to joining the Company, Mr. Cappello was employed by ASHTA Chemicals Inc, a commodity chemical manufacturer, from August 1990 to December 1991 and from June 1992 to February 2000, last serving as Vice President Finance and Administration and Chief Financial Officer; and previously by KPMG LLP, last serving as a Senior Manager in its Assurance Group.

The Company incorporates herein by reference the information required by this Item as to the Directors, procedures for recommending Director nominees and the Audit Committee appearing under the captions Proposal to Elect Seven (7) Directors , Section 16(a) Beneficial Ownership Reporting Compliance and Corporate Governance and Board of Director Matters of the Company s definitive Proxy Statement to be filed with the SEC on or about December 15, 2010.

The Directors of the Company are elected annually to serve for one-year terms or until their successors are elected and qualified.

The Company has adopted a Code of Ethics within the meaning of Item 406(b) of Regulation S-K under the Securities Exchange Act of 1934, as amended. The Code of Ethics is applicable to, among other people, the Company s Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, who is the Company s Principal Financial Officer, and to the Corporate Controller, who is the Company s Principal Accounting Officer. The Company s Code of Ethics is available on its website: www.sifco.com.

Item 11. Executive Compensation

The Company incorporates herein by reference the information appearing under the captions Compensation Discussion and Analysis , Executive Compensation , Compensation Committee Report , Compensation Committee Interlocks and Insider Participation and Director Compensation of the Company s definitive Proxy Statement to be filed with the SEC on or about December 15, 2010.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

The following table sets forth information regarding Common Shares to be issued under the Company s equity compensation plans as of September 30, 2010.

Plan Category	Number of Securities to be issued upon Exercise of Outstanding Options	Number of Securities to be issued upon Meeting Performance Objectives	Weighted-Average Exercise Price of Outstanding Options	Number of Securities Remaining Available for Future Issuance Under Equity Compensation Plans
Equity compensation plans approved by security holders:				
1998 Long-term Incentive Plan(1)	37,000		$ 4.69	
1995 Stock Option Plan(2)	23,000		3.74	
2007 Long-term Incentive Plan(3)		107,200	N/A	142,800
Total	60,000	107,200	$ 4.33	142,800

(1) Under the 1998 Long-term Incentive Plan the aggregate number of stock options that were available to be granted in any fiscal year was limited to 1.5% of the total outstanding Common Shares of the Company at September 30, 1998, up to a cumulative maximum of 5% of such total outstanding shares, subject to adjustment for forfeitures. No further options may be granted under this plan. During fiscal 2010, 30,000 options granted under the 1998 Long-term Incentive Plan were exercised.

(2) Under the 1995 Stock Option Plan the aggregate number of stock options that were available to be granted was 200,000. No further options may be granted under this plan. During 2010, 2,000 options granted under the 1995 Stock Option Plan were exercised.

(3) Under the 2007 Long-term Incentive Plan the aggregate number of common shares that are available to be granted is 250,000 shares, with a further limit of no more than 50,000 shares to any one person in any twelve-month period.

For additional information concerning the Company s equity compensation plans, refer to the discussion in Note 9 to the Consolidated Financial Statements.

The Company incorporates herein by reference the beneficial ownership information appearing under the captions Stock Ownership of Certain Beneficial Owners and Stock Ownership of Executive Officers, Director and Nominees of the Company s definitive Proxy Statement to be filed with the SEC on or about December 15, 2010.

Item 13. Certain Relationships and Related Transactions, and Director Independence

The Company incorporates herein by reference the information required by this item appearing under the captions Corporate Governance and Board of Director Matters of the Company s definitive Proxy Statement to be filed with the SEC on or about December 15, 2010.

Item 14. Principal Accounting Fees and Services

The Company incorporates herein by reference the information required by this item appearing under the caption Principal Accounting Fees and Services of the Company s definitive Proxy Statement to be filed with the SEC on or about December 15, 2010.

PART IV

Item 15. Exhibits, Financial Statement Schedules

(a) (1) Financial Statements:

The following Consolidated Financial Statements; Notes to the Consolidated Financial Statements and the Report of Independent Registered Public Accounting Firm are included in Item 8.

Report of Independent Registered Public Accounting Firm

Consolidated Statements of Operations for the Years Ended September 30, 2010, 2009 and 2008

Consolidated Balance Sheets September 30, 2010 and 2009

Consolidated Statements of Cash Flows for the Years Ended September 30, 2010, 2009 and 2008

Consolidated Statements of Shareholders Equity for the Years Ended September 30, 2010, 2009 and 2008

Notes to Consolidated Financial Statements September 30, 2010, 2009 and 2008

(a) (2) Financial Statement Schedules:

The following financial statement schedule is included in Item 8:

Schedule II Valuation and Qualifying Accounts

All other schedules for which provision is made in the applicable accounting regulations of the Securities and Exchange Commission are not required under the related regulations, are inapplicable, or the information has been included in the Notes to the Consolidated Financial Statements.

(a)(3) Exhibits:

The following exhibits are filed with this report or are incorporated herein by reference to a prior filing in accordance with Rule 12b-32 under the Securities and Exchange Act of 1934. (Asterisk denotes exhibits filed with this report)

Exhibit No.	Description
3.1	Third Amended Articles of Incorporation of SIFCO Industries, Inc., filed as Exhibit 3(a) of the Company s Form 10-Q dated March 31, 2002, and incorporated herein by reference

Exhibit No.	Description
3.2	SIFCO Industries, Inc. Amended and Restated Code of Regulations dated January 29, 2002, filed as Exhibit 3(b) of the Company s Form 10-Q dated March 31, 2002, and incorporated herein by reference
4.1	Amended and Restated Credit Agreement Between SIFCO Industries, Inc. and National City Bank dated April 30, 2002, filed as Exhibit 4(b) of the Company s Form 10-Q dated March 31, 2002, and incorporated herein by reference
4.2	Consolidated Amendment No. 1 to Amended and Restated Credit Agreement, Amended and Restated Reimbursement Agreement and Promissory Note dated November 26, 2002 between SIFCO Industries, Inc. and National City Bank, filed as Exhibit 4.5 of the Company s Form 10-K dated September 30, 2002, and incorporated herein by reference
4.3	Consolidated Amendment No. 2 to Amended and Restated Credit Agreement, Amended and Restated Reimbursement Agreement and Promissory Note dated February 13, 2003 between SIFCO Industries, Inc. and National City Bank, filed as Exhibit 4.6 of the Company s Form 10-Q dated December 31, 2002, and incorporated herein by reference
4.4	Consolidated Amendment No. 3 to Amended and Restated Credit Agreement, Amended and Restated Reimbursement Agreement and Promissory Note dated May 13, 2003 between SIFCO Industries Inc. and National City Bank, filed as Exhibit 4.7 of the Company s Form 10-Q dated March 31, 2003, and incorporated herein by reference
4.5	Consolidated Amendment No. 4 to Amended and Restated Credit Agreement, Amended and Restated Reimbursement Agreement and Promissory Note dated July 28, 2003 between SIFCO Industries, Inc. and National City Bank, filed as Exhibit 4.8 of the Company s Form 10-Q dated June 30, 2003, and incorporated herein by reference
4.6	Consolidated Amendment No. 5 to Amended and Restated Credit Agreement, Amended and Restated Reimbursement Agreement and Promissory Note dated November 26, 2003 between SIFCO Industries, Inc. and National City Bank, filed as Exhibit 4.9 of the Company s Form 10-K dated September 30, 2003, and incorporated herein by reference
4.7	Amendment No. 6 to Amended and Restated Credit Agreement dated March 31, 2004 between SIFCO Industries, Inc. and National City Bank, filed as Exhibit 4.10 of the Company s Form 10-Q dated March 31, 2004, and incorporated herein by reference

(f) Neither the Company nor any Company Subsidiary is a Specially Designated National or other Blocked Person identified by the United States government, nor a Person that is owned or controlled by or acts on behalf of a Specially Designated National or Blocked Person. To the Company s knowledge, none of Company s Affiliates or brokers or any director, officer, employee, nor authorized agent of the Company or any Company Subsidiary (if any), acting or benefiting in any capacity in connection with this

Table of Contents

Agreement, and none of the funds or other assets to be transferred hereunder are the property of, or beneficially owned, directly or indirectly, by any Specially Designated National or Blocked Person, nor are such funds or other assets the proceeds of any specified unlawful activity as defined by 18 U.S.C. § 1956(c)(7). None of the Company or any Company Subsidiary has engaged in or facilitated any prohibited transactions with any Specially Designated National or other Blocked Person without proper prior authorization from the United States government.

4.7 *SEC Filings; Financial Statements*.

(a) The Company has filed on a timely basis all forms, reports, statements, schedules and documents (including items incorporated by reference) required to be filed by it with the SEC since January 1, 2003. Except to the extent available in full without redaction on the SEC s web site through the Electronic Data Gathering, Analysis and Retrieval System (*EDGAR*), including those filed on or after the date of this Agreement, the Company has Made Available to Parent copies of, in the form filed with the SEC, all of the following documents filed on or after January 1, 2003 through the date hereof: (i) the Company s Annual Reports on Form 10-K, (ii) the Company s Quarterly Reports on Form 10-Q, (iii) all proxy and information statements relating to the Company s meetings of stockholders (whether annual or special) and all information statements relating to stockholder consents, (iv) the Company s Current Reports on Form 8-K, (v) all other forms, reports, statements, schedules and documents filed by the Company with the SEC (the forms, reports, statements, schedules and other documents referred to in clauses (i), (ii), (iii), (iv) and (v) above, whether or not available through EDGAR, are, collectively, including those filed on or after the date of this Agreement, the *Company SEC Reports* and (vi) all certifications and statements required by Rules 13a-14 and 15d-14 under the Exchange Act and Sections 302 and 906 of the Sarbanes-Oxley Act of 2002 (*SOXA*), and the rules and regulations of the SEC promulgated thereunder, with respect to any report referred to in clause (i) or (ii) (collectively, the *Certifications*). To the Company s knowledge, except as disclosed in the Company SEC, each director and officer (as defined in Rule 16a-1(f) under the Exchange Act) of the Company has filed with the SEC on a timely basis all statements required by Section 16(a) of the Exchange Act and the rules and regulations thereunder. No Company Subsidiary is, or since January 1, 2003 has been, required to file any form, report, statement, schedule or other document with the SEC. As used in this Section 4.7, the term *file* shall be broadly construed to include any manner in which a document or information is furnished, transmitted or otherwise made available to the SEC.

(b) Each of the consolidated financial statements (including, in each case, any related notes thereto) contained in the Company SEC Reports (the *Company Financial Statements*), including each of the Company SEC Reports filed after the date of this Agreement until the Closing, (i) complied as to form in all material respects with the published rules and regulations of the SEC with respect thereto, (ii) was prepared in accordance with GAAP applied on a consistent basis throughout the periods involved (except as may be indicated in the notes thereto or, in the case of unaudited interim financial statements, as may be permitted by the SEC on Form 10-Q, Form 8-K or any successor form under the Exchange Act), and (iii) fairly presented the consolidated financial position of the Company and the Company Subsidiaries as at the respective dates thereof and the consolidated results of Company s and the Company Subsidiaries operations and cash flows for the periods indicated, except that the unaudited interim financial statements may not contain footnotes and were or are subject to normal and recurring immaterial year-end adjustments in accordance with GAAP. The balance sheet of the Company as of December 31, 2005 (the *Company Balance Sheet Date*) contained in the Company SEC Reports is hereinafter referred to as the *Company Balance Sheet*. Neither the Company nor any Company Subsidiary has any liabilities (absolute, accrued, contingent or otherwise) required under GAAP to be set forth on a balance sheet that are, individually or in the aggregate, material to the business, results of operations or financial condition of the Company and the Company Subsidiaries taken as a whole, except for (A) liabilities incurred since the Company Balance Sheet Date in the ordinary course of business consistent with past practice which are of the type that typically recur and which do not result from any breach of contract, tort or violation of any Law, (B) those specifically set forth or specifically and adequately reserved against in the Company Balance Sheet, and (C) the fees and expenses of investment bankers, attorneys and accountants incurred in connection with this

Table of Contents

Agreement. Except as reflected in the Company Financial Statements, neither the Company nor any Company Subsidiary is a party to any material off-balance sheet arrangements (as defined in Item 303 of Regulation S-K). All reserves that are set forth in or reflected in the Company Balance Sheet have been established in accordance with GAAP consistently applied. At the Company Balance Sheet Date, there were no material loss contingencies (as such term is used in Statement of Financial Accounting Standards No. 5 (*Statement No. 5*) issued by the Financial Accounting Standards Board in March 1975) that are not adequately provided for in the Company Balance Sheet as required by Statement No. 5. The Company Financial Statements comply in all material respects with the American Institute of Certified Public Accountants Statement of Position 97-2. The Company has not had any material dispute with any of its auditors regarding accounting matters or policies during any of its past three (3) full fiscal years or during the current fiscal year-to-date including without limitation any dispute that would be required to be disclosed in the Company SEC Reports. The books and records of the Company and each Company Subsidiary have been maintained, and are being maintained, in all material respects in accordance with applicable Law and accounting requirements, and the Company Financial Statements are consistent with such books and records.

(c) The Company has Made Available to Parent a true, correct and complete copy of (i) any amendments or modifications, which have not yet been filed with the SEC but that are required to be filed, to Contracts or documents that previously had been filed by the Company with the SEC pursuant to the Securities Act or the Exchange Act, and (ii) any correspondence between the Company and the SEC (including all comment letters received by the Company from the SEC and all responses to such comment letters by or on behalf of the Company) for the Company s three (3) prior fiscal years. No investigation by the SEC with respect to the Company or any Company Subsidiary is pending or, to the knowledge of the Company, threatened.

(d) Each of the Company SEC Reports (i) as of the date of the filing of such report, complied in all material respects with the requirements of the Securities Act and the Exchange Act, as the case may be, and, to the extent then applicable, SOXA, including in each case, the rules and regulations thereunder, and (ii) as of its filing date (or, if amended or superseded by a subsequent filing prior to the date hereof, on the date of such filing) did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

(e) Each of the principal executive officer and principal financial officer of the Company (or each former principal executive officer and each former principal financial officer of the Company) has made all of the Certifications required by Rules 13a-14 and 15d-14 under the Exchange Act and Sections 302 and 906 of SOXA, and the rules and regulations of the SEC promulgated thereunder. The Certifications complied in all material respects with Rules 13a-14 and 15d-14 under the Exchange Act and Sections 302 and 906 of SOXA, and the rules and regulations promulgated thereunder and the statements contained in the Certifications were true and correct as of the date of the filing thereof. For purposes of this Agreement, *principal executive officer* and *principal financial officer* shall have the meanings given to such terms in SOXA.

(f) The Company has implemented and maintains *disclosure controls and procedures* (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act), and such disclosure controls and procedures are reasonably designed to ensure that (i) all information (both financial and non-financial) required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC, and (ii) all such information is accumulated and communicated to the Company s management, including its principal executive officer and principal financial officer, or Persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure and to make the certifications of the principal executive officer and the principal financial officer of the Company required by Section 302 of SOXA with respect to such reports. The Company has Made Available to Parent copies of all written descriptions of, and all policies, manuals and other material documents promulgating such disclosure controls and procedures.

Table of Contents

(g) The Company is, and since January 1, 2003 has been, in compliance in all material respects with (i) the applicable listing and corporate governance rules and regulations of the New York Stock Exchange, and (ii) the applicable provisions of SOXA. There has been no material correspondence between the Company and the New York Stock Exchange since January 1, 2003.

(h) Neither the Company nor any Company Subsidiary nor, to the knowledge of the Company, any director, officer, employee, auditor, accountant or Representative of the Company or any Company Subsidiary has received any complaint, allegation, assertion or claim, in each case, regarding the accounting or auditing practices, procedures, methodologies or methods or potential fraudulent conduct of the Company or any Company Subsidiary or their respective internal controls, or any material inaccuracy in the Company s Financial Statements, including any complaint, allegation, assertion or claim that the Company or any Company Subsidiary has engaged in questionable accounting or auditing practices. No attorney representing the Company or any Company Subsidiary, or current or former employee of the Company or of any Company Subsidiary, has reported to the Company Board or any committee thereof or to any director or officer of the Company evidence of a violation of securities Laws, breach of fiduciary duty, fraudulent conduct or similar violation by the Company or any of its officers, directors, employees or agents.

(i) PricewaterhouseCoopers LLP, which has expressed its opinion with respect to the Company s Financial Statements for each of the years in the five (5) year period ended December 31, 2005 included in the Company SEC Reports (including the related notes), is *independent* with respect to the Company and the Company Subsidiaries within the meaning of Regulation S-X and has been independent within such meaning at all times since December 31, 2000. The Company has made such disclosure of non-audit services performed by PricewaterhouseCoopers LLP in its proxy statements with respect to its annual meetings of stockholders as is required under the rules and regulations of the SEC, and all such non-audit services have been approved in advance by the audit committee of the Company Board.

(j) The Company has implemented and maintains a system of internal control over *financial reporting* (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) sufficient to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP, including, without limitation, that (i) transactions are executed in accordance with management s general or specific authorizations, (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset accountability, (iii) access to assets is permitted only in accordance with management s general or specific authorization, and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Since January 1, 2003, other than in connection with SOXA compliance and process improvements implemented voluntarily by the Company, (a) there have not been any changes in the Company s internal control over financial reporting that have materially affected, or are reasonably likely to materially affect, the Company s internal control over financial reporting; (b) there have not been any *significant deficiencies* or *material weaknesses* (as defined by the Public Company Accounting Board) in the design or operation of the Company s internal controls and procedures that could adversely affect the Company s ability to record, process, summarize and report the financial data, (c) to the extent there have been any such significant deficiencies or material weaknesses, they have been disclosed to the Company s outside auditors and the audit committee of the Company Board, and (d) there has not been any fraud, whether or not material, that involves management or other employees who have a significant role in the Company s internal control and procedures. The Company has Made Available to Parent copies of all reports and other documents concerning internal controls filed with the SEC or delivered to the Company by its auditors, in each case, prior to the date of this Agreement. The Company has Made Available to Parent accurate and complete copies of all written descriptions of, and all policies, manuals and other material documents promulgating such internal accounting controls in effect as of the date of this Agreement.

Table of Contents

4.8 *Disclosure Documents*.

(a) The Proxy Statement and any Other Filings made by the Company, and any amendments or supplements thereto, at (i) the time the Proxy Statement (or any amendment thereof or supplement thereto) is first mailed to the Company s stockholders, (ii) the time of the Company Stockholders Meeting, and (iii) the Effective Time, will comply as to form in all material respects with the applicable requirements of the Securities Act, the Exchange Act and other applicable Laws.

(b) The Proxy Statement and any Other Filings made by the Company, and any amendments or supplements thereto, do not, and will not, at (i) the time the Proxy Statement (or any amendment thereof or supplement thereto) is first mailed to the Company s stockholders, (ii) the time of the Company Stockholders Meeting, and (iii) the Effective Time, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading. Notwithstanding the foregoing, no representation or warranty is made by the Company with respect to statements made or incorporated by reference therein about Parent or Merger Sub supplied by Parent or Merger Sub for inclusion or incorporation by reference in the Proxy Statement.

4.9 *Absence of Certain Changes or Events*. Since December 31, 2005, the Company and each Company Subsidiary has, except as otherwise permitted by this Agreement, conducted its business only in the ordinary course consistent with past practice and, since such date:

(a) there has not been any Material Adverse Effect or an event or development that would, individually or in the aggregate, have a Material Adverse Effect;

(b) there has not been any declaration, setting aside or payment of any dividend on, or other distribution (whether in cash, stock or property) in respect of, any of the Company s capital stock, or any purchase, redemption or other acquisition by the Company of any of the Company s capital stock or any other securities of the Company or any options, warrants, calls or rights to acquire any such shares or other securities except for repurchases from employees or consultants following their termination pursuant to the terms of existing Repurchase Rights;

(c) there has not been any split, combination or reclassification of any of the Company s capital stock;

(d) there has not been any material increase in compensation or fringe benefits paid or payable to any of the officers, directors or managers or employees of the Company or any Company Subsidiary at the Vice President or director level or higher, or who earn base salary of more than $150,000 per year, or any payment by the Company or any of the Company Subsidiaries of any bonus to any of their officers, directors or managers or employees at the Vice President or director level or higher, or who earn base salary of more than $150,000 per year, or any granting, by the Company or any of the Company Subsidiaries of any increase in severance or termination pay, or any entry by the Company or any of the Company Subsidiaries into, or material modification or amendment of, any currently effective employment, severance, termination or indemnification agreement or any agreement the benefits of which are contingent, or the terms of which are materially altered, upon the occurrence of a transaction involving the Company of the nature contemplated hereby, or any subsequent event, other than increases in the ordinary course of business in base salary and target bonuses for employees who are not officers of the Company, in an amount that does not exceed 10% of such base salary, in connection with periodic compensation or performance reviews;

(e) there has not been any material modification of any deferred compensation plan within the meaning of Section 409A of the Code and the proposed regulations promulgated thereunder and Internal Revenue Service Notice 2005-1;

(f) there has not been any change by the Company or any of the Company Subsidiaries in its accounting methods, principles or practices (including any material change in depreciation or amortization policies or rates or revenue recognition policies), except as required by concurrent changes in GAAP;

Table of Contents

(g) there has not been any revaluation by the Company or any of the Company Subsidiaries of any of its material assets, including, without limitation, writing-off notes or accounts receivable other than immaterial write-offs in the ordinary course of business;

(h) neither the Company nor any of the Company Subsidiaries has cancelled or forgiven any material debts or waived any claims or rights having material value;

(i) there has not been any sale, transfer, or other disposition of any Company IP Rights or any other material properties or assets (real, personal or mixed, tangible or intangible) by the Company or any of the Company Subsidiaries, except for non-exclusive licenses in the ordinary course of business consistent with past practice;

(j) there has not been any material impairment of any Company IP Rights or any material adverse change in the Company s or any of the Company Subsidiaries rights to use any Intellectual Property licensed from a third party, in each case, other than in the ordinary course of business consistent with past practice;

(k) there has not been any material damage, destruction or loss with respect to assets of the Company or any of the Company Subsidiaries;

(l) neither the Company nor any Company Subsidiary has made any material loan, advance or capital contribution to, or investment in, any Person (other than a Company Subsidiary), including without limitation any loan, advance or capital contribution (regardless of amount) to any director, officer or other Affiliate of the Company, in each case, other than (i) loans, advances or capital contributions to or investments in wholly-owned Subsidiaries or entities that became wholly-owned Subsidiaries made in the ordinary course of business, (ii) investments made in accordance with the Company s investment guidelines, a copy of which has been Made Available to Parent, in the ordinary course of business consistent with past practice and (iii) routine travel advances in accordance with the Company s travel and expense policy in effect as of the date of this Agreement (a copy of which has been Made Available to Parent), sales commission draws to employees of the Company or any Company Subsidiary and advance purchase payments to the suppliers set forth on Section 4.9(l) of the Company Disclosure Schedule, in an aggregate amount not in excess of $1,000,000 in the ordinary course of business consistent with past practice;

(m) there has not been any material change with respect to the management, supervisory or other key personnel of the Company, any termination of employment of any such employees or a material number of employees, or any labor dispute or claim arising under the National Labor Relations Act involving the Company or any Company Subsidiary;

(n) neither the Company nor any Company Subsidiary has incurred, created or assumed any Encumbrance on any material assets;

(o) neither the Company nor any Company Subsidiary has paid or discharged any material Encumbrance or material liability other than in accordance with its terms in the ordinary course of business consistent with past practices;

(p) neither the Company nor any Company Subsidiary has agreed, whether in writing or otherwise, to take any action described in this Section; and

(q) there has not been any termination or any material modification, amendment or change to, or waiver of any rights under, any Material Contract.

4.10 *Employee Benefit Plans*.

(a) Section 4.10(a) of the Company Disclosure Schedule lists as of the date of this Agreement, with respect to the Company, any Company Subsidiary and any ERISA Affiliate, (i) all employee benefit plans within the meaning of Section 3(3) of ERISA, (ii) each loan from the Company or an ERISA Affiliate to an employee in excess of $10,000, (iii) all stock option, stock purchase, phantom stock, stock appreciation

Table of Contents

right, stock-based compensation, supplemental retirement, severance, sabbatical, employee relocation, cafeteria benefit (Section 125 of the Code), dependent care (Section 129 of the Code), life insurance or accident insurance plans, programs or arrangements, (iv) all bonus, pension, profit sharing, savings, retirement, deferred compensation or incentive plans, programs and arrangements, (v) other fringe and employee benefit plans, programs or arrangements that apply to senior management and that do not generally apply to all employees, and (vi) any employment or service agreements (except for offer letters providing for at-will employment that do not provide for severance, acceleration or post-termination benefits), compensation agreements and severance agreements, written or otherwise, for the benefit of, or relating to, any present or former director, officer, employee, or consultant (provided that, for former directors, officers, employees and consultants, such arrangements need only be listed if unsatisfied obligations of the Company or any Company Subsidiary of greater than $10,000 remain thereunder) under which any of the Company or any Company Subsidiary or ERISA Affiliate could reasonably be expected to have any liability (all of the foregoing described in clauses (i) through (vi), collectively, but exclusive of any Foreign Plan, the *Company Benefit Plans*). There are no defined benefit or retiree medical plans outside of the United States other than any Foreign Plan. Furthermore, to the knowledge of the Company, there are no benefit plans outside the United States that have a material cost to the local business other than any Foreign Plan. The Company has not, since July 30, 2002, extended credit, arranged for the extension of credit, or renewed, modified or forgiven an extension of credit made prior to such date, in the form of a personal loan to or for any Person who was, at any time since such date, an officer or director of the Company.

(b) Prior to the date of this Agreement, the Company has Made Available to Parent a true, correct and complete copy of each of the Company Benefit Plans and any related plan documents (including adoption agreements, vendor Contracts and administrative services agreements, trust documents, insurance policies or Contracts including policies relating to fiduciary liability insurance, bonds required by ERISA, amendments to the Company Benefit Plans, employee booklets, summary plan descriptions, and summaries of material modifications and any material employee communications of the Company relating to changes to the Company Benefit Plans) and has, with respect to each Company Benefit Plan that is subject to ERISA reporting requirements, Made Available to Parent true, correct and complete copies of the Form 5500 reports filed for the last three (3) plan years (including all audits, financial statements, schedules and attachments thereto). Any Company Benefit Plan intended to be qualified under Section 401(a) of the Code has (i) obtained from the IRS a current favorable determination letter as to its qualified status under the Code, or (ii) has been established under a standardized master and prototype or volume submitter plan for which a current favorable IRS advisory letter or opinion letter has been obtained by the plan sponsor and is valid as to the adopting employer. The Company has also Made Available to Parent a true, correct and complete copy of the most recent such IRS determination letter, advisory letter or opinion letter issued with respect to each such the Company Benefit Plan, and to the knowledge of the Company nothing has occurred since the issuance of each such letter that could reasonably be expected to cause the loss of the Tax-qualified status of any Company Benefit Plan subject to Section 401(a) of the Code. The Company has also Made Available to Parent all registration statements and prospectuses and investment policy statements prepared in connection with each Company Benefit Plan. All individuals who, pursuant to the terms of any Company Benefit Plan, are entitled to participate in any Company Benefit Plan, are currently participating in such Company Benefit Plan or have been offered an opportunity to do so and have declined in writing. Neither the Company nor any Company Subsidiary nor any ERISA Affiliate sponsors or maintains any self-funded employee benefit plan, including any plan to which a stop-loss policy applies.

(c) None of the Company Benefit Plans promises or provides retiree medical or other retiree welfare benefits to any Person other than as required under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended (*COBRA*) or applicable state law. There has been no *prohibited transaction* (within the meaning of Section 406 of ERISA and Section 4975 of the Code) with respect to any Company Benefit Plan that is not exempt under Section 408 of ERISA which has not been corrected and as to which any unsatisfied penalties and excise taxes are reasonably likely to exist. Each Company Benefit Plan has been administered in all material respects in accordance with its terms and the requirements prescribed by any and all statutes, rules and regulations (including ERISA and the Code), and the Company, each Company

Table of Contents

Subsidiary and each ERISA Affiliate has performed all obligations required to be performed by it under, is not in any material respect in default under or in violation of, and has no knowledge of any material default or violation by any other party to, any of the Company Benefit Plans. All contributions required to be made by the Company, any Company Subsidiary or any ERISA Affiliate to any Company Benefit Plan have been made on or before their due dates and, to the extent required by GAAP, all amounts have been accrued for the current plan year (and no further contributions will be due or will have accrued thereunder as of the Closing Date, other than contributions accrued in the ordinary course of business, consistent with past practice, after the Company Balance Sheet Date as a result of the operations of the Company and the Company Subsidiaries after the Company Balance Sheet Date). In addition, with respect to each Company Benefit Plan intended to include a Code Section 401(k) arrangement, the Company and each Company Subsidiary and ERISA Affiliate have at all times made timely deposits of employee salary reduction contributions and participant loan repayments, as determined pursuant to regulations issued by the United States Department of Labor. No Company Benefit Plan is subject to, and neither the Company nor any Company Subsidiary or ERISA Affiliate has incurred or reasonably expects to incur any liability under Title IV of ERISA (other than for the payment of insurance premiums to the Pension Benefit Guaranty Corporation). No Company Benefit Plan has an accumulated funding deficiency within the meaning of Section 412 of the Code. With respect to each Company Benefit Plan subject to ERISA as either an employee pension benefit plan within the meaning of Section 3(2) of ERISA or an employee welfare benefit plan within the meaning of Section 3(1) of ERISA, the Company has prepared in good faith and timely filed all requisite governmental reports (which were true, correct and complete as of the date filed), including any required audit reports, and has properly and timely filed and distributed or posted all notices and reports to employees required to be filed, distributed or posted with respect to each such Company Benefit Plan. No suit, administrative proceeding, action or other litigation has been brought, or to the knowledge of the Company or any Company Subsidiary, is threatened, against the Company or any Company Subsidiary or with respect to any such Company Benefit Plan, including any audit or inquiry by the IRS or United States Department of Labor.

(d) Neither the Company nor any Company Subsidiary or ERISA Affiliate is a party to, or has made any contribution to or otherwise incurred any obligation under, any multiemployer plan as such term is defined in Section 3(37) of ERISA or any multiple employer plan as such term is defined in Section 413(c) of the Code to which the Company or any Company Subsidiaries has any liability (contingent or otherwise). There has been no termination or partial termination of any Company Benefit Plan within the meaning of Section 411(d)(3) of the Code in respect of which the Company or any Company Subsidiaries has any liability (contingent or otherwise).

(e) As regards each Foreign Plan, (i) such Foreign Plan is in compliance with the provisions of the Laws of each jurisdiction in which such Foreign Plan is maintained, to the extent those Laws are applicable to such Foreign Plan, (ii) the Company, each Company Subsidiary, and each ERISA Affiliate has complied with all applicable reporting and notice requirements, and such Foreign Plan has obtained from the Governmental Entity having jurisdiction with respect to such Foreign Plan any required determinations, if any, that such Foreign Plan is in compliance with the laws of the relevant jurisdiction if such determinations are required in order to give effect to such Foreign Plan, and (iii) such Foreign Plan has been administered in all material respects in accordance with its terms and applicable Law and regulations.

(f) Section 4.10(f) of the Company Disclosure Schedule lists each Person who the Company reasonably believes is, with respect to the Company, any Company Subsidiary and/or any ERISA Affiliate, a disqualified individual (within the meaning of Section 280G of the Code and the regulations promulgated thereunder) determined as of the date hereof.

(g) Section 4.10(g) of the Company Disclosure Schedule lists as of the date of this Agreement the number of employees of the Company or any Company Subsidiary who are absent from active work because of disability or other leave in excess of four Business Days, the nature of such leave (e.g., short-term or long-term disability), and the number of such employees who have been absent for more than thirty (30) days.

Table of Contents

(h) None of the execution and delivery of this Agreement, the consummation of the Merger or any other transaction contemplated hereby or any termination of employment or service in connection therewith or subsequent thereto will (i) result in any payment (including severance, unemployment compensation, golden parachute, bonus or otherwise) becoming due to any Person other than accrued payments, (ii) materially increase or otherwise enhance any benefits otherwise payable by the Company or any Company Subsidiary, (iii) result in the acceleration of the time of payment or vesting of any such benefits, except as required under Section 411(d)(3) of the Code, (iv) increase the amount of compensation due to any Person, or (v) result in the forgiveness in whole or in part of any outstanding loans made by the Company or any Company Subsidiary to any Person.

(i) To the knowledge of the Company, (i) Section 4.10(i) of the Company Disclosure Schedule lists each Company Benefit Plan that grants any compensation, equity award or bonus that could be deemed deferred compensation within the meaning of Section 409A of the Code, and (ii) such Company Benefit Plan is in compliance with Section 409A of the Code.

(j) (i) Each of the Company and each Company Subsidiary is in compliance in all material respects with all currently applicable Laws respecting employment, discrimination in employment, terms and conditions of employment, worker classification (including the proper classification of workers as independent contractors and consultants), wages, hours and occupational safety and health and employment practices, including the Immigration Reform and Control Act, (ii) the Company and each Company Subsidiary has paid in full to all employees, independent contractors and consultants all wages, salaries, commissions, bonuses, benefits, and other compensation due to or on behalf of such employees, independent contractors or consultants in accordance with applicable Law, (iii) neither the Company nor any Company Subsidiary is liable for any payment to any trust or other fund or to any Governmental Entity, with respect to unemployment compensation benefits, social security or other benefits or obligations for employees (other than routine payments to be made in the normal course of business and consistent with past practice), and (iv) there are no material controversies pending or, to the knowledge of the Company, threatened, between the Company or any Company Subsidiary and any of their respective employees, which controversies have or could reasonably be expected to result in an action, suit, proceeding, claim, arbitration or investigation before any Governmental Entity.

(k) To the knowledge of the Company, neither Company nor any of the Company Subsidiaries has any obligation to pay any amount or provide any benefit to any former employee or officer, other than obligations (i) for which Company has established a reserve for such amount on the Company Balance Sheet in accordance with GAAP and (ii) pursuant to Contracts entered into after the Company Balance Sheet Date and disclosed on Section 4.10(k) of the Company Disclosure Schedule. Neither the Company nor any Company Subsidiary is a party to or bound by any collective bargaining agreement or other labor union Contract, no collective bargaining agreement is being negotiated by the Company or any Company Subsidiary and neither the Company nor any Company Subsidiary has any duty to bargain with any labor organization. There is no pending demand for recognition or, to the knowledge of the Company, any other request or demand from a labor organization for representative status with respect to any Person employed by the Company or any Company Subsidiary. The Company has no knowledge of any activities or proceedings of any labor union to organize their respective employees. There is no labor dispute, strike or group work stoppage against the Company or any Company Subsidiary pending or, to the knowledge of the Company, threatened that may materially interfere with the respective business activities of the Company or any Company Subsidiary. Neither the Company nor any Company Subsidiary, nor to the knowledge of the Company, any of their respective representatives or employees has been found in the past two (2) years to have committed an unfair labor practice in connection with the operation of the respective businesses of the Company or any Company Subsidiary, and there is no charge or complaint against the Company or any Company Subsidiary by the National Labor Relations Board or any comparable Governmental Entity pending or, to the knowledge of the Company, threatened.

(l) To the knowledge of the Company, no employee of the Company or any Company Subsidiary is in violation of any term of any employment agreement, patent disclosure agreement, non-competition

Table of Contents

agreement, or any restrictive covenant to a former employer relating to the right of any such employee to be employed by the Company or any Company Subsidiary because of the nature of the business conducted or presently proposed to be conducted by the Company or any Company Subsidiary or to the use of trade secrets or proprietary information of others. No officer or director of the Company or any Company Subsidiary has given notice of termination or resignation to the Company or any Company Subsidiary, nor does the Company otherwise have knowledge that any such officer or director intends to terminate his or her employment with the Company or any Company Subsidiary. The employment of each of the U.S. employees of the Company or any Company Subsidiary is on an at will basis, and the Company and each Company Subsidiary does not have any obligation to provide any particular form or period of notice prior to terminating the employment of any such U.S. employees, except as may be required by applicable Law.

(m) Each of the Company and each Company Subsidiary has Made Available to Parent true, correct and complete copies of each of the following currently in force and effect as of the date of this Agreement: (i) all forms of employment agreements and severance agreements and (ii) basic forms of confidentiality, non-competition and/or invention agreements by and between current and former employees and consultants that the Company has had in place since January 1, 2004, (iii) all agreements and/or insurance policies providing for the indemnification of any officers or directors (other than entity formation or organizational documents described in Section 4.2 hereof), (iv) a summary or copy of the Company s standard severance policy, (v) a summary of material outstanding liability for termination payments and benefits to current and former directors, officers, employees and consultants, and (vi) other material bonus plans.

(n) The Company and each Company Subsidiary is in compliance in all material respects with the Worker Adjustment Retraining Notification Act of 1988, as amended (*WARN Act*), and all similar state or local Laws. In the past two (2) years (i) the Company has not effectuated a plant closing (as defined in the WARN Act) affecting any site of employment or one or more facilities or operating units within any site of employment or facility of its business, (ii) there has not occurred a mass layoff (as defined in the WARN Act) affecting any site of employment or facility of the Company or any Company Subsidiary, and (iii) the Company has not engaged in activity that may trigger application of the WARN Act or any similar state, local or foreign law or regulation. The Company has not caused any of its employees to suffer an *employment loss* (as defined in the WARN Act) during the 90-day period prior to the date of this Agreement.

(o) Neither the Company nor any Company Subsidiary (nor any officer of the Company or any Subsidiary) is a party to any agreement, Contract, or arrangement that, individually or collectively, either alone or together with any other event (including the execution of and consummation of the transactions contemplated by this Agreement), could give rise to the payment of any amount (whether in cash or property, including shares of capital stock) that would not be deductible pursuant to the terms of Section 280G or 162(m) of the Code.

(p) Section 4.10(p) of the Company Disclosure Schedule sets forth the name, title, and reporting relationship for each of the Company s officers.

4.11 *Contracts; Customers and Suppliers*.

(a) Section 4.11(a) of the Company Disclosure Schedule lists each of the Material Contracts that are in effect or otherwise binding on the Company or any Company Subsidiary or their respective properties or assets. The term *Material Contract* shall include each of the following: (i) any credit agreement, note, bond, guarantee, mortgage, indenture, lease, or other instrument or obligation pursuant to which any Indebtedness of the Company or any Company Subsidiary is outstanding or may be incurred, in each case, other than (x) equipment leases entered into in the ordinary course of business, (y) capital or operating leases that require annual payments not in excess of $500,000, individually, and (z) guarantees of Company Subsidiary obligations (in the case of each of clauses (x) (z), with respect to Contracts that would not otherwise be Material Contracts); (ii) any agreement, Contract or binding commitment which was or was required to be filed as an exhibit to the Company SEC Reports; (iii) any Government Contract with the

Table of Contents

United States government in excess of $500,000 annually; and (iv) any (A) collective bargaining agreement; (B) employment agreement, Contract or binding commitment providing for annual compensation or payments in excess of $250,000 in the current or any future year; (C) agreement, Contract or commitment of indemnification or guaranty not entered into in the ordinary course of business providing for indemnification which would reasonably be expected to exceed $100,000, as well as any agreement, Contract or commitment of indemnification or guaranty between the Company or any Company Subsidiary and any of their respective officers or directors, irrespective of the amount (other than pursuant to the organizational documents of the Company or any Company Subsidiary); (D) agreement, Contract or binding commitment containing any covenant directly or indirectly limiting the freedom of the Company or any of Company Subsidiary to engage in any line of business, compete with any Person, or sell any product or service (other than Contracts containing (i) geographic limitations or (ii) limitations related to sales to the aftermarket, which limitations have been entered into in the ordinary course of business and, in the case of each (i) and (ii) that would not otherwise be Material Contracts); (E) agreement, Contract or binding commitment that shall result in the payment by, or the creation of any commitment or obligation (absolute or contingent) to pay on behalf of the Company or any Company Subsidiary any severance, termination, golden parachute, or other similar payments to any employee following termination of employment or otherwise as a result of the consummation of the transactions contemplated by this Agreement; (F) agreement, Contract or binding commitment by the Company or any of its Subsidiaries entered into since January 1, 2004 or that has material obligations that are to be performed subsequent to date hereof, relating to the disposition or acquisition of material assets not in the ordinary course of business or any ownership interest in any Subsidiary or other Person; (G) material agreement, Contract or binding commitment regarding the development, ownership or use of Intellectual Property (including material licenses to or from third parties, but other than commercial off-the-shelf software, as the term is commonly understood); (H) original equipment manufacturer distribution agreement, material partnership, joint venture or similar agreement or arrangement; in excess of (i) $10,000,000 in annual revenue or (ii) Contracts that relate to the purchase by the Company or any Company Subsidiary of distribution rights with payments of $5,000,000 or more; (I) Contract or agreement involving a standstill or similar obligation of the Company or any of its Subsidiaries to a third party; (J) lease for real property which involves consideration or other obligation in excess of $400,000 annually; or (K) (x) any other agreement, Contract or binding commitment which is material to the operation of the Company s and the Company Subsidiaries business, taken as a whole, or (y) which is entered into outside the ordinary course of business and which involves consideration or other obligation in excess of $100,000 annually and, in the case of clauses (x) and (y), which has not been described in the foregoing clauses (A) through (J) above.

(b) There are no material defaults or breaches under any Material Contract by the Company or any Company Subsidiary, or to the knowledge of the Company, any other party thereto. All Material Contracts are in written form. The Company has Made Available to Parent true, correct and complete copies of each Material Contract. Each Material Contract is (i) valid and binding on the Company and each Company Subsidiary party thereto and, to the Company s knowledge, each other party thereto, (ii) in full force and effect, and (iii) immediately following consummation of the transactions contemplated by this Agreement, shall remain in full force and effect, except, in each case, as would not be material to the Company and the Company Subsidiaries, taken as a whole. The Company and each Company Subsidiary has in all material respects performed all obligations required to be performed by it to the date hereof under each Material Contract and, to the Company s knowledge, each other party to each Material Contract has in all material respects performed all obligations required to be performed by it under such Material Contract. As of the date hereof, none of the Company or any Company Subsidiary has knowledge of, or has received notice of, any actual or alleged violation or default under (or any condition that with the passage of time or the giving of notice or both would cause such a violation of or default under) any Material Contract. There exists no default or event of default or event, occurrence, condition or act with respect to the Company or any Company Subsidiary or to the knowledge of the Company, with respect to any other contracting party, which, with the giving of notice, the lapse of time or the happening of any other event or conditions would reasonably be expected to (A) become a material default or event of default under any Material Contract or

Table of Contents

(B) give any third party (a) the right to declare a default or exercise any remedy under any Material Contract, (b) the right to a rebate, chargeback, refund, credit, penalty or change in delivery schedule under any Material Contract, (c) the right to accelerate the maturity or performance of any obligation of the Company or any Company Subsidiary under any Material Contract, or (d) the right to cancel, terminate or modify any Material Contract, except, in each case, as would not be material to the Company and the Company Subsidiaries, taken as a whole.

(c) With respect to each Contract, agreement, bid or proposal between the Company or any Company Subsidiary and any (i) Governmental Entity, including any facilities Contract for the use of government-owned facilities or (ii) third party relating to a Contract between such third party and any Governmental Entity (each a *Government Contract*), (A) the Company and each Company Subsidiary have complied in all material respects with all requirements of all applicable Laws, or agreements pertaining to such Government Contract, including where applicable the *Cost Accounting Standards* disclosure statement of the Company or such Company Subsidiary; (B) all representations and certifications executed, acknowledged or set forth in or pertaining to such Government Contract were complete and correct as of their effective dates and the Company and each Company Subsidiary have complied with all such representations and certifications; (C) neither the United States government nor any prime contractor, subcontractor or other Person has notified the Company or any Company Subsidiary, in writing or orally, that the Company or any of its Subsidiaries has breached or violated any Laws, certification, representation, clause, provision or requirement pertaining to such Government Contract; (D) neither the Company nor any Company Subsidiary has received any notice of termination for convenience, notice of termination for default, cure notice or show cause notice pertaining to such Government Contract; (E) other than in the ordinary course of business, no cost incurred by the Company or any Company Subsidiary pertaining to such Government Contract has been questioned or challenged, is the subject of any audit or investigation or has been disallowed by any Governmental Entity; and (F) no payments due to the Company or any Company Subsidiary pertaining to such Government Contract have been withheld or set off, nor has any claim been made to withhold or set off money, and the Company and its Subsidiaries are entitled to all progress or other payments received with respect thereto, except, in the case of (A) through (F) above, as would not be material to the Company and the Company Subsidiaries, taken as a whole.

(d) Neither the Company nor any Company Subsidiary or to their knowledge, any of their respective directors, officers, employees or authorized agents is or since January 1, 2004 has been under (i) any civil or criminal investigation or indictment by any Governmental Entity or under investigation by the Company or any Company Subsidiaries or (ii) administrative investigation or audit by any Governmental Entity in either case with respect to any alleged improper act or omission arising under or relating to any Government Contract.

(e) There exist (i) no outstanding material claims against the Company or any Company Subsidiary, either by any Governmental Entity or by any prime contractor, subcontractor, vendor or other Person, arising under or relating to any Government Contract, and (ii) no material disputes between the Company or any of Company Subsidiary and the United States government under the Contract Disputes Act, as amended, or any other federal statute, or between the Company or any Company Subsidiary and any prime contractor, subcontractor or vendor arising under or relating to any Government Contract. Neither the Company nor any Company Subsidiary has any interest in any material pending claim against any prime contractor, subcontractor, vendor or other Person arising under or relating to any Government Contract.

(f) Since January 1, 2004, neither the Company nor any Company Subsidiary has been debarred or suspended from participation in the award of Contracts with the United States government or any other Governmental Entity. To the Company s knowledge, there exist no facts or circumstances that would warrant the institution of suspension or debarment proceedings or the finding of nonresponsibility or ineligibility on the part of the Company, any Company Subsidiary or any of their respective directors, officers or employees.

(g) Since January 1, 2004 (i) no supplier or customer of the Company or any Company Subsidiary has cancelled or otherwise terminated its relationship with the Company or any Company Subsidiary, except for

Table of Contents

such cancellations and terminations that, would not have a Material Adverse Effect, (ii) no supplier or customer of the Company or any Company Subsidiary has provided written notice to the Company or any Company Subsidiary of its intent either to terminate its relationship with the Company or any Company Subsidiary or to cancel any material agreement with the Company or any Company Subsidiary, except for such terminations and cancellations that, individually or in the aggregate, would not have a Material Adverse Effect, (iii) none of the suppliers of the Company or any Company Subsidiary is unable to continue to supply the products or services supplied to the Company or any Company Subsidiary by such supplier, except for such inabilities that, individually or in the aggregate, would not have a Material Adverse Effect, and (iv) except as set forth in Section 4.11(g) of the Company Disclosure Schedule, the Company and each Company Subsidiary have no direct or indirect ownership interest in any supplier or customer of the Company or any Company Subsidiary that is material to the Company and the Company Subsidiaries taken as a whole.

(h) Neither the Company nor any Company Subsidiary provides any Company warranty for products sold or services rendered by the Company and the Company Subsidiaries since January 1, 2001. With respect to the Company s and the Company Subsidiaries businesses or assets, (i) to the Company s knowledge, there are no outstanding Federal Aviation Administration or other non U.S. civil or military aviation administration mandated retro-fit campaigns for warrantable conditions applicable to any products manufactured, sold, leased or delivered by the Company or any Company Subsidiary other than retro-fit campaigns that have already been put into effect and are not material to the Company and the Company Subsidiaries, taken as a whole, and (ii) to the Company s knowledge, there is no systemic design, manufacturing or other defect in any model or type of product or product specification of the Company or the Company Subsidiaries in connection with any product manufactured, sold, leased, or delivered by the Company or the Company Subsidiaries, in each case, other than defects for which a recall has been put into effect and is not material to the Company and the Company Subsidiaries, taken as a whole.

(i) No facility or personnel security clearances of any Governmental Entity are necessary or required to conduct the Company s and the Company Subsidiaries businesses as currently conducted by the Company and the Company Subsidiaries. None of the Company or any Company Subsidiary possess, hold or are subject to any facility or personnel security clearances of any Governmental Entity.

4.12 *Litigation*. Except as set forth in the Company SEC Reports filed prior to the date of this Agreement, (i) there is no suit, claim, ethics complaint, action, proceeding or investigation pending or, to the knowledge of the Company, threatened against the Company or any Company Subsidiary or, to the knowledge of the Company, for which the Company or any Company Subsidiary is obligated to indemnify a third party, (ii) none of the Company or any Company Subsidiary is subject to any outstanding order, writ, judgment, injunction, decree, or arbitration ruling or award, and (iii) there has been no refusal to indemnify or denial of indemnification and no intention to refuse indemnification, by any third party in connection with any past, pending or threatened suit, claim, action, proceeding, investigation, order, ruling or award with respect to which the Company or any Company Subsidiary is or may be entitled to indemnification from any third party, except, in each case, as would not be material to the Company and the Company Subsidiaries, taken as a whole. Neither the Company nor any Company or Subsidiary has any material action, suit, proceeding, claim, mediation or arbitration pending against any other Person. There has not been since December 31, 2001, nor are there currently, any internal investigations or inquiries being conducted by the Company, the Company Board (or any committee thereof) or any third party at the request of any of the foregoing concerning any financial, accounting, Tax, conflict of interest, illegal activity, fraudulent or deceptive conduct, violation of Company policy or other misfeasance or malfeasance issues.

4.13 *Environmental Matters*.

(a) The Company and each Company Subsidiary are in material compliance with all Environmental Laws.

(b) There are no Environmental Claims against the Company, any Company Subsidiary or, to the knowledge of the Company, any entity for which the Company has financial responsibility, nor to the

Table of Contents

knowledge of the Company have any of them received any written or oral notification of any allegation of any actual or potential responsibility for, or any inquiry or investigation regarding, (i) any alleged violation of Environmental Laws or (ii) any Release or threatened Release of any Hazardous Substance generated or transported by the Company, any Company Subsidiary or any entity for which the Company has financial responsibility, except, in each case, as would not have a Material Adverse Effect.

(c) There have been no Releases from the Company s operations at the Facilities currently owned or leased by Company or any Company Subsidiary of Hazardous Substances or with respect to Facilities formerly owned or leased by Company or any Company Subsidiary, during the Company s or Company Subsidiary s term of ownership or lease in quantities that could trigger the need for investigation and/or remediation pursuant to Environmental Laws, except as would not, individually or in the aggregate, have a Material Adverse Effect.

(d) There are no consent decrees, consent orders, judgments or judicial or administrative orders currently in force and effect under Environmental Law entered into by any Governmental Entity and the Company or any Company Subsidiary or to the knowledge of the Company any entity for which the Company has or may have financial responsibility, or judgments, judicial order or administrative orders under Environmental Law issued by any Governmental Entity against the Company, any Company Subsidiaries or to the knowledge of the Company any entity for which the Company has or may have financial responsibility.

(e) Parent has been provided with reasonable access to true and correct copies of all Environmental Reports.

4.14 *Intellectual Property.*

(a) The Company and the Company Subsidiaries (i) own and have independently developed or acquired or (ii) have the valid right or license to all Company IP Rights. The Company IP Rights are sufficient for the conduct of the business of the Company and the Company Subsidiaries as currently conducted by the Company or any Company Subsidiary. Immediately following the Closing, except as would not have a Material Adverse Effect, the Company IP Rights will continue in full force and effect and shall be transferable, alienable or licensable by the Company to the same extent as immediately prior to the Closing without any additional notices or payments of any kind to any third party. The Company-Owned IP Rights and, to the Company s knowledge, the other Company IP Rights, are not subject to any material Encumbrances or restrictions or limitations regarding ownership, use, license or disclosure (including any rights in data claims of the United States Government), other than pursuant to a written agreement set forth in Section 4.14(a) of the Company Disclosure Schedule, or that, individually or in the aggregate, would not have a Material Adverse Effect.

(b) Neither the Company nor any of the Company Subsidiaries has transferred ownership of any Intellectual Property that consists of Company-Owned IP Rights to any third party.

(c) The Company and the Company Subsidiaries own and have good and exclusive title to each item of Company Registered Intellectual Property and each material item of Company-Owned IP Rights free and clear of any Encumbrances. The right, license and interest of the Company or a Company Subsidiary of the Company in and to all Third Party Intellectual Property Rights licensed by the Company or a Company Subsidiary from a third party are free and clear of all Encumbrances (excluding restrictions contained in the applicable license agreements with such third parties).

(d) Neither the execution and delivery or effectiveness of this Agreement nor the performance of the Company s obligations under this Agreement will cause the forfeiture or termination of, or give rise to a right of forfeiture or termination of, any material Company-Owned IP Right, or impair the right of the Company, any Company Subsidiary or Parent to use, possess, sell or license any material Company-Owned IP Right or any portion thereof.

(e) Section 4.14(e) of the Company Disclosure Schedule lists all Company Registered Intellectual Property including the jurisdictions in which each such item of Intellectual Property has been issued or

Table of Contents

registered or in which any application for such issuance and registration has been filed, or any other filing or recordation of Company Registered Intellectual Property has been made.

(f) Each item of Company Registered Intellectual Property is subsisting (or in the case of applications, applied for), all registration, maintenance and renewal fees currently due in connection with such Company Registered Intellectual Property have been paid and all documents, recordations and certificates in connection with such Company Registered Intellectual Property currently required to be filed have been submitted to the relevant patent, copyright, trademark or other authorities in the United States or foreign jurisdictions, as the case may be, for the purposes of prosecuting, maintaining and perfecting such Company Registered Intellectual Property and recording the Company s and the Company Subsidiaries ownership interests therein.

(g) Section 4.14(g) of the Company Disclosure Schedule lists, respectively by subsection number, (i) other than non-disclosure agreements entered into by the Company or any Company Subsidiary in the ordinary course of business (*Standard NDAs*) and end user customer Contracts on the Company or a Company Subsidiary s standard form, all material Contracts as to which the Company or any Company Subsidiary is a party and pursuant to which any Person is authorized to use, make, offer for sale, sell, license or distribute any Company IP Rights, (ii) other than shrink wrap and similar generally available commercial end-user licenses to software that is not redistributed with the Company products that have an individual acquisition cost of $250,000 or less (or multi-seat licenses that have an aggregate acquisition cost of $250,000 or less) and Standard NDAs, all material Contracts to which the Company or any Company Subsidiary is a party and pursuant to which the Company or any Company Subsidiary acquired or is authorized to use or distribute any Third Party Intellectual Property Rights, including without limitation any material inbound licenses to Third Party Intellectual Property Rights included in any Company product, (iii) all material Contracts to which the Company or any Company Subsidiary is a party and pursuant to which any third party agrees to develop for or on behalf of the Company or any Company Subsidiary any part of any Company products, (iv) all Contracts (other than any Contract listed in the Company Disclosure Schedule in response to clause (i) above) pursuant to which the Company or any of the Company Subsidiaries has agreed to any material restriction on the right of the Company or any of the Company Subsidiaries to use or enforce any Company-Owned IP Rights, including all material Contracts granting any third party exclusive rights in Company-Owned IP Rights; and (v) all Contracts pursuant to which the Company or any Company Subsidiary has granted to a university, college, or other educational institution or research center any material rights in any Company-Owned IP Rights in exchange for resources provided by such institution or research center.

(h) Except as would not have a Material Adverse Effect, neither the Company nor any Company Subsidiary is or shall be as a result of the execution and delivery or effectiveness of this Agreement or the performance of the Company s obligations under this Agreement in breach of any Contract described in Section 4.14(g), above, (the *Company IP Rights Agreements*), and the consummation of the transactions contemplated by this Agreement will not result in the modification, cancellation, termination, suspension of or acceleration of any payments with respect to any Company IP Rights Agreements, or give any non-Company party to any Company IP Rights Agreement the right to do any of the foregoing. Except as would not have a Material Adverse Effect, following the Closing, the Surviving Corporation (as wholly owned by Parent) will be entitled to exercise all of the Company s and the Company Subsidiaries rights under the Company IP Rights Agreements to the same extent the Company and the Company Subsidiaries would have been able to had the transactions contemplated by this Agreement not occurred and without the payment of any additional amounts or consideration other than ongoing fees, royalties or payments that the Company or any of the Company Subsidiaries would otherwise be required to pay.

(i) There are no material royalties, honoraria, fees or other payments payable by the Company or any of the Company Subsidiaries to any Person (other than compensation payable to employees, consultants and independent contractors not contingent on or related to use of their work product) as a result of the ownership, use, possession, license-in, license-out, sale, marketing, advertising or disposition of any Company-Owned IP Rights by the Company or any of the Company Subsidiaries.

Table of Contents

(j) To the knowledge of the Company, there is no unauthorized use, unauthorized disclosure, infringement or misappropriation of any Company-Owned IP Rights by any third party, including any employee or former employee of the Company or any Company Subsidiary. Neither the Company nor any Company Subsidiary has within the past four (4) years brought any action, suit or proceeding for infringement or misappropriation of any Intellectual Property or breach of any Company IP Rights Agreement.

(k) Neither the Company nor any Company Subsidiary has within the past four (4) years been sued in any suit, action or proceeding (or received any written notice or, to the knowledge of the Company, threat of suit, action or proceeding) that involves a claim of infringement or misappropriation of any Intellectual Property right of any third party or which contests the validity, ownership or right of the Company or any Company Subsidiary to exercise any Intellectual Property right or received any oral or written communication offering to license or grant any other rights or immunities in a manner that communicates or otherwise suggests or implies that the Company or any Company Subsidiary is infringing or otherwise violating any Third Party Intellectual Property Right.

(l) The operation of the business of the Company and the Company Subsidiaries as such business is currently conducted, and to the Company s knowledge, as currently proposed to be conducted by the Company or any Company Subsidiary, including without limitation the design, development, manufacturing, reproduction, marketing, licensing, sale, offer for sale, importation, distribution, provision and/or use of any Company product or provision of any Company service, has not, does not and will not infringe or misappropriate the Intellectual Property of any third party and does not and will not constitute unfair competition or unfair trade practices under the Laws of any jurisdiction and to the Company s knowledge, there is no substantial basis for such a claim.

(m) None of the Company-Owned IP Rights, the Company or any of the Company Subsidiaries is subject to any judicial or governmental proceeding or outstanding order, or material Contract or stipulation, (A) restricting in any manner the use, transfer, or licensing by the Company or any of the Company Subsidiaries of any Company-Owned IP Right or which may affect the validity, use or enforceability of any such Company-Owned IP Right, or (B) restricting the conduct of the business of the Company or any of the Company Subsidiaries in order to accommodate Third Party Intellectual Property rights, in both cases other than in connection with prosecution of Company-Owned IP Rights before the United States Patent and Trademark Office, the United States Copyright Office, or any equivalent Governmental Entity.

(n) Neither the Company nor any Company Subsidiary has received any opinion of legal counsel that the operation of the business of the Company or any Company Subsidiary, as previously or currently conducted, or as currently proposed to be conducted by the Company or any Company Subsidiary, infringes or misappropriates any Third Party Intellectual Property Rights.

(o) The Company and the Company Subsidiaries take commercially reasonable steps to secure from all of its consultants, employees and independent contractors who independently or jointly contributed to the conception, reduction to practice, creation or development of any Company-Owned IP Rights, proprietary information and invention disclosure and assignment agreements and exclusive ownership of, all such third party s Intellectual Property in such contribution that the Company or any Company Subsidiary does not already own by operation of Law or as a work for hire and such third party has not retained any material rights or licenses with respect thereto.

(p) No current or former employee, consultant or independent contractor of the Company or any Company Subsidiary has any material right, license, claim or interest whatsoever in or with respect to any Company-Owned IP Rights.

(q) To the knowledge of the Company, no current or former employee, consultant or independent contractor of the Company or any Company Subsidiary (i) is in violation of any term or covenant of any Contract relating to employment, invention disclosure, invention assignment, non-disclosure or non-competition or any other Contract with any other party by virtue of such employee s, consultant s or

Table of Contents

independent contractor s being employed by, or performing services for, the Company or any Company Subsidiary or using trade secrets or proprietary information of others without permission or (ii) has developed any technology, software or other copyrightable, patentable or otherwise proprietary work for the Company or any Company Subsidiary that is subject to any agreement under which such employee, consultant or independent contractor has assigned or otherwise granted to any third party any material rights (including Intellectual Property rights) in or to such technology, software or other copyrightable, patentable or otherwise proprietary work.

(r) To the knowledge of the Company, the employment of any employee of the Company or any Company Subsidiary or the use by the Company or any Company Subsidiary of the services of any consultant or independent contractor does not subject the Company or any Company Subsidiary to any liability to any third party for improperly soliciting such employee, consultant or independent Contractor to work for the Company or any Company Subsidiary, whether such liability is based on contractual or other legal obligations to such third party.

(s) The Company and the Company Subsidiaries have taken commercially reasonable steps to protect and preserve the confidentiality of all confidential or non-public information or similar proprietary information included in the Company IP Rights (*Confidential Information*), including without limitation, taking commercially reasonable steps to ensure that all use, disclosure or appropriation of Confidential Information owned by the Company or any Company Subsidiary by or to a third party has been pursuant to the terms of a written agreement or other legal binding arrangement between the Company or a Company Subsidiary and such third party. The Company and the Company Subsidiaries takes commercially reasonable steps to ensure that all use, disclosure or appropriation of Confidential Information by the Company and the Company Subsidiaries not owned by the Company or any Company Subsidiary has been pursuant to the terms of a written agreement between the Company or such Company Subsidiary and the owner of such Confidential Information, or is otherwise lawful. Without limiting the foregoing, the Company and each of the Company Subsidiaries have and enforce a policy requiring all employees and consultants of the Company and the Company Subsidiaries having access to Confidential Information of any of their respective customers or business partners to execute and deliver to the Company an agreement regarding the protection of such Confidential Information (in the case of proprietary information of the Company s and the Company Subsidiaries customers and business partners, to the extent required by such customers and business partners).

(t) To the knowledge of the Company and any Company Subsidiary, all software products sold, licensed, leased or delivered by the Company or any Company Subsidiary to customers of the Company or any Company Subsidiary within twenty (20) months prior to the Closing Date conform in all material respects (i) to applicable contractual commitments, and express and implied warranties (to the extent not subject to legally effective express exclusions thereof); (ii) to all packaging, advertising and marketing materials to the extent required by law; (iii) to any legally binding representations provided to customers; and (iv) applicable product or service specifications or documentation. To the knowledge of the Company and any Company Subsidiary, there is no legitimate basis for any present or future action, suit, proceeding, hearing, claim, or demand based on the foregoing against the Company or any Company Subsidiary giving rise to any material liability relating to the foregoing products for replacement or repair thereof or other damages in connection therewith in excess of any reserves therefor reflected on the Company Balance Sheet.

(u) Neither the Company nor any Company Subsidiary has (i) incorporated Open Source Materials into, or combined Open Source Materials with the Company-Owned IP Rights, (ii) distributed Open Source Materials in conjunction with any Company-Owned IP Rights, or (iii) used Open Source Materials, in such a way that, with respect to (i), (ii) or (iii), creates, or purports to create, obligations for the Company or such Company Subsidiary with respect to any Company-Owned IP Rights or grant, or purport to grant, to any third party any rights or immunities under any Company-Owned IP Rights (including, but not limited to, using any Open Source Materials that require, as a condition of use, modification and/or distribution of such Open Source Materials that other software incorporated into, derived from or distributed with such Open

Table of Contents

Source Materials be (A) disclosed or distributed in source code form, (B) be licensed for the purpose of making derivative works, or (C) be redistributable at no charge).

(v) No government funding was used in the development of the Company-Owned IP Rights.

(w) (i) Neither the Company nor any Company Subsidiary nor any other Person then acting on their behalf has disclosed, delivered or licensed to any Person other than an employee or consultant under an obligation to keep confidential and not use for any purpose other than carrying out duties or obligations to the Company or any Company Subsidiary, agreed to disclose, deliver or license to any Person of any material Company Source Code, and (ii) no event has occurred, and no circumstance or condition exists, that (with or without notice or lapse of time, or both) will, or would reasonably be expected to, result in the disclosure, delivery or license by the Company or any Company Subsidiary or any Person then acting on their behalf to any Person of any material Company Source Code other than a Person carrying out duties or obligations to the Company or any Company Subsidiary. Section 4.14(w) of the Company Disclosure Schedule identifies each Contract pursuant to which the Company or any Company Subsidiary has deposited, or is or may be required to deposit, with an escrow holder or any other Person, any of the Company Source Code, and describes whether the execution of this Agreement or any of the transactions contemplated by this Agreement, in and of itself, would reasonably be expected to result in the release from escrow of any Company Source Code.

(x) To the Company s knowledge, except as would not have a Material Adverse Effect, no Governmental Entity is currently, nor since January 1, 2004 has been, entitled to claim any rights (including license rights) in: (i) any *Technical Data* included in or related to any Company-Owned IP Rights or any of its Subsidiaries, other than *Limited Rights*; (ii) any *Computer Software* included in the Intellectual Property owned by the Company or any of its Subsidiaries, other than *Restricted Rights*; (iii) any patents or patentable invention included in the Intellectual Property owned by the Company; or (iv) any copyright included in the Intellectual Property owned by the Company or any of its Subsidiaries. The terms Technical Data and Limited Rights have the meanings set forth at 48 C.F.R. 252.227 7013, and the terms Restricted Rights and Computer Software have the meanings set forth at 48 C.F.R. 252.227 7014.

4.15 *Taxes.*

(a) The Company and the Company Subsidiaries have timely filed all material federal, state, local, and foreign Tax Returns required to be filed by it in the manner prescribed by applicable Laws and all such Tax Returns were true, complete and correct in all material respects. All Taxes (other than Taxes that are not material in amount) of the Company and the Company Subsidiaries (whether or not shown or required to be shown on any Tax Return) that are due and payable have been timely paid in full and the accruals and reserves for Taxes (rather than any reserve for deferred Taxes established to reflect timing difference between book and Tax income) reflected in the Company Balance Sheet (rather than any notes thereto) are adequate to cover all unpaid Taxes (other than Taxes that are not material in amount) of the Company and the Company Subsidiaries. All reserves for Taxes as adjusted for operations and transactions and the passage of time through the Effective Time in accordance with past custom and practice of the Company and the Company Subsidiaries are adequate to cover all unpaid Taxes of the Company and the Company Subsidiaries accruing through the Effective Time (other than Taxes that are not material in amount).

(b) The Company and the Company Subsidiaries have withheld and paid over all Taxes (other than Taxes that are not material in amount) required to have been withheld and paid over and complied in all material respects with all information reporting and backup withholding requirements, including the maintenance of required records with respect thereto, in connection with amounts paid or owing to any employee, creditor, independent contractor or other third party.

(c) No audit of the Tax Returns or other examination of the Company or any Company Subsidiary is pending or, to the knowledge of Company, threatened. No deficiencies have been asserted in writing against the Company or any Company Subsidiary as a result of examinations by any state, local, federal or foreign

Table of Contents

Taxing authority which have not been fully resolved and paid and, to the knowledge of the Company, no issue has been raised by any examination conducted by any state, local, federal or foreign Taxing authority that, by application of the same principles, could reasonably be expected to result in a proposed deficiency for any other period not so examined. Each deficiency resulting from any audit or examination relating to Taxes of the Company or any Company Subsidiary by any Taxing authority has been paid or is being contested in good faith and in accordance with the Law and is fully reserved for on the Company Balance Sheet in accordance with GAAP. To the knowledge of the Company, no claim has ever been made in writing by an authority in a jurisdiction where the Company or any of the Company Subsidiaries does not file Tax Returns that the Company or any Company Subsidiary, as the case may be, is or may be subject to Tax in that jurisdiction. Neither the Company nor any Company Subsidiary is subject to any private letter ruling of the IRS or comparable rulings of other Tax authorities that will be binding on the Company or any Company Subsidiary with respect to any period following the Closing Date. Neither the stock of any Company Subsidiary nor any asset, right or property of the Company or any Company Subsidiary is subject to any Encumbrance for Taxes (other than an Encumbrance for Taxes not yet due and payable). Neither the Company nor any of the Company Subsidiaries has granted any power of attorney that is currently in force with respect to any Taxes or Tax Returns.

(d) Neither the Company nor any Company Subsidiary has requested any extension of time within which to file any Tax Return which Tax Return has not yet been filed. There are no agreements, waivers of statutes of limitations, or other arrangements providing for extensions of time in respect of the assessment or collection of any unpaid Taxes against the Company or any Company Subsidiary.

(e) To the knowledge of the Company, (i) the Company and each Company Subsidiary have disclosed on their federal income Tax returns all positions taken therein that could, if not so disclosed, be reasonably be expected to give rise to a substantial understatement penalty within the meaning of Section 6662 of the Code, and (ii) neither the Company nor any Company Subsidiary has participated in a listed transaction within the meaning of Treasury Regulation Section 1.6011-4(b) or Treasury Regulation Section 301.6111-2.

(f) Neither the Company nor any Company Subsidiary has been a member of any affiliated, combined, consolidated or unitary group other than the group of which the Company is the parent. Neither the Company nor any Company Subsidiary is a party to any Tax sharing agreement, Tax indemnity obligation or similar agreement, arrangement or practice with respect to Taxes (including any advance pricing agreement, closing agreement or other agreement relating to Taxes with any Taxing authority).

(g) Neither the Company nor any Company Subsidiary has agreed to or is required to make any adjustment under Code Section 481(a) or Section 482 (or an analogous provision of state, local or foreign law) by reason of a change in accounting method or otherwise. Neither the Company nor any Company Subsidiary will be required to include in income, or exclude any item of deduction from, Taxable income for any Taxable period (or portion thereof) ending after the Closing Date as a result of any (i) closing agreement as described in Code Section 7121 (or any corresponding or similar provision of state, local or foreign income Tax law), (ii) open transaction or installment disposition made on or prior to the Closing Date, or (ii) prepaid amount received on or prior to the Closing Date.

(h) Neither the Company nor any Company Subsidiary is or has been a United States real property holding corporation (as defined in Section 897(c)(2) of the Code).

(i) To the knowledge of the Company, other than as a result of the Merger, neither the Company nor any Company Subsidiary is subject to any limitation on the use of its Tax attributes under Section 382, 383, and 384 of the Code or Treasury Regulation Section 1.1502-15 or -21 (regarding separate return limitation years) or any comparable provisions of state law.

(j) Neither the Company nor any Company Subsidiary has constituted a distributing corporation or a controlled corporation (within the meaning of Section 355(a)(1)(A) of the Code) in a distribution of stock intended to qualify for tax-free treatment under Section 355 or 361 of the Code (A) in the two years prior to the date of this Agreement (or will constitute such a corporation in the two years prior to the Closing Date)

Table of Contents

or (B) in a distribution that otherwise constitutes part of a plan or series of related transactions (within the meaning of Section 355(e) of the Code) in conjunction with the Merger.

4.16 *Insurance.* The Company has Made Available to Parent a true, correct and complete list of policies and bonds of insurance maintained by the Company and each Company Subsidiary, and the Company has Made Available to Parent true, correct and complete copies of such policies and bonds of insurance. There is no material claim pending under any of such policies or bonds as to which coverage has been questioned, denied or disputed by the underwriters of such policies or bonds of insurance maintained by the Company or any Company Subsidiary. All premiums due and payable under all such policies and bonds have been paid, and the Company and each Company Subsidiary is otherwise in compliance in all material respects with the terms of such policies and bonds. Neither the Company nor any Company Subsidiary has been notified of any threatened termination of, or material premium increase with respect to, any such policies or bonds of insurance maintained by the Company or any Company Subsidiary. All such policies and bonds that provide insurance against liability to third parties were written on an occurrence basis. The Company maintains insurance coverage in such amounts and covering such risks, and with such deductibles, as in the good faith judgment of the Company are adequate with respect to the business in which the Company and the Company Subsidiaries are engaged.

4.17 *Opinion of Financial Advisor.* The Company Board has received the opinion of Credit Suisse Securities (USA) LLC (the *Company Financial Advisor*) addressed to the Company Board as of the date of this Agreement, to the effect that the Merger Consideration to be received by the holders of Company Common Shares, other than Parent and its Affiliates, in the Merger is fair from a financial point of view to such holders, and the Company will deliver to Parent a true, correct and complete copy of such opinion promptly following the Company s receipt thereof.

4.18 *Brokers.* Except for fees payable to the Company Financial Advisor as set forth in the engagement letter between the Company and the Company Financial Advisor, dated March 25, 2006, (the *Engagement Letter*), a correct and complete version of which has been Made Available by the Company to Parent, neither the Company nor any Affiliate of the Company is obligated for the payment of any fees or expenses of any investment banker, broker, advisor or similar party in connection with the origin, negotiation or execution of this Agreement or in connection with the Merger or any other transaction contemplated by this Agreement, and neither Parent nor Merger Sub will incur or succeed to any liability, either directly or indirectly, to any such investment banker, broker, advisor or similar party as a result of this Agreement, the Merger or any act or omission of the Company, any of its Affiliates or any of their respective Representatives or stockholders. No such engagement letter obligates the Company to continue to use the services of the Company Financial Advisor following the Merger or pay the fees or expenses of the Company Financial Advisor in connection with any transaction other than the Merger.

4.19 *Properties.*

(a) Neither the Company nor any of the Company Subsidiaries owns any real property interests as of the date hereof. Section 4.19 of the Company Disclosure Schedule lists all material real property leases to which the Company or a Company Subsidiary is a party as of the date hereof and each amendment thereto that is in effect as of the date hereof. The Lease Agreement between Crow Family Holdings Industrial Texas Limited Partnership, as Landlord, and Aviall Services, Inc., as Tenant, dated April 3, 2001, International Commerce Park at DFW, Dallas/Fort Worth International Airport, Texas (the *Dallas Lease*), is in full force and effect, is valid and effective in accordance with its terms, and there is not, under such lease, any existing default or event of default (or event that with notice or lapse of time, or both, would constitute a default) by the Company or any Company Subsidiary, or to the Company s knowledge, by any other party thereto that would give rise to a material claim against the Company or any Company Subsidiary. All other current, material leases are in full force and effect, are valid and effective in accordance with their respective terms, and there is not, under any of such leases, any existing default or event of default (or event that with notice or lapse of time, or both, would constitute a default) by the Company or any Company

Table of Contents

Subsidiary, or to the Company s knowledge, by any other party thereto that would give rise to a material claim against the Company or any Company Subsidiary, except where failure to be in full force and effect or to be valid and effective, and for such default and events of default and such claims, in each case, which would not, individually or in the aggregate, have a Material Adverse Effect. There is not, under the Dallas Lease any existing default or event of default (or event that with notice or lapse or time or both would constitute a default) by the landlord (or as the case may be, if applicable, sublandlord) thereunder that would give rise to a material claim by the Company or any Company Subsidiary against said landlord or sublandlord.

(b) Each of the Company and the Company Subsidiaries has good and valid title to, or in the case of leased properties and assets, valid leasehold interests in, all of its material tangible properties and assets, real, personal and mixed, used or held for use in its business, in each case, free and clear of any Encumbrances, except as reflected in the Company Financial Statements and except for Encumbrances for Taxes not yet due and payable and such Encumbrances or other imperfections of title and encumbrances, if any, that are not material in character, amount or extent, and that do not materially detract from the value, or materially interfere with the present use, of the property subject thereto or affected thereby.

(c) The Facilities and equipment of the Company and each Company Subsidiary that are used in the operations of their respective businesses are (i) suitable for the uses to which they are currently employed, (ii) in good operating condition and repair, subject to normal wear and tear, (iii) regularly and properly maintained, (iv) not obsolete, dangerous or in need of renewal or replacement, except for renewal or replacement in the ordinary course of business, consistent with past practice, and (v) to the Company s knowledge, free from any material defects or deficiencies, except in the case of (i) through (v), as would not, individually or in the aggregate, have a Material Adverse Effect.

4.20 *Interested Party Transactions*. Except as disclosed in the Company s definitive proxy statements included in the Company SEC Reports, no event has occurred and no relationship exists that would be required to be reported by the Company pursuant to Item 404 of Regulation S-K.

ARTICLE 5

Representations and Warranties of Parent and Merger Sub

Parent and Merger Sub hereby jointly and severally represent and warrant to the Company as follows:

5.1 *Organization and Qualification; Subsidiaries*. Each of Parent and Merger Sub is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, and has the requisite power and authority and all necessary governmental approvals to own, lease and operate its properties and to carry on its business as it is now being conducted and as currently proposed by it to be conducted. Each of Parent and Merger Sub is duly qualified or licensed to do business, and is in good standing, in each jurisdiction where the character of the properties owned, leased or operated by it or the nature of its business makes such qualification, licensing or good standing necessary, except where the failure to be so qualified, licensed or in good standing would not have, individually or in the aggregate, a Parent Material Adverse Effect.

5.2 *Authority*. Each of Parent and Merger Sub has all necessary corporate power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated by this Agreement. The execution and delivery of this Agreement by each of Parent and Merger Sub and the consummation by Parent and Merger Sub, as applicable, of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action, except for the adoption of this Agreement by the sole stockholder of Merger Sub. No other corporate proceedings on the part of Parent and no vote of the holders of any shares of Parent capital stock is required to approve this Agreement or the transactions contemplated hereby. The affirmative vote or written consent of the sole stockholder of Merger Sub to adopt this Agreement is the only vote or written consent necessary to adopt this Agreement and approve the Merger under

Table of Contents

applicable Law and Merger Sub s Certificate of Incorporation. This Agreement has been duly authorized and validly executed and delivered by Parent and Merger Sub, as applicable, and constitutes a legal, valid and binding obligation of Parent and Merger Sub, enforceable against Parent and Merger Sub in accordance with its terms, subject only to the effect, if any, of (i) applicable bankruptcy and other similar Laws affecting the rights of creditors generally and (ii) rules of Law governing specific performance, injunctive relief and other equitable remedies.

5.3 *No Conflict; Required Filings and Consents*.

(a) The execution and delivery of this Agreement by Parent and Merger Sub do not, and the performance of this Agreement by Parent and Merger Sub will not, (i) conflict with or violate any provision of the Certificate of Incorporation or Bylaws of Parent or Merger Sub, (ii) assuming that all consents, approvals, authorizations and permits described in Section 5.3(b) have been obtained and all filings and notifications described in Section 5.3(b) have been made and any waiting periods thereunder have terminated or expired, conflict with or violate any Law applicable to Parent or Merger Sub or any other Subsidiary of Parent (each, a *Parent Subsidiary* and, collectively, the *Parent Subsidiaries*) or by which any property or asset of Parent, Merger Sub or any Parent Subsidiary is bound or affected, or (iii) result in any breach of or any loss of any benefit under, constitute a default (or an event that with notice or lapse of time or both would become a default) under or give to others any right of termination, amendment, acceleration or cancellation of, or result in the creation of a material Encumbrance on any property or asset of Parent, Merger Sub or any Parent Subsidiary pursuant to, any material Contract, bond, mortgage or permit, except, with respect to clause (iii), for any such conflicts, violations, breaches, defaults, other occurrences, Encumbrances, or absences of consents or approvals as would not have a Parent Material Adverse Effect.

(b) The execution and delivery of this Agreement by Parent and Merger Sub do not, and the performance of this Agreement by Parent and Merger Sub will not, require any consent, approval, authorization or permit of, or filing with or notification to, any Governmental Entity or other Person, except (i) under the Exchange Act, the Securities Act, any applicable Blue Sky Laws, the rules and regulations of the New York Stock Exchange, Antitrust Laws, filing and recordation of the Certificate of Merger as required by the DGCL and (ii) where failure to obtain such consents, approvals, authorizations or permits, or to make such filings or notifications, would not have a Parent Material Adverse Effect.

5.4 *Ownership of Merger Sub; No Prior Activities*.

(a) Merger Sub was formed solely for the purpose of engaging in the transactions contemplated by this Agreement.

(b) All of the outstanding capital stock of Merger Sub is owned directly by Parent. There are no options, warrants or other rights (including registration rights), agreements, arrangements or commitments to which Merger Sub is a party of any character relating to the issued or unissued capital stock of, or other Equity Interests in, Merger Sub or obligating Merger Sub to grant, issue or sell any shares of the capital stock of, or other Equity Interests in, Merger Sub, by sale, lease, license or otherwise. There are no obligations, contingent or otherwise, of Merger Sub to repurchase, redeem or otherwise acquire any shares of the capital stock of Merger Sub.

(c) Except for obligations or liabilities incurred in connection with its incorporation or organization and the transactions contemplated by this Agreement, Merger Sub has not and, prior to the Effective Time, will not have incurred, directly or indirectly, through any Subsidiary or Affiliate, any obligations or liabilities or engaged in any business activities of any type or kind whatsoever or entered into any agreements or arrangements with any Person.

5.5 *Financing*. Parent has or at the Closing will have cash available to pay the Merger Consideration as contemplated hereby.

Table of Contents

5.6 *Company Stock*. Neither Parent nor any Parent Subsidiary has at any time during the last three years been an interested stockholder of the Company as defined in Section 203 of the DGCL. Neither Parent nor any Parent Subsidiary owns (directly or indirectly, beneficially or of record), or is a party to any agreement, arrangement or understanding for the purpose of acquiring, holding, voting or disposing of, in each case, any shares of capital stock of the Company (other than the Confidentiality Agreement and as contemplated by this Agreement).

ARTICLE 6

Covenants

6.1 *Conduct of Business by the Company Pending the Closing*. The Company agrees that, between the date of this Agreement and the earlier of (A) the Effective Time or (B) the date of termination of this Agreement, except as specifically permitted by any other provision of this Agreement, unless Parent shall otherwise agree in writing or as required by applicable Law, the Company will, and will cause each Company Subsidiary to, (i) conduct its operations in all material respects only in the ordinary and usual course of business consistent with past practice, and shall not take any action inconsistent therewith or with this Agreement, (ii) use its reasonable best efforts to keep available the services of the current officers, employees and consultants of the Company and each Company Subsidiary and to preserve the current relationships of the Company and each Company Subsidiary with such of the customers, suppliers, distributors, business partners and other Persons with which the Company or any Company Subsidiary has business relations, (iii) have in effect and maintain in all material respects at all times, insurance substantially of the kinds and in the amounts as is in effect as of the date of this Agreement, and (iv) keep substantially in working condition and good order and repair all of its material assets and other material properties, normal wear and tear excepted. Without limiting the foregoing, and as an extension thereof, except as specifically permitted by any other provision of this Agreement, the Company shall not, and shall not permit any Company Subsidiary to, between the date of this Agreement and the Effective Time, directly or indirectly, do, or agree to do, any of the following without Parent s prior written consent, unless required by applicable Law or in accordance with the Company s 2006 capital budget set forth on Section 6.1 of the Company Disclosure Schedule or as otherwise set forth on Section 6.1 of the Company Disclosure Schedule (with each exception specifically identified by paragraph number):

(a) acquire by merging or consolidating with or by purchasing a substantial Equity Interest in or a substantial portion of the assets of, or by any other manner, any business, corporation, partnership, association or other business organization or division thereof with a value or purchase price in excess of $1,000,000, or enter into any agreement providing for any merger, acquisition, divestiture or similar transaction;

(b) sell, lease, license or otherwise dispose of any of its properties or assets, other than (i) non-exclusive licenses to customers in the ordinary course of business consistent with past practice, (ii) dispositions of equipment that is no longer used or useful, (iii) sales of assets in the ordinary course of business consistent with past practice and (iv) sales, leases, licenses or dispositions of assets with a fair market value not in excess of $1,000,000 in respect of any one asset and not in excess of $10,000,000 in the aggregate;

(c) amend or propose to amend the Company Certificate of Incorporation or Company Bylaws or, in the case of the Company Subsidiaries, their respective constituent documents;

(d) other than dividends from any wholly-owned Company Subsidiary to its parent, declare, set aside or pay any dividend or other distribution payable in cash, capital stock, property or otherwise with respect to any shares of its capital stock, or purchase, redeem or otherwise acquire, or offer to purchase, redeem or otherwise acquire, any shares of its capital stock, other equity securities, other ownership interests or any options, warrants or rights to acquire any such stock, securities or interests (except for repurchases of Company Common Shares to the extent required pursuant to Repurchase Rights);

(e) split, combine or reclassify any outstanding shares of its capital stock;

Table of Contents

(f) issue, sell, authorize, or agree to the issuance or sale of, any shares of, or any options, warrants or rights of any kind to acquire any shares of, or any securities convertible into or exchangeable for any shares of, any Equity Interests of the Company or any Company Subsidiary, except for the Company Common Shares issuable upon exercise of (i) Company Options outstanding on the date hereof or (ii) Company Warrants outstanding on the date hereof;

(g) grant, amend or change the terms of any Company Option or stock appreciation right, phantom stock or other stock-based incentive award of any kind, or accelerate or change the period of exercisability or vesting of any Company Option or stock appreciation right, phantom stock or other stock-based incentive award of any kind, or amend any Repurchase Rights or accelerate or change the period of vesting of any Company Common Shares subject to Repurchase Rights, or authorize cash payments in exchange for any Company Option or stock appreciation right, phantom stock or other stock-based incentive award of any kind, in each case, except as a result of the Merger;

(h) (i) take any action with respect to the grant of or increase in any severance or termination pay to any current or former director, executive officer or employee (solely with respect to employees, other than in the ordinary course consistent with past practice) of the Company or any Company Subsidiary, (ii) execute any employment, deferred compensation or other similar agreement with any director, executive officer or employee (solely with respect to employees, other than in the ordinary course consistent with past practice) of the Company or any Company Subsidiary, (iii) increase the benefits payable under any existing severance or termination pay policies or employment agreements, (iv) increase the compensation, bonus, severance or other benefits of current or former directors, executive officers or employees (solely with respect to employees, other than in the ordinary course consistent with past practice) of the Company or any Company Subsidiary, (v) adopt or establish any new employee benefit plan (including any severance plan) or amend any existing employee benefit plan (including any severance plan), except as may be required by Law, or as may be required to comply with Section 409A of the Code, or (vi) pay any benefit to a current or former director, executive officer or employee of the Company or any Company Subsidiary not required by any existing agreement or employee benefit plan (including any severance plan) or, (vii) take any action that would result in its incurring any obligation for any payments or benefits described in clauses (i), (ii) or (iii) except to the extent required in a written Contract or agreement in existence as of the date of this Agreement and set forth in the Company Disclosure Schedule;

(i) hire any Person as an executive officer of the Company or, except in the ordinary course of business, enter into, amend or extend the term of, any employment or consulting agreement with any officer, employee, consultant or independent contractor (other than offer letters to new employees using the Company s standard, unmodified form of offer letter which provides for at-will employment and which does not provide for severance, acceleration or post-termination benefits, other than those generally available to employees of the Company or a Company Subsidiary), or enter into any collective bargaining agreement;

(j) (i) make any material Tax election except in the ordinary course of business and consistent with past practice; (ii) change in any material respect any accounting method in respect of Taxes; and (iii) settle any material Tax claim, action or proceeding, except (A) settlements in the ordinary course of business consistent with past practice, or (B) settlements to the extent subject to reserves existing as of the date hereof in accordance with GAAP;

(k) commence any legal proceeding, or settle, compromise or otherwise resolve any litigation or other legal proceedings, other than resolution through trial judgment for any legal proceeding in existence as of the date hereof, involving a payment of more than $1,000,000 in any one case by or to the Company or any of the Company Subsidiaries;

(l) incur any Indebtedness (other than capitalized lease obligations permitted by clauses (o) or (s) below) in excess of $10,000,000 or which may not be prepaid without penalty, or modify the terms of any existing Indebtedness of the Company or any Company Subsidiary, except (i) draws made in the ordinary course of business consistent with past practice pursuant to the Company s Credit Facility not to exceed an amount of

Table of Contents

$215,000,000 outstanding at any time or (ii) for real estate leases reasonably necessary in connection with distribution Contracts entered into after the date hereof to the extent permitted by this Agreement;

(m) assume, guarantee, endorse or otherwise as an accommodation become responsible for, the obligations of any other Person, or, subject to clause (p) below, make any loans, advances or investment in capital contribution to any Person, except (i) to or for the benefit of the Company Subsidiaries or (ii) for those not in excess of $1,000,000 in the aggregate;

(n) create or assume any material Encumbrance on any material asset;

(o) make or commit to make capital expenditures in excess of $1,000,000 in the aggregate after the date of this Agreement;

(p) make any loans or advances (other than routine travel advances, sales commission draws to employees of the Company or any Company Subsidiary and advance purchase payments to suppliers in an aggregate amount not in excess of $1,250,000 in the ordinary course of business consistent with past practice) to, or any investment in or capital contribution to, any Person (including any officer, director or employee of the Company) other than intra-company transfers between the Company and a Company Subsidiary in the ordinary course of business consistent with past practice, or forgive or discharge in whole or in part any outstanding loans or advances, or otherwise modify any loan previously granted to any such Person;

(q) enter into any agreement, arrangement or commitment that limits or otherwise restricts the Company or any Company Subsidiary, or that would, after the Effective Time, limit or restrict Parent or any of the Parent Subsidiaries or any of their respective Affiliates or any successor thereto, from engaging or competing in any line of business or in any geographic area, or which provides exclusive rights or most favored nation rights of any kind or scope to any party;

(r) other than with respect to any agreement with Parent, terminate, amend, modify or knowingly waive any material provision of any confidentiality or standstill agreement to which it is a party or, upon notice of a material breach, fail to enforce, to the fullest extent permitted by Law, the provisions of such agreement;

(s) (i) amend, terminate or modify any Company Material Contract, or (ii) enter into any Contract that would have been a Company Material Contract if it were in effect on the date hereof involving consideration or other obligation in excess of $1,000,000 annually, except for real estate leases reasonably necessary in connection with distribution Contracts entered into after the date hereof to the extent permitted by this Agreement;

(t) materially change the terms on which, or the manner in which, it extends warranties or indemnification rights to customers in a manner that is adverse to the Company or the Company Subsidiaries;

(u) knowingly take, or agree to commit to take, any action that would reasonably be expected to result in any of the conditions to the Merger not being satisfied, or would make any representation or warranty of the Company contained herein inaccurate in any material respect at the Effective Time, or that would materially impair the ability of the Company, Parent, Merger Sub or the holders of Company Common Shares to consummate the Merger in accordance with the terms hereof or materially delay such consummation including, without limitation, adoption or implementation of a rights plan or other anti-takeover arrangement or device;

(v) enter into any Contract to re-sell or distribute any licensed or non-licensed Parts Manufacturer Approvals products or parts of Parent or its Affiliates;

(w) enter into any agreement, arrangement or commitment that subjects the Company to compliance with requirements of the Federal Acquisition Regulation or Cost Accounting Standards beyond the level of compliance required as of the date of this Agreement, provided, that with respect to this subsection 6.1(w) such consent shall not be unreasonably withheld or delayed; or

(x) agree to take any of the actions described in subsections (a) through (w) of this Section 6.1.

Table of Contents

Nothing contained in this Agreement shall give Parent, directly or indirectly, rights to control or otherwise direct the Company s operations prior to the Effective Time. Prior to the Effective Time, the Company shall exercise, consistent with the terms and conditions of this Agreement, complete control and supervision of its operations.

6.2 *Takeover Statutes*. The Company and the Company Board shall (i) take all actions necessary to ensure that no takeover statute or similar statute or regulation becomes applicable to this Agreement and the transactions contemplated hereby and (ii) if any takeover statute or similar statute or regulation becomes applicable to this Agreement or any transactions contemplated hereby, take all reasonable action necessary to ensure that the Merger and the other transactions contemplated hereby may be consummated as promptly as reasonably practicable on the terms provided for in this Agreement and otherwise to minimize the effect of such statute or regulation on the Merger and the other transactions contemplated hereby.

6.3 *Proxy Statement*.

(a) As promptly as reasonably practicable after the execution of this Agreement, the Company shall prepare and file with the SEC a proxy statement relating to the Company Stockholders Meeting (together with any amendments thereof or supplements thereto, the *Proxy Statement*). The Company shall prepare and file with the SEC any Other Filings as and when required or requested by the SEC. The Company will use its reasonable best efforts to respond to any comments made by the SEC with respect to the Proxy Statement and any Other Filings as promptly as reasonably practicable. Parent shall furnish all information concerning it as the Company may reasonably request in connection with such actions and the preparation of the Proxy Statement and any Other Filings. At the earliest practicable time, the Company shall file definitive proxy materials with the SEC and cause the Proxy Statement to be mailed to its stockholders. The Proxy Statement shall (subject to Section 6.6(d)) include the unanimous recommendation of the Company Board that adoption of this Agreement and approval of the Merger by the Company s stockholders is advisable and that the Company Board has unanimously determined that the Merger is fair to, advisable and in the best interests of the Company and its stockholders. To the extent permitted by applicable Law, prior to filing the preliminary proxy materials, definitive proxy materials or any other filing with the SEC or any other Governmental Entity, the Company shall provide Parent (which term shall in all instances in this Section 6.3 also include Parent s counsel) with reasonable opportunity to review and comment on each such filing in advance and the Company shall include in such filings all comments proposed by Parent and reasonably acceptable to Company. The Company will advise Parent, promptly after it receives notice thereof, of any request by the SEC for amendment of the Proxy Statement or any Other Filings of the Company or comments thereon and responses thereto or requests by the SEC for additional information.

(b) Parent agrees that the information supplied by Parent for inclusion in the Proxy Statement shall not, at (i) the time the Proxy Statement (or any amendment thereof or supplement thereto) is first mailed to the Company s stockholders and (ii) the time of the Company Stockholders Meeting, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements contained therein not misleading. If, at any time prior to the Effective Time, any event or circumstance relating to Parent or any Parent Subsidiary, or their respective officers or directors, should be discovered by Parent that should be set forth in an amendment or a supplement to the Proxy Statement or any Other Filing, Parent shall promptly inform the Company and shall promptly cooperate with the Company in the prompt filing with the SEC of any amendment or supplement to the Proxy Statement and, as required by Law, in disseminating the information contained in such amendment or supplement to the Company s stockholders.

(c) The Company agrees that the Proxy Statement (other than information supplied by Parent for inclusion in the Proxy Statement) shall not, at (i) the time the Proxy Statement (or any amendment thereof or supplement thereto) is first mailed to the Company s stockholders and (ii) the time of the Company Stockholders Meeting, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements contained therein not misleading. If, at any time prior to the Effective Time, any event or circumstance relating to the Company or any

Table of Contents

Company Subsidiary, or their respective officers or directors, should be discovered by the Company that should be set forth in an amendment or a supplement to the Proxy Statement or any Other Filing, the Company shall promptly inform Parent. All documents that the Company is responsible for filing with the SEC in connection with the transactions contemplated herein will comply as to form and substance in all material respects with the applicable requirements of the Securities Act, the Exchange Act and any other applicable Laws.

6.4 *Company Stockholders Meeting; Board Recommendation*.

(a) The Company shall call and hold the Company Stockholders Meeting as promptly as reasonably practicable for the purpose of obtaining the Company Stockholders Approval. In connection with the Company Stockholders Meeting, the Company will (i) subject to applicable Laws, use its reasonable best efforts (including postponing or adjourning the Company Stockholders Meeting to obtain a quorum or to solicit additional proxies, but for no other reason without the prior consent of Parent, such consent not to be unreasonably withheld) to obtain the Company Stockholders Approval and (ii) otherwise comply with all legal requirements applicable to the Company Stockholders Meeting.

(b) Subject to Section 6.4(a) and Section 6.6(d), (i) the Company Board shall unanimously recommend that the Company s stockholders vote in favor of the adoption of this Agreement, (ii) the Proxy Statement shall be in material compliance with the requirements of Section 6.3, including the requirement that a statement to the effect that the Company Board has unanimously recommended that the Company s stockholders vote in favor of the adoption of this Agreement at the Company Stockholders Meeting be included in the Proxy Statement, and (iii) neither the Company Board nor any committee thereof shall withhold, withdraw, amend or modify, or propose or resolve to withhold, withdraw, amend or modify in a manner adverse to Parent, the Company Board Recommendation.

6.5 *Access to Information; Confidentiality*. From the date of this Agreement to the Effective Time (or earlier termination of this Agreement), to the extent permitted by applicable Law, the Company shall, and shall cause each Company Subsidiary and each of their respective directors, officers, employees or authorized agents to (i) provide to Parent and Parent s Representatives access, at reasonable times upon prior notice, to the officers, employees, agents, properties, offices and other facilities of the Company and the Company Subsidiaries and to the books and records thereof and (ii) furnish promptly such information concerning the business, properties, Contracts, assets (tangible and intangible, including Intellectual Property), liabilities, Tax Returns, Tax elections and all other workpapers (provided that with respect to workpapers the Company need only provide access to workpapers in the actual possession of the Company or any Company Subsidiary) relating to Taxes, personnel, internal financial statements and other aspects of the Company and the Company Subsidiaries as Parent or Parent s Representatives may reasonably request. The Company shall be entitled to have a representative present at any inspection. No investigation conducted pursuant to this Section 6.5 shall affect or be deemed to modify or limit any representation or warranty made in this Agreement or affect the satisfaction or non-satisfaction of any condition to the Merger set forth in this Agreement. Subject to compliance with applicable Laws, from the date of this Agreement until the earlier of the termination of this Agreement and the Effective Time, the Company shall confer from time to time as requested by Parent to meet with one or more representatives of Parent to discuss any material changes or developments in the operational matters of the Company and each Company Subsidiary and the general status of the ongoing operations of the Company and each Company Subsidiary. Notwithstanding the foregoing, neither the Company nor any Company Subsidiary shall be required to provide access to or to disclose any information (i) where such access or disclosure would result in the loss of the attorney-client privilege or work product privilege of the Company or any Company Subsidiary or contravene any Law or binding agreement entered into prior to the date of this Agreement (provided that with respect to any such binding agreements, and following execution of this Agreement, the Company will use commercially reasonable efforts, to the extent requested by Parent, to obtain all necessary third party consents to allow Parent to review all such agreements), or (ii) to the extent that outside counsel to the Company advises that such access or disclosure should not be disclosed in order to ensure compliance with any applicable Law. Parent agrees to hold confidential all information which it has received or to which it has gained access pursuant to this Section 6.5 in accordance with the Confidentiality Agreement, dated as of March 3, 2006 between the Company and Parent, as

Table of Contents

amended from time to time (the *Confidentiality Agreement*). As soon as practicable after delivering or making available any nonpublic information to any Person in connection with a Superior Offer, the Company shall deliver such nonpublic information to Parent (to the extent such information has not already been deliver to Parent).

6.6 *No Solicitation of Transactions*.

(a) *No Solicitation Generally*. Except as specifically permitted by Sections 6.6(c) and 6.6(d), from and after the date of this Agreement until the Effective Time or termination of this Agreement pursuant to Article 8, the Company will not, and will cause the Company Subsidiaries not to, and will use all reasonable efforts to ensure that its Representatives do not, directly or indirectly, (i) solicit, initiate, seek, entertain, encourage, facilitate, support or induce the making, submission or announcement of any inquiry, expression of interest, proposal or offer that constitutes, or could reasonably be expected to lead to, an Acquisition Proposal, (ii) enter into, participate in, maintain or continue any communications (except solely to provide written or oral notice as to the existence of these provisions) or negotiations regarding, or deliver or make available to any Person any non-public information in response to, or in connection with, any inquiry, expression of interest, proposal or offer that constitutes, or could reasonably be expected to lead to, an Acquisition Proposal, (iii) agree to, accept, approve, endorse or recommend (or publicly propose or announce any intention or desire to agree to, accept, approve, endorse or recommend) any Acquisition Proposal, (iv) enter into any letter of intent, exclusivity agreement, term sheet or any other Contract contemplating or otherwise relating to any Acquisition Proposal, (v) submit any Acquisition Proposal to the vote of any stockholders of the Company, (vi) withhold, withdraw or modify (or publicly propose or announce any intention or desire to withhold, withdraw or modify), in a manner adverse to Parent, the approval of the Company Board of this Agreement and/or any of the transactions contemplated hereby, or (vii) take any action or position that is inconsistent with, or withdraw or modify (or publicly propose or announce any intention or desire to withdraw or modify), in a manner adverse to Parent, any determination or recommendation referred to in Section 6.4. The Company and the Company Subsidiaries will immediately cease any and all existing activities, discussions and negotiations with any Persons conducted prior to or on the date of this Agreement with respect to any Acquisition Proposal and request the prompt return or destruction of all confidential information previously furnished to any Person with which the Company has engaged in any activities related to any Acquisition Proposal within the twelve (12) month period preceding the date of this Agreement. If any Representative of the Company, whether in his or her capacity as such or in any other capacity, takes any action that the Company is obligated pursuant to this Section 6.6 to use all reasonable efforts to ensure that its Representatives do not take, then the Company shall be deemed for all purposes of this Agreement to have breached this Section 6.6.

(b) *Notice*. The Company, as promptly as practicable (but in no event more than twenty-four (24) hours after receipt), shall advise Parent orally and in writing of (i) an Acquisition Proposal, (ii) any inquiry, expression of interest, proposal or offer that constitutes, or could reasonably be expected to lead to, an Acquisition Proposal, (iii) any other notice that any Person is considering making an Acquisition Proposal, or (iv) any request for non-public information that could reasonably be expected to lead to an Acquisition Proposal, as well as, in the event of any of (i)-(iv) above, (1) the material terms and conditions of such Acquisition Proposal, inquiry, expression of interest, proposal, offer, notice or request and (2) the identity of the Person or Group making any such Acquisition Proposal, inquiry, expression of interest, proposal, offer, notice or request. The Company will (x) keep Parent informed, as promptly as practicable, of the status and details (including any amendments, modifications or proposed amendments or modifications) of any such Acquisition Proposal, inquiry, expression of interest, proposal, offer, notice or request and (y) provide to Parent, as promptly as practicable, a copy of all written materials and other information provided to the Company in connection with any such Acquisition Proposal, inquiry, expression of interest, proposal, offer, notice or request. The Company shall provide Parent with at least the same prior notice provided to the members of the Company Board of any meeting of the Company Board at which the Company Board is reasonably expected to discuss any Acquisition Proposal, including to determine whether such Acquisition Proposal is a Superior Offer.

Table of Contents

(c) *Superior Offers*. In the event that any Person submits to the Company (and does not withdraw) an Acquisition Proposal that the Company Board concludes in good faith (after consultation with its outside legal counsel and a financial advisor of national standing) is, or is reasonably likely to become, a Superior Offer, then notwithstanding Section 6.6(a), the Company may, so long as the Company Stockholders Approval has not yet been obtained, (i) enter into discussions with such Person regarding such Acquisition Proposal, and (ii) deliver or make available to such Person non-public information regarding the Company and the Company Subsidiaries; provided, that: (A) in each case, neither the Company, any Company Subsidiary nor any Representative of the Company shall have violated any of the restrictions set forth in this Section 6.6; (B) in each case, the Company Board first shall have concluded in good faith, after consultation with its outside legal counsel, that such action is reasonably required in order for the Company Board to comply with its fiduciary obligations to the Company s stockholders under applicable Laws; (C) in each case the Company first shall have provided Parent with written notice of the identity of such Person and all of the material terms and conditions of such Acquisition Proposal and of the Company s intention to take actions in response to such Superior Offer, specifying the actions it intends to take; and (D) in the case of clause (ii), the Company first shall have received from such Person an executed confidentiality agreement containing terms at least as restrictive with regard to the Company s Confidential Information as the Confidentiality Agreement, it being understood that such confidentiality agreement shall not include any provision for any exclusive right to negotiate with such Person or having the actual or purported effect of restricting the Company from fulfilling its obligations under this Agreement.

(d) *Changes of Recommendation*. Nothing in this Agreement shall prevent the Company Board from (i) withholding, withdrawing, amending or modifying the Company Board Recommendation or (ii) terminating this Agreement pursuant to Section 8.1(h) simultaneously with the payment of the Termination Fee if (A) the Company Stockholders Approval has not yet been obtained, (B) the Company shall not have violated any of the restrictions set forth in Section 6.4 or this Section 6.6, (C) a Superior Offer is made to the Company and is not withdrawn, (D) the Company shall have promptly provided written notice to Parent (a *Notice of Superior Offer*) advising Parent that the Company has received a Superior Offer and that it intends (or may intend) to change the Company Board Recommendation or terminate the Agreement pursuant to Section 8.1(h) and the manner and timing in which it intends (or may intend) to do so, (E) Parent shall not have, within four (4) Business Days of Parent s receipt of the Notice of Superior Offer, made an offer that the Company Board determines in its good faith judgment (after consultation with a financial advisor of national standing) to be at least as favorable to the Company s stockholders as such Superior Offer (it being agreed that (1) the Company Board shall convene a meeting to consider any such offer by Parent promptly following the receipt thereof, (2) that the Company Board will not withhold, withdraw, amend or modify the Company Board Recommendation or terminate the Agreement pursuant to Section 8.1(h) for four (4) Business Days after receipt by Parent of the Notice of Superior Offer, and (3) any change to the financial or other material terms of such Superior Offer shall require a new Notice of Superior Offer to Parent and a new four (4) Business Day period under this clause (E)), and (F) the Company Board concludes in good faith, after consultation with its outside legal counsel, that, in light of such Superior Offer and any offer made by Parent pursuant to Section 6.6(d)(E), the Company Board is required to withhold, withdraw, amend or modify the Company Board Recommendation or terminate this Agreement pursuant to Section 8.1(h) to comply with its fiduciary obligations to the Company s stockholders under applicable Law.

(e) *Compliance with Tender Offer Rules*. Nothing contained in this Agreement shall prohibit the Company or the Company Board from taking and disclosing to its stockholders a position contemplated by Rules 14d-9 and 14e-2(a) promulgated under the Exchange Act or taking any action required by any order or` decree of any Governmental Entity; provided, however, that neither the Company Board nor any committee thereof shall withhold, withdraw, amend or modify the Company Board Recommendation unless specifically permitted to do so pursuant to this Section 6.6.

(f) *Stockholder Disclosures*. Nothing contained in this Agreement shall prohibit the Company from making any disclosure to the stockholders of the Company if the Company Board has concluded in its good faith judgment (after receipt of advice from its outside legal counsel) that such disclosure is required in

Table of Contents

order to comply with its fiduciary obligations to the Company s stockholders under applicable Law or to comply with securities laws. Such disclosure shall not be deemed to withhold, withdraw, amend or modify the Company Board Recommendation or otherwise constitute a breach of this Section 6.6.

6.7 *Appropriate Action; Consents; Filings*.

(a) Promptly after the execution of this Agreement, each of Parent and the Company shall apply for or otherwise seek, and shall use its reasonable best efforts to obtain, all consents and approvals required to be obtained by it for the consummation of the Merger. Without limiting the generality or effect of the foregoing, each of Parent and the Company shall, (i) as soon as practicable, and in any event no later than ten (10) Business Days after the date of this Agreement, make any initial filings required under the HSR Act and (ii) as promptly as practicable, make any additional filings required by any other applicable Antitrust Laws. The parties hereto shall consult and cooperate with one another, afford one another (or one another s counsel) an opportunity to review in advance any analyses, appearances, presentations, memoranda, briefs, arguments, opinions and proposals to be made or submitted by or on behalf of any party hereto in connection with proceedings under or relating to any Antitrust Law; and consider in good faith the views of one another, in connection with any analyses, appearances, presentations, memoranda, briefs, arguments, opinions and proposals; provided, however, that, with respect to any such analyses, appearances, presentations, memoranda, briefs, arguments, opinions or proposals, each of Parent and the Company need not supply the other (or its counsel) with copies (or in case of oral presentations, a summary) to the extent that any Law applicable to such party requires such party or the Company Subsidiaries to restrict or prohibit access to any such properties or information. Unless otherwise agreed, to the extent reasonably practicable and permitted by applicable Law, no party shall have any material discussions or communications with any Governmental Entity with respect to the Transactions contemplated by this Agreement without, where practical, consulting with a representative of the other party.

(b) Each party will notify the other promptly upon the receipt of (i) any comments from any officials of any Governmental Entity in connection with any filings made pursuant hereto and (ii) any request by any officials of any Governmental Entity for amendments or supplements to any filings made pursuant to, or information provided to comply in all material respects with, any Laws. Whenever any event occurs that is required to be set forth in an amendment or supplement to any filing made pursuant to Section 6.7(a), each party will promptly inform the other of such occurrence and cooperate in filing with the applicable Governmental Entity such amendment or supplement.

(c) Each of Parent and the Company shall use its reasonable best efforts to resolve such objections, if any, as may be asserted by any Governmental Entity with respect to the transactions contemplated by this Agreement under the HSR Act, the Sherman Act, as amended, the Clayton Act, as amended, the Federal Trade Commission Act, as amended, Council Regulation 139/2004 of the European Community and any other federal, state or foreign statutes, rules, regulations, orders or decrees that are designed to prohibit, restrict or regulate actions having the purpose or effect of monopolization, lessening of competition or restraint of trade (collectively, *Antitrust Laws*). Each of Parent and the Company shall use its reasonable best efforts to take such action as may be required to cause the expiration or termination of the waiting or notice periods or the receipt of approval decisions under the HSR Act or other Antitrust Laws with respect to such transactions as promptly as possible after the execution of this Agreement. Without limiting the foregoing, Parent and the Company shall take any and all of the following actions to the extent necessary to obtain the approval of any Governmental Entity with jurisdiction over the enforcement of any applicable Laws regarding the transactions contemplated hereby: (i) entering into negotiations, (ii) providing information required by Law, and (iii) substantially complying with any second request for information pursuant to the Antitrust Laws.

(d) Notwithstanding anything in this Agreement to the contrary, if any administrative or judicial action or proceeding is instituted (or threatened to be instituted) challenging any transaction contemplated by this Agreement as violative of any Antitrust Law, it is expressly understood and agreed that (i) Parent and the Company shall litigate, contest or defend against any administrative or judicial action or proceeding that

Table of Contents

seeks to obtain a temporary restraining order or a preliminary injunction preventing, in whole or in part, the transactions contemplated by this Agreement, provided, however, that if a Governmental Entity issues a Restraint either Parent or the Company may, in its sole discretion, terminate this Agreement pursuant to Section 8.1(c) and (ii) Parent shall make reasonable best efforts to eliminate the grounds of objection to the transactions contemplated by this Agreement, that may be asserted by any Governmental Entity under any Antitrust Laws, so as to enable the Closing to occur as soon as reasonably possible (and in any event, no later than the Outside Date), provided, however, that Parent shall not be required to undertake any efforts that, in its judgment, would or could substantially impair its ability to conduct any of its businesses or the business of the Company in the manner that they have been conducted in the past.

(e) Notwithstanding Section 6.7(d) or any other provision of this Agreement, nothing in this Section 6.7 shall (i) require Parent to make proposals, execute or carry out agreements, or submit to orders, providing for a Divestiture or (ii) limit a party s right to terminate the Agreement pursuant to Sections 8.1(b) or 8.1(c) so long as such party has until such termination complied in all material respects with its obligations under this Section 6.7.

6.8 *Certain Notices*. Each of Company and Parent, as the case may be, will notify the other party in writing promptly after learning of (i) any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the Merger, (ii) any notice or other communication from any Governmental Entity in connection with the Merger, (iii) any change, occurrence or event that, individually or in the aggregate with any other changes, occurrences and events, would reasonably be expected to have a Material Adverse Effect, or that is reasonably likely to cause any of the conditions to closing set forth in Article 7 not to be satisfied, or (iv) any claim, or any verbal or written inquiry by any Tax Authority, regarding Taxes in excess of $5,000 payable by the Company. Each of Parent and Company shall give prompt notice to the other party of any representation or warranty made by it contained in this Agreement becoming untrue or inaccurate in any material respect, or any failure by it to comply with or satisfy in any material respect any covenant, condition or agreement to be complied with or satisfied by it under this Agreement, provided, however, that no such notification shall affect the representations, warranties, covenants or agreements of the parties or the conditions to the obligations of the parties under this Agreement.

6.9 *Public Announcements*. Parent and the Company have agreed to the text of the press release announcing the signing of this Agreement and the transactions contemplated hereby. Other than with respect to any announcement relating to any action specifically permitted to be taken by the Company pursuant to Section 6.6(d), Parent and the Company shall provide to each other any subsequent press releases related to this Agreement, the Merger and the transactions contemplated hereby and shall consult with each other before issuing or making any such release. Neither Parent nor the Company shall issue any such press release or make any such public statement without the prior written consent of the other party; provided that the either party may, without obtaining the prior consent of the other party, issue such press release or make such public statements as such party determines in good faith, following consultation with legal counsel, are required by Law or the rules and regulations of the New York Stock Exchange, if it has used all reasonable efforts to consult with the other party. Each of Parent and the Company shall cause its employees, officers and directors to comply with this Section 6.9.

6.10 *Indemnification*.

(a) From and after the Effective Time, Parent will assume, and will cause the Surviving Corporation to fulfill and honor in all respects, the obligations of the Company pursuant to any indemnification agreements between the Company and its directors and officers set forth on Section 6.10 of the Company Disclosure Schedule as of the Effective Time (the *Indemnified Parties*) and any indemnification provisions under the Company Certificate of Incorporation or Company Bylaws as in effect on the date of this Agreement, in each case, subject to applicable Law. The Certificate of Incorporation and Bylaws of the Surviving Corporation will contain provisions with respect to indemnification that are at least as favorable to the Indemnified Parties as those contained in the Company Certificate of Incorporation and Company Bylaws as in effect on the date of this Agreement, which provisions will not be amended, repealed or otherwise

Table of Contents

modified for a period of six (6) years from the Effective Time in any manner that would adversely affect the rights thereunder of the Indemnified Parties, unless such modification is required by applicable Law.

(b) For six (6) years after the Effective Time, Parent shall cause to be maintained directors and officers liability insurance (*D&O Insurance*) in respect of acts or omissions occurring prior to the Effective Time covering each individual who at the date of this Agreement was an Indemnified Party covered as of the date hereof or hereafter by the Company s D&O Insurance on terms with respect to coverage and amounts no less favorable than those of such policy in effect on the date hereof; Parent shall have the right to cause coverage to be extended under the Company s D&O Insurance by obtaining a six (6) year tail policy on terms and conditions no less advantageous than the Company s existing D&O Insurance, and such tail policy shall satisfy the provisions of this Section 6.10. In lieu of the foregoing, prepaid policies may be obtained prior to the Effective Time, which policies shall provide for terms and conditions no less advantageous than the Company s existing D&O Insurance with the prior written consent of Parent, which shall not be unreasonably withheld. If such prepaid policies have been obtained prior to the Effective Time, Parent shall, and shall cause the Surviving Corporation to, maintain such policies in full force and effect, and continue to honor the obligations thereunder.

(c) In the event the Surviving Corporation or any of its successors or assigns (i) consolidates with or merges into any other Person and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) transfers all or substantially all of its properties and assets to any Person, then and in each such case, proper provisions shall be made so that the successors and assigns of the Surviving Corporation, or at Parent s option, Parent, shall assume the obligations set forth in this Section 6.10.

(d) This Section 6.10 shall survive the consummation of the Merger, is intended to benefit each of the Indemnified Parties, shall be binding on all successors and assigns of the Surviving Corporation and Parent, shall be enforceable by each Indemnified Party and his or her heirs and representatives, and may not be amended, altered or repealed with respect to any Indemnified Party after the Effective Time without the prior written consent of such Indemnified Party (provided that any amendment, alteration or repeal prior to the Effective Time shall be governed by Section 8.3).

6.11 *Employees*.

(a) From and after the Effective Time, Parent and Merger Sub shall have the rights and obligations described in this Section 6.11 and Section 6.12 regarding the individuals who were employees of the Company or a Company Subsidiary immediately prior to the Effective Time and who continue employment with the Company, a Company Subsidiary or Parent or a Parent Subsidiary following the Effective Time (including each such individual who is on vacation, temporary layoff, leave of absence, sick leave or short- or long term disability leave) (*Continuing Employee*).

(b) All Continuing Employees shall be employed solely on an at will basis, except to the extent required by the provisions of written employment Contracts or as required by applicable Law.

(c) Within a reasonable period of time after the last Business Day of each month after the date of this Agreement and on or about the date that is five (5) Business Days prior to the expected date on which the Closing will occur, the Company shall, as and to the extent necessary, deliver to Parent a revised Section 4.10(f) of the Company Disclosure Schedule, which sets forth each Person who the Company reasonably believes is, with respect to the Company or any ERISA Affiliate, a disqualified individual (within the meaning of Section 280G of the Code and the regulations promulgated thereunder), as of the date such revised Section 4.10(f) of the Company Disclosure Schedule is made available to Parent.

6.12 *Benefit Plans.*

(a) Subject to Section 6.11(b):

(i) Parent shall, through the period beginning at the Effective Time and ending December 31, 2007, cause each Continuing Employee to be provided compensation (including wages and cash and

Table of Contents

equity incentive compensation opportunities) and employee benefits substantially no less favorable in the aggregate than the compensation and employee benefits, respectively, to which they were entitled in the aggregate immediately before the Effective Time; provided that in no event shall Parent cause a reduction in the severance benefits to which Continuing Employees are entitled during the period ending December 31, 2007 below the level of entitlement in effect immediately before the Effective Time;

(ii) For all purposes under each employee benefit plan maintained by Parent, any Parent Subsidiary or any of their Affiliates in which Continuing Employees become eligible to participate upon or after the Effective Time, the Continuing Employees shall be given credit for all service with the Company or a Company Subsidiary, as applicable, to the same extent as if such services had been rendered to Parent or any of its Affiliates. Notwithstanding the foregoing, such credit shall not be used to determine benefit accruals, except with respect to severance and vacation benefits; and

(iii) As to the plan years then in place at the Effective Time, Parent shall, or shall cause the Company and each Company Subsidiary, to use all best efforts to: (i) waive all limitations as to pre-existing conditions, exclusions, evidence of insurability requirements and waiting periods with respect to participation and coverage requirements applicable to the Continuing Employees under any welfare or fringe benefit plan in which the Continuing Employees may be eligible to participate after the Closing; and (ii) provide each Continuing Employee with credit under any general leave, welfare plan or fringe benefit plan in which the Continuing Employee becomes eligible to participate after the Closing for any co-payments and deductibles paid by and out of pocket requirements satisfied by such Continuing Employee for the then current plan year under the corresponding welfare or fringe benefit plan maintained by the Company or any Company Subsidiary prior to the Closing.

(b) As promptly as practicable following the execution of this Agreement, the Company shall appoint an independent nationally recognized financial institution to serve as fiduciary for the Company Employee Savings Plan (the *Savings Plan*) with respect to Company Common Shares held under the Savings Plan who, together with the trustee of the Savings Plan, shall coordinate and take any and all appropriate actions to effectuate the voting of such Company Common Shares held under the Savings Plan in the Company Stockholders Meeting.

(c) As promptly as reasonably practicable following the execution of this Agreement and in no event later than thirty (30) days following execution of this Agreement, the Company shall amend in form and substance agreed to in writing by Parent the Company Supplemental Executive Retirement Income Plan to provide that, for purposes of determining whether a Company executive s Annual Compensation is substantially similar to his or her Annual Compensation in the year immediately preceding a Change in Control, the reference in Section 9.1 of such Plan to incentive compensation is intended to denote the incentive opportunities made available to such executive, rather than the amount of incentive compensation actually paid to him or her.

(d) As promptly as reasonably practicable following the execution of this Agreement and in no event later than thirty (30) days following execution of this Agreement, the Company shall duly approve and adopt resolutions of the Company Board appointing, effective as of the Effective Time, the Employee Benefit Plans Committee of Parent (provided that it consists of at least three members) as the sole Plan Administrator under all Company Benefit Plans and appointing, effective as of the Effective Time, the Employee Benefit Investment Committee of Parent as the sole fiduciary for investment of the assets of all Company Benefit Plans, each case in form and substance approved in writing by Parent.

(e) The Company acknowledges and agrees that benefits payable in the event of a change of control under the Company s Benefit Restoration Plan, effective as of January 1, 1994, as amended, shall be paid in accordance with the terms of the Company s Benefit Restoration Plan, subject to the offset for benefits payable pursuant to the Company s Retirement Plan, as amended, including but not limited to Amendment No. 13, which will be applied as if the IRS had already issued the determination letter referenced in it provided that, to the extent such Amendment No. 13 is the subject of an unfavorable IRS determination

Table of Contents

letter or the Company elects not to pursue a favorable IRS determination letter covering (or withdraws a determination application to the extent applicable to) such Amendment No. 13, the Company shall make an additional payment as soon as practical thereafter (together with interest at an annualized rate equal to the so-called composite prime rate as quoted from time to time during the relevant period in the Southwest Edition of The Wall Street Journal, plus two percent (2%)) to each affected participant, who participated in the Company s Benefit Restoration Plan at the Effective Time, equal to the amount that would have been paid had Amendment No. 13 not been in effect, less any amounts actually paid since the Effective Time.

(f) Notwithstanding the foregoing, this Section 6.12 is not intended to and shall not require Parent to continue any Company Benefit Plan beyond the time when it otherwise lawfully could be terminated or modified, or to provide any Continuing Employee with any rights to continued employment, severance pay (except as provided in Section 6.12(a)(i)) or similar benefits following any termination of employment.

6.13 *Standstill Provisions*. The parties hereto acknowledge that Parent and the Company have previously executed the Confidentiality Agreement which shall continue in full force and effect in accordance with its terms, provided, however, that the standstill restrictions on Parent and Merger Sub set forth in the Confidentiality Agreement are hereby waived by the Company, provided however, that in the event this Agreement is terminated pursuant to Section 8.1 such standstill restrictions shall survive in accordance with the terms of the Confidentiality Agreement.

6.14 *Third Party Consents; Notices*. The Company shall use commercially reasonable efforts, to the extent requested by Parent, to obtain and deliver to Parent at or prior to the Closing, all consents, waivers and approvals under each Material Contract set forth on Section 6.14 of the Company Disclosure Schedule, using a form reasonably acceptable to Parent. The Company shall give all notices and other information required to be given to the employees of the Company or any Company Subsidiary, any collective bargaining unit representing any group of employees of the Company or any Company Subsidiary and any applicable Governmental Entity under the WARN Act, the National Labor Relations Act, as amended, the Code, COBRA and other applicable Laws in connection with the transactions contemplated by this Agreement.

6.15 *Section 16 Matters*. Prior to the Effective Time, the Company shall take all such steps as may be required (to the extent permitted under applicable Law) to cause any disposition of Company Common Shares (including derivative securities with respect to Company Common Shares) resulting from the transactions contemplated by this Agreement by each individual who is subject to the reporting requirements of Section 16(a) of the Exchange Act with respect to the Company to be exempt under Rule 16b-3 promulgated under the Exchange Act.

6.16 *Reasonable Efforts; Cooperation*. Subject to the limitations set forth in Section 6.6(d), each of the parties hereto agrees to use reasonable best efforts, and to cooperate with each other party hereto, to take, or cause to be taken, all actions, and to do, or cause to be done, all things reasonably necessary, appropriate or desirable to consummate and make effective, in the most expeditious manner practicable, the Merger and the other transactions contemplated hereby, including (i) taking all reasonable actions necessary to satisfy the respective conditions set forth in Article 7 and (ii) executing and delivering such other instruments and doing and performing such other acts and things as may be necessary or reasonably desirable to effect completely the consummation of the Merger and the other transactions contemplated hereby. The Company shall keep Parent reasonably informed of, and cooperate with Parent in connection with, any stockholder litigation or claim against the Company or its directors and officers relating to the Merger or the other transactions contemplated by this Agreement, provided, however, that no settlement of any such litigation shall be agreed to without Parent s consent, and provided, further that all obligations in this Section 6.16 shall be subject to obligations of the Company under applicable Laws relating to attorney-client communication and privilege.

6.17 *Notes Tender Offer*.

(a) Provided that this Agreement shall not have been terminated in accordance with Section 8.1, the Company will commence a tender offer (the *Notes Tender Offer*) for all of the $200,000,000 aggregate

Table of Contents

principal amount at maturity of the 7-5/8% Senior Notes due 2011 (the *Senior Notes*) as promptly as reasonably practicable after the execution of this Agreement, but in no event later than the mailing of the Company Proxy Statement. The aggregate consideration payable to each holder of Senior Notes pursuant to the Notes Tender Offer shall be an amount in cash established by Parent. The Notes Tender Offer shall be made pursuant to an Offer to Purchase and Consent Solicitation Statement prepared by the Company in connection with the Notes Tender Offer in form and substance satisfactory to Parent (as amended from time to time, the *Notes Offer to Purchase*).

(b) As part of the Notes Tender Offer, the Company shall solicit the consent of the holders of the Senior Notes, to amend, eliminate or waive certain sections (as selected by Parent) of the Senior Notes Indenture (the *Notes Consents*). The Surviving Corporation s obligation to accept for payment and pay for the Senior Notes tendered pursuant to the Notes Tender Offer or make any payment for the Notes Consents shall be subject to the conditions that (i) the conditions set forth in Article 7 below shall have been satisfied or waived, (ii) the simultaneous occurrence of the Effective Time and (iii) such other conditions as are customary for transactions similar to the Notes Tender Offer. Subject to the terms and conditions of the Notes Tender Offer, the Parent agrees to cause the Surviving Corporation to accept for payment, as promptly as practicable after expiration of the Notes Tender Offer, all Senior Notes validly tendered and not withdrawn. The Company will not waive any of the conditions to the Notes Tender Offer without the prior written consent of Parent.

(c) The Company shall prepare, as promptly as practicable, the Notes Offer to Purchase, together with related letters of transmittal and similar ancillary agreements (such documents, together with all supplements and amendments thereto, being referred to herein collectively as the *Notes Tender Offer Documents*), relating to the Notes Tender Offer and to disseminate to the record holders of the Senior Notes, and to the extent known by the Company, the beneficial owners of the Senior Notes (collectively, the *Noteholders*), the Notes Tender Offer Documents; provided, however, that prior to the dissemination thereof, the Company shall consult with Parent with respect to the Notes Tender Offer Documents and shall include in such Notes Tender Offer Documents all comments reasonably proposed by Parent. Parent shall provide the Company with any information for inclusion in the Notes Tender Offer Documents which may be required under applicable Law and which is reasonably requested by the Company. If at any time prior to the acceptance of Senior Notes pursuant to the Notes Tender Offer any event should occur that is required by applicable Law to be set forth in an amendment of, or a supplement to, the Notes Tender Offer Documents, the Company will prepare and disseminate such amendment or supplement; provided, however, that prior to such dissemination, the Company shall consult with Parent with respect to such amendment or supplement and shall include in such Notes Tender Offer Documents all comments reasonably proposed by Parent. The Company will notify Parent at least 48 hours prior to the dissemination of the Notes Tender Offer Documents, or 24 hours prior to the mailing of any amendment or supplement thereto, to the Noteholders.

(d) At such time as the Company receives consents from Noteholders holding at least a majority of the aggregate principal amount of Senior Notes, the Company agrees to execute, and to cause all of the guarantors that are a party to the Senior Notes Indenture to execute, and will use reasonable best efforts to cause the trustee under the Senior Notes Indenture to execute, a supplemental indenture (the *Supplemental Indenture*) in order to give effect to the amendments of the Indenture contemplated in the Notes Tender Offer Documents; provided, however, that notwithstanding the fact that the Supplemental Indenture will become effective upon such execution, the proposed amendments set forth therein (the *Proposed Amendments*) will not become operative unless and until all conditions to the Notes Tender Offer have been satisfied or waived by the Company and the Company accepts all Senior Notes (and related consents) validly tendered for purchase and payment pursuant to the Notes Tender Offer. In such event, the parties hereto agree that the Proposed Amendments will be deemed operative as of immediately prior to such acceptance for payment, and the Company will thereafter be obligated to make all payments for the Senior Notes (and related consents) so tendered.

Table of Contents

ARTICLE 7

Closing Conditions

7.1 *Conditions to Obligations of Each Party Under This Agreement*. The respective obligations of each party to effect the Merger and the other transactions contemplated herein shall be subject to the satisfaction, at or prior to the Effective Time, of the following conditions, any or all of which may be waived, in whole or in part, to the extent permitted by applicable Law:

(a) *Company Stockholders Approval*. The Company Stockholders Approval shall have been obtained.

(b) *No Order*. No Governmental Entity shall have obtained, enacted, issued, promulgated, enforced or entered any statute, rule, regulation, executive order, decree, judgment, injunction, arbitration award, finding or other order (whether temporary, preliminary or permanent), in any case that is in effect and prevents or prohibits consummation of the Merger (each, a *Restraint*).

(c) *HSR Act*. Any applicable waiting periods, together with any extensions thereof, under the (i) HSR Act and (ii) other Antitrust Laws required to consummate the Merger shall have expired or been terminated.

7.2 *Additional Conditions to Obligations of Parent and Merger Sub*. The obligations of Parent and Merger Sub to effect the Merger and the other transactions contemplated herein are also subject to the satisfaction, at or prior to the Effective Time, of the following conditions:

(a) *Representations and Warranties*. (i) The representations and warranties of the Company contained in Section 4.1, Section 4.3, Section 4.4, and Section 4.5 shall be true and correct in all material respects as of the date hereof and as of the Effective Time as though made on and as of the Effective Time (except that those representations and warranties that address matters only as of a particular date need only be true and correct as of such date) and (ii) all other representations and warranties of the Company contained in this Agreement and in any certificate or other writing delivered by the Company pursuant hereto, in each case disregarding and without giving any effect to all qualifications and exceptions contained herein and therein relating to materiality or Material Adverse Effect or any similar standard or qualification, shall be true and correct as of the date hereof and as of the Effective Time (except that those representations and warranties that address matters only as of a particular date need only be true and correct as of such date), except where the failure of such representations and warranties to be so true and correct has not had and would not, individually or in the aggregate, have a Material Adverse Effect.

(b) *Agreements and Covenants*. The Company shall have performed or complied in all material respects with all agreements and covenants required by this Agreement to be performed or complied with by it on or prior to the Effective Time.

(c) *Material Adverse Effect*. There shall not have occurred any Material Adverse Effect.

(d) *Court Proceedings*. No action, suit, proceeding, claim, arbitration or investigation shall be pending or threatened in which any Governmental Entity is a party wherein an unfavorable injunction, judgment, order, decree, ruling or charge would (i) prevent, restrain or otherwise interfere with the consummation of any of the transactions contemplated by this Agreement or (ii) affect adversely the right or powers of Parent to own, operate or control the Company or any portion of the business or assets of the Company or Parent, and no such injunction, judgment, order, decree, ruling or charge shall be in effect.

(e) *Sarbanes Oxley Certifications*. With respect to any of the Company SEC Reports filed with the SEC after the date of this Agreement, neither the principal executive officer nor the principal financial officer of the Company shall have failed to provide the necessary certifications in the form required under Section 302 and Section 906 of the SOXA.

(f) *Officer s Certificate*. The Company shall have delivered to Parent a certificate, signed by the Chief Executive Officer of the Company and dated as of the Closing Date, to the effect that the conditions set forth in this Section 7.2 have been satisfied.

Table of Contents

7.3 *Additional Conditions to Obligations of the Company*. The obligation of the Company to effect the Merger and the other transactions contemplated herein are also subject to the satisfaction, at or prior to the Effective Time, of the following conditions:

(a) *Representations and Warranties*. (i) The representations and warranties of Parent and Merger Sub contained in Section 5.1, Section 5.3 and Section 5.4 shall be true and correct in all material respects as of the date hereof and as of the Effective Time as though made on and as of the Effective Time (except that those representations and warranties that address matters only as of a particular date need only be true and correct as of such date) and (ii) all other representations and warranties of Parent and Merger Sub contained in this Agreement and in any certificate or other writing delivered by Parent or Merger Sub pursuant hereto, in each case disregarding and without giving any effect to all qualifications and exceptions contained herein and therein relating to materiality or Parent Material Adverse Effect or any similar standard or qualification pursuant hereto shall be true and correct as of the date hereof and as of the Effective Time (except that those representations and warranties that address matters only as of a particular date need only be true and correct as of such date), except where the failure of such representations and warranties to be so true and correct has not had and would not, individually or in the aggregate, have a Parent Material Adverse Effect.

(b) *Agreements and Covenants*. Parent shall have performed or complied with, in all material respects, all agreements and covenants required by this Agreement to be performed or complied with by it on or prior to the Effective Time.

(c) *Officer s Certificate*. Parent shall have delivered to the Company a certificate, signed by an authorized officer of Parent and dated as of the Closing Date, to the effect that the conditions set forth in this Section 7.3 have been satisfied.

ARTICLE 8

Termination, Amendment and Waiver

8.1 *Termination*. This Agreement may be terminated, and the Merger and the other transactions contemplated by this Agreement may be abandoned, at any time prior to the Effective Time, by action taken or authorized by the Board of Directors of the terminating party or parties, whether before or after the Company Stockholders Approval has been obtained:

(a) By mutual written consent of Parent and the Company, by action of their respective Boards of Directors;

(b) By either Parent or the Company if the Merger shall not have been consummated prior to November 30, 2006; provided, however, that such date may, from time to time, be extended by Parent (by written notice thereof to the Company) or by the Company (by written notice thereof to Parent) up to and including February 28, 2007, in the event all conditions to effect the Merger other than one or more conditions set forth in Section 7.1(c) (the *Regulatory Conditions*) have been or are capable of being satisfied at the time of each such extension and the Regulatory Conditions have been or are reasonably capable of being satisfied on or prior to February 28, 2007 (such earlier date, as it may be so extended, shall be referred to herein as the *Outside Date*); provided, further, that the right to terminate this Agreement under this Section 8.1(b) shall not be available to any party whose failure to fulfill any of its obligations under this Agreement has been the cause of, or resulted in, the failure of the Merger to be consummated on or before such date;

(c) By either Parent or the Company subject to Section 6.7(d) of this Agreement if any Governmental Entity shall have issued a Restraint; provided that the party seeking to terminate this Agreement pursuant to this Section 8.1(c) shall have satisfied its obligations under Section 6.7;

(d) By either Parent or the Company if the Company Stockholders Approval shall not have been obtained upon a vote taken thereon at the Company Stockholders Meeting or at any adjournment or

Table of Contents

postponement thereof; provided, however, that the right to terminate this Agreement under this Section 8.1(d) shall not be available to the Company where the failure to obtain the Company Stockholders Approval is caused by any action or failure to act of the Company that constitutes a breach of this Agreement; provided, further, that no termination by the Company pursuant to this Section 8.1(d) shall be effective unless concurrently therewith it fulfills its obligations under Section 8.2;

(e) By Parent if (at any time prior to obtaining the Company Stockholders Approval) (i) the Company Board or any committee thereof shall for any reason have withheld, withdrawn, amended or modified in a manner adverse to Parent the Company Board Recommendation, (ii) the Company shall have failed to include the Company Board Recommendation in the Proxy Statement, (iii) the Company Board or any committee thereof shall have approved or publicly recommended any Acquisition Proposal, (iv) the Company shall have entered into any letter of intent with respect to or other Contract for any Acquisition Proposal, (v) the Company shall have materially breached any of the provisions of Sections 6.4 or 6.6, or (vi) a tender or exchange offer relating to securities of the Company shall have been commenced by a Person unaffiliated with Parent, and the Company shall not have sent to its security holders pursuant to Rule 14e-2 promulgated under the Securities Act, within ten (10) Business Days after such tender or exchange offer is first published sent or given, a statement disclosing that the Company recommends rejection of such tender or exchange offer;

(f) By Parent, if there shall have been or have been disclosed any Effect that constitutes a Material Adverse Effect or if (i)(A) the Company shall have materially breached any of its covenants or agreements set forth in this Agreement or (B) any representation or warranty of the Company set forth in this Agreement shall have become materially untrue or incorrect, (ii) such breach or misrepresentation, if curable, is not cured within twenty (20) Business Days after written notice thereof, and (iii) such breach or misrepresentation would cause the conditions set forth in Section 7.2(a) or Section 7.2(b) not to be satisfied;

(g) By the Company, if (i)(A) either Parent or Merger Sub has materially breached any of its covenants or agreements set forth in this Agreement or (B) any representation or warranty of Parent or Merger Sub set forth in this Agreement shall have become materially untrue or incorrect, (ii) such breach or misrepresentation, if curable, is not cured within twenty (20) Business Days after written notice thereof, and (iii) such breach or misrepresentation would cause the conditions set forth in Section 7.3(a) or Section 7.3(b) not to be satisfied; or

(h) By Company, in accordance with Section 6.6(d); provided, that, in order for the termination of this Agreement pursuant to this Section 8.1(h) to be deemed effective, Company shall have complied with Section 6.6(d) and concurrently therewith fulfilled its obligation under Section 8.2.

8.2 *Effect of Termination*.

(a) *Limitation on Liability*. In the event of termination of this Agreement by either the Company or Parent as provided in Section 8.1, this Agreement shall forthwith become void and there shall be no liability or obligation on the part of Parent or the Company or their respective Subsidiaries, officers, directors or stockholders, except (i) with respect to Section 6.5 (Confidentiality), Section 6.9 (Public Announcements), this Section 8.2 (Effects of Termination) and Article 9 (General Provisions) and (ii) with respect to any liabilities or damages incurred or suffered by a party as a result of the willful breach by the other party of any of its representations, warranties, covenants or other agreements set forth in this Agreement.

(b) *Parent Expenses*. Parent and the Company agree that if this Agreement is terminated pursuant to Section 8.1(d) (at a time when the condition described in Section 8.2(c)(iv)(B) exists), Section 8.1(e) or Section 8.1(h) then the Company shall pay Parent an amount equal to the sum of Parent s Expenses in an amount not to exceed $2,500,000. Payment of Parent s Expenses shall be made no later than two (2) Business Days after delivery to the Company of notice of demand for payment and a documented itemization setting forth in reasonable detail all of Parent s Expenses (which itemization may be supplemented and updated from time to time by Parent until the 90th day after Parent delivers such notice of demand for payment).

Table of Contents

(c) *Company Termination Fee*. In addition to any payment required by Section 8.2(b), the Company shall pay to Parent a termination fee of $44,400,000 in immediately available funds in the event that this Agreement is terminated (i) by Parent pursuant to Section 8.1(e), (ii) by the Company pursuant to Section 8.1(d) if at such time Parent was entitled to terminate pursuant to Section 8.1(e), (iii) by Company pursuant to Section 8.1(h) or (iv) (A) in the event that this Agreement is terminated by either party pursuant to Section 8.1(d) (other than by the Company if at such time Parent was entitled to terminate pursuant to Section 8.1(e)), (B) at any time after the date of this Agreement and before the vote on this Agreement of the Company Stockholders Meeting, an Acquisition Proposal with respect to the Company shall have been publicly announced, and (C) the Company enters into a definitive agreement with respect to an Acquisition Proposal, or an Acquisition Proposal is consummated, within twelve (12) months following the termination of this Agreement. For purposes of the directly preceding sentence, references (x) to 10% in clauses (i) and (iii) of the definition of Acquisition Proposal shall be deemed to be a reference to 50% and (y) to Company Subsidiaries in such definition shall be deemed to be a reference to Company Subsidiaries that constitute a significant subsidiary (as defined in Rule 1.-02(w) of Regulation S-X). Payment of any amount described in Section 8.2(b) and this Section shall not be in lieu of damages incurred in the event of willful breach of this Agreement. Any payment required to be made pursuant to Section 8.2(c)(i), 8.2(c)(ii) or 8.2(c)(iii) shall be made no later than two (2) Business Days after the date of termination. Any payment required to be made pursuant to Section 8.2(c)(iv) shall be made no later than two (2) Business Days after the entering into of a definitive agreement with respect to, or the consummation of, an Acquisition Proposal. All payments under this Section 8.2 shall be made by wire transfer of immediately available funds to an account designated by Parent. The Company acknowledges that the agreements contained in this Section 8.2 are an integral part of the transactions contemplated by this Agreement and that, without these agreements, Parent would not enter into this Agreement. Accordingly, if the Company fails promptly to pay any amount due to the other party pursuant to this Section 8.2 and, in order to obtain such payment, Parent commences a suit that results in a judgment against the Company for all or any portion of the amounts set forth in this Section 8.2, the Company shall pay to Parent its costs and expenses (including reasonable attorneys fees and expenses) incurred in connection with such suit, together with interest on the aggregate amount of the fees and expenses at a rate equal to the prime rate reported in *The Wall Street Journal* on the date such payment was required to be made plus 2%.

8.3 *Amendment*. This Agreement may be amended by the parties hereto, whether before or after the Company Stockholders Approval has been obtained, at any time prior to the Effective Time; provided, however, that, after the Company Stockholders Approval has been obtained, no amendment may be made without further stockholder approval that, by Law or in accordance with the rules of any relevant stock exchange, requires further approval by such stockholders. This Agreement may not be amended except by an instrument in writing signed by the parties hereto.

8.4 *Waiver*. At any time prior to the Effective Time, any party hereto may (i) extend the time for the performance of any of the obligations or other acts of the other party hereto, (ii) waive any inaccuracies in the representations and warranties of the other party contained herein or in any document delivered pursuant hereto, and (iii) waive compliance by the other party with any of the agreements or conditions contained herein. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the party or parties to be bound thereby, but such extension or waiver or failure to insist on strict compliance with an obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

8.5 *Fees and Expenses*. Subject to Section 8.2, all Expenses incurred by the parties hereto shall be borne solely and entirely by the party that has incurred the same; provided, however, that each of Parent and the Company shall pay one-half of the filing fee(s) for filings made pursuant to Antitrust Laws; provided further that Parent shall reimburse all Expenses up to an aggregate of $625,000 incurred by the Company in connection with the Notes Tender Offer in the event this Agreement is terminated other than pursuant to Sections 8.1(d) (at a time when the condition described in Section 8.2(c)(iv)(B) exists), (e) or (h).

Table of Contents

ARTICLE 9

General Provisions

9.1 *Non-Survival of Representations and Warranties*. None of the representations and warranties in this Agreement or in any instrument delivered pursuant to this Agreement shall survive the Effective Time. This Section 9.1 shall not limit any covenant or agreement of the parties that by its terms contemplates performance after the Effective Time.

9.2 *Notices*. Any notices or other communications required or permitted under, or otherwise in connection with, this Agreement shall be in writing and shall be deemed to have been duly given when delivered in person or upon confirmation of receipt when transmitted by facsimile transmission (but only if followed by transmittal by national overnight courier or hand delivery on the next Business Day) or upon receipt after dispatch by registered or certified mail, postage prepaid, or on the next Business Day if transmitted by national overnight courier, in each case addressed as follows:

If to Parent or Merger Sub, addressed to it at:

The Boeing Company

P.O. Box 3707 MC 21-94

Seattle, WA 98124-2207

Attention:	Louis J. Mancini, Vice President, Commercial Aviation Services Boeing Commercial Airplanes Bryan Gerard, Director, New Business Ventures, Boeing Commercial Airplanes
Telephone No.:	(206) 766-1509
Facsimile No.:	(206) 766-1015

with a mandated copy, which shall not constitute notice, to:

The Boeing Company

100 North Riverside

MC 5003-1001

Chicago, IL 60606

Attention:	Senior Vice President General Counsel
Telephone No.:	(312) 544-2800
Facsimile No.:	(312) 544-2829

and

Sheppard Mullin Richter & Hampton, LLP

333 South Hope Street, 48th Floor

Los Angeles, CA 90071

Attention:	Lawrence M. Braun C. Thomas Hopkins
Telephone No.:	(213) 617-4184
Facsimile No.:	(213) 620-1398

If to the Company, addressed to it at:

Aviall, Inc.

2750 Regent Boulevard

DFW Airport, TX 75261

Attention:	Chief Executive Officer General Counsel
Telephone No.:	(972) 586-1800
Facsimile No.:	(972) 586-1010

with a mandated copy, which shall not constitute notice, to:

Skadden, Arps, Slate, Meagher & Flom LLP

Four Times Square

New York, NY 10036

Attention:	Thomas H. Kennedy Sean C. Doyle
Telephone No.:	(212) 735-3000
Facsimile No.:	(212)735-2000

with a further mandated copy, which shall not constitute notice, to:

Haynes and Boone, LLP

901 Main Street, Suite 3100

Dallas, TX 75202

Attention:	Janice V. Sharry Garrett A. DeVries
Telephone No.:	(214) 651-5000
Facsimile No.:	(214) 200-0676

9.3 *Headings*. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

9.4 *Severability*. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of Law or public policy, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the extent possible.

9.5 *Entire Agreement*. This Agreement (together with the Exhibits, Company Disclosure Schedule, and the other documents entered into in connection with the Merger) and the Confidentiality Agreement constitute the entire agreement of the parties and supersede all prior agreements and undertakings, both written and oral, among the parties, or any of them, with respect to the subject matter hereof.

9.6 *Assignment*. None of this Agreement or any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto, in whole or in part, by operation of Law or otherwise, without the prior written consent of the other parties, and any attempt to make any such assignment without such consent shall be null and void. Notwithstanding the foregoing, Merger Sub may assign, in its sole discretion, any and all rights, interests and obligations under this Agreement to any wholly owned Parent Subsidiary without the Company s consent.

9.7 *Parties in Interest*. This Agreement shall be binding upon and inure solely to the benefit of each party hereto and their respective successors and assigns, and nothing in this Agreement, express or implied, other than pursuant to Section 6.10, is intended to or shall confer upon any other Person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

9.8 *Mutual Drafting*. Each party hereto has participated in the preparation and drafting of this Agreement, which each party acknowledges is the result of extensive negotiations between the parties.

9.9 *Governing Law; Consent to Jurisdiction; Waiver of Trial by Jury*.

(a) This Agreement shall be governed by, and construed in accordance with, the Laws of the State of Delaware without reference to such state s principles of conflicts of law.

Table of Contents

(b) Each of the parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Court of Chancery of the State of Delaware or Federal court of the United States of America, located in the State of Delaware, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or the agreements delivered in connection herewith or the transactions contemplated hereby or thereby or for recognition or enforcement of any judgment relating thereto, and each of the parties hereby irrevocably and unconditionally (i) agrees not to commence any such action or proceeding except in such courts, (ii) agrees that any claim in respect of any such action or proceeding may be heard and determined in such Delaware state court or, to the extent permitted by Law, in such Federal court, (iii) waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any such action or proceeding in any such Delaware state or Federal court, and (iv) waives, to the fullest extent permitted by Law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such Delaware state or Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law. Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.2. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by Law.

(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE IT HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT AND ANY OF THE AGREEMENTS DELIVERED IN CONNECTION HEREWITH OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (1) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE EITHER OF SUCH WAIVERS, (2) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVERS, (3) IT MAKES SUCH WAIVERS VOLUNTARILY, AND (4) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 9.9(c).

9.10 *Disclosure*. Any matter disclosed in any section of a party s disclosure schedule shall be considered disclosed for other sections of such disclosure schedule, but only to the extent that it would be readily apparent that such matter on its face would apply to a particular section of a party s disclosure schedule. The provision of monetary or other quantitative thresholds for disclosure does not and shall not be deemed to create or imply a standard of materiality hereunder.

9.11 *Counterparts*. This Agreement may be executed in one or more original or facsimile counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

9.12 *Remedies Cumulative; Specific Performance*. Except as otherwise provided herein, any and all remedies herein expressly conferred upon a party hereto shall be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by Law or equity upon such party, and the exercise by a party hereto of any one remedy shall not preclude the exercise of any other remedy and nothing in this Agreement shall be deemed a waiver by any party of any right to specific performance or injunctive relief. The parties hereto agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof in addition to any other remedy to which they are entitled at Law or in equity. Each party hereto agrees to waive any requirement for the posting of, or securing of, a bond in connection with any such remedy.

Table of Contents

9.13 *Agreement to Protect Parent s Acquired Goodwill*. As part of the Merger, certain employee stockholders have executed non-competition agreements agreeing not to compete, not to solicit employees, and not to solicit customers during the time they are employed by Parent and for two (2) years thereafter, and the parties hereto agree that such agreements are necessary to protect the legitimate business interest of Parent in acquiring the Company including the goodwill of the Company and that the covenants set forth in such agreements are ancillary to this Agreement.

9.14 *Interpretation*.

(a) When a reference is made in this Agreement to Articles, Sections, Exhibits or Schedules, such reference shall be to an Article or Section of, or an Exhibit or Schedule to, this Agreement unless otherwise indicated. Where a reference is made to a Law, such reference is to such Law as amended.

(b) The words include, includes and including when used herein shall be deemed in each case to be followed by the words without limitation. The phrases provided to, furnished to, and phrases of similar import when used herein, unless the context otherwise requires, shall mean that a true, correct and complete paper copy of the information or material referred to has been delivered to the party to whom such information or material is to be provided. Unless the context of this Agreement otherwise requires, (i) words of any gender include each other gender, (ii) words using the singular or plural number also include the plural or singular number, respectively, and (iii) the terms hereof, herein, hereunder and derivative or similar words refer to this entire Agreement.

[Remainder of page intentionally left blank]

Table of Contents

IN WITNESS WHEREOF, Parent, Merger Sub and the Company have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

THE BOEING COMPANY

By: /s/ Louis J. Mancini
Name: **Louis J. Mancini**
Title: **Vice President General Manager**

Commercial Aviation Services

BOEING-AVENGER, INC.

By: /s/ Bryan Gerard
Name: **Bryan Gerard**
Title: **President**

AVIALL, INC.

By: /s/ Paul E. Fulchino
Name: **Paul E. Fulchino**
Title: **President and Chief Executive Officer**

[SIGNATURE PAGE TO AGREEMENT AND PLAN OF MERGER]

Table of Contents

EXHIBIT A

FORM OF RESTATED CERTIFICATE OF INCORPORATION

Table of Contents

Exhibit A

FORM OF RESTATED

CERTIFICATE OF INCORPORATION

OF

AVIALL, INC.

ARTICLE 1

The name of the corporation is: **Aviall, Inc.**

ARTICLE 2

The address of the corporation s registered office in the State of Delaware is 2711 Centerville Road, Suite 400, in the City of Wilmington, County of New Castle. The name of the corporation s registered agent at such address is Corporation Service Company.

ARTICLE 3

The purpose of the corporation is to engage in any part of the world in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

ARTICLE 4

The total number of shares of stock which the corporation shall have authority to issue is 1,000, all of which shall be common stock having a par value of $0.01 per share.

ARTICLE 5

In furtherance and not in limitation of the powers conferred by statute, the board of directors is expressly authorized to adopt, amend or repeal the by-laws of the corporation; provided, however, that such authorization shall not divest the stockholders of the power or limit the power of the stockholders to adopt, amend or repeal the by-laws of the corporation.

ARTICLE 6

Meetings of stockholders may be held within or without the State of Delaware, as the by-laws of the corporation may provide. The books of the corporation may be kept outside the State of Delaware at such place or places as may be designated from time to time by the board of directors or in the by-laws of the corporation. Election of directors need not be by written ballot unless the by-laws of the corporation so provide. Directors may be removed, with or without cause, by the affirmative vote of the holders of a majority in voting power of the outstanding shares of capital stock of the corporation entitled to vote thereon.

Table of Contents

ARTICLE 7

Each person who is or was or had agreed to become a director or officer of the corporation, or each such person who is or was serving or who had agreed to serve at the request of the board of directors or an officer of the corporation as an employee of the corporation or as a director, officer or employee of another corporation, partnership, joint venture, trust or other enterprise (including the heirs, executor, administrators or estate of such person) shall be indemnified by the corporation in accordance with the by-laws of the corporation, to the full extent permitted from time to time by the General Corporation Law of the State of Delaware as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the corporation to provide broader indemnification rights than said law permitted the corporation to provide prior to such amendment) or any other applicable laws as presently or hereafter in effect. Without limiting the generality or the effect of the foregoing, the corporation may enter into one or more agreements with any person which provide for indemnification greater or different than that provided in this Article 7. Any amendment or repeal of this Article 7 shall not adversely effect any right or protection existing hereunder immediately prior to such amendment or repeal.

ARTICLE 8

No director shall be liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director except as provided for in Section 102(b)(7) of the General Corporation Law of the State of Delaware as now in force or as hereinafter amended. Any repeal or modification of this Article shall not adversely affect any right or protection of a director of the corporation existing at the time such repeal or modification.

ARTICLE 9

The corporation reserves the right to amend, alter, change or repeal any provision contained in this certificate of incorporation in the manner now or hereafter prescribed by the laws of the State of Delaware, and all rights and powers, conferred upon stockholders herein are granted subject to this reservation.

Table of Contents

EXHIBIT B

FORM OF AMENDED AND RESTATED BYLAWS

Table of Contents

Exhibit B

FORM OF AMENDED AND

RESTATED BYLAWS

OF

AVIALL, INC.

As Adopted (, 2006)

Table of Contents

TABLE OF CONTENTS

Table of Contents

Table of Contents

FORM OF AMENDED

AND RESTATED BYLAWS

OF

AVIALL, INC.

ARTICLE 1. OFFICES

The principal office of the corporation shall be located at its principal place of business, which at the time of adoption of these Bylaws is 100 N. Riverside Drive, Chicago, IL 60606-1596. The corporation may have such other offices, either within or without the State of Delaware, as the Board of Directors (Board) may designate or as the business of the corporation may require from time to time.

ARTICLE 2. STOCKHOLDERS

2.1 *Annual Meeting*. The annual meeting of stockholders shall be held on a date and at a time designated by the Board, for the purpose of electing directors and transacting such other business as may properly come before the meeting. If the day fixed for the annual meeting is a legal holiday at the place of the meeting, the meeting shall be held on the next succeeding business day. If the election of directors is not held on the day designated for the annual meeting of stockholders, or at any adjournment thereof, the election shall be held at a special meeting of the stockholders called as soon thereafter as practicable.

2.2 *Special Meetings*. The President, the Board, or the holders of not less than one-tenth of all the outstanding shares of the corporation entitled to vote at the meeting may call special meetings of the stockholders for any purpose.

2.3 *Place of Meeting*. All meetings shall be held at the principal office of the corporation or at such other place within or without the State of Delaware designated by the Board or by any persons entitled to call a meeting hereunder, or by a waiver of notice signed by all of the stockholders entitled to vote at the meeting.

2.4 *Notice of Meeting*. The President, the Secretary, the Board, or stockholders calling an annual or special meeting of stockholders as provided for herein, shall cause to be delivered to each stockholder entitled to vote at the meeting either personally or by mail, not less than ten nor more than sixty days before the meeting, written notice stating the place, day, and hour of the meeting and, in the case of a special meeting, the purpose of purposes for which the meeting is called. If such notice is mailed, it shall be deemed delivered when deposited in the United States mail properly addressed to the stockholders at their respective addresses as they appear on the stock transfer books of the corporation, with postage prepaid.

2.5 *Waiver of Notice*. Whenever any notice is required to be given to any stockholder under the provisions of these Bylaws or the Certificate of Incorporation or the General Corporation Law of the State of Delaware (DGCL), a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

2.6 *Fixing of Record Date for Determining Stockholders*. For the purpose of determining stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or stockholders entitled to receive payment of any dividend, or in order to make a determination of stockholders for any other purpose, the Board may fix in advance a date as the record date for any such determination. Such record date shall be not more than fifty days and, in case of a meeting of stockholders, not less than ten days prior to the date on which the particular action requiring such determination is to be taken. If no record date is fixed for the determination of stockholders entitled to vote at a meeting or to receive payment of a dividend, the date and hour on which the notice of meeting is mailed or on which the resolution of the Board declaring such dividend is adopted, as the

Table of Contents

case may be, shall be the record date and time for such determination. When a determination of stockholders entitled to vote at any meeting of stockholders has been made as provided in this section, such determination shall apply to any adjournment thereof.

2.7 *Voting List*. At least ten days before each meeting of stockholders, a complete list of the stockholders entitled to vote at such meeting, or any adjournment thereof, shall be made, arranged in alphabetical order, with the address of and number of shares held by each stockholder. This list shall be open to inspection in accordance with the DGCL for a period of ten days prior to such meeting. The list shall be kept open at such meeting for the inspection of any stockholder.

2.8 *Quorum*. A majority of the outstanding shares of the corporation entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of the stockholders. If less than a majority of the outstanding shares are represented at a meeting, a majority of the shares so represented may adjourn the meeting from time to time without further notice. At a meeting adjourned and reconvened, if a quorum is present or represented at the reconvened meeting, any business may be transacted that might have been transacted at the meeting as originally notified. The stockholders present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum.

2.9 *Manner of Acting*. If a quorum is present, the affirmative vote of the majority of the shares represented at the meeting and entitled to vote on the subject matter shall be the act of the stockholders, unless the vote of a greater number is required by these Bylaws, the Certificate of Incorporation, or the DGCL.

2.10 *Proxies*. A stockholder may vote by proxy executed in writing by the stockholder or by the stockholder s attorney-in- fact. Such proxy shall be filed with the Secretary of the corporation before or at the time of the meeting. Unless otherwise provided in the proxy, a proxy shall be invalid after eleven months from the date of its execution.

2.11 *Voting of Shares*. Each outstanding share entitled to vote shall be entitled to one vote upon each matter submitted to a vote at a meeting of stockholders.

2.12 *Action by Stockholders Without a Meeting*. Any action required or permitted to be taken at a meeting of the stockholders may be taken without a meeting if a written consent setting forth the action so taken is signed by all stockholders entitled to vote with respect to the subject matter thereof. Any such consent shall be inserted in the minute book as if it were the minutes of a meeting of the stockholders.

ARTICLE 3. BOARD OF DIRECTORS

3.1 *General Powers*. The business and affairs of the corporation shall be managed by the Board.

3.2 *Number and Tenure*. The number of directors shall not be more than seven and not fewer than one, as shall be determined from time to time by resolution of the Board. The initial board shall be composed of six directors. No decrease in the number of directors shall have the effect of shortening the term of any incumbent director. Unless a director dies, resigns, or is removed, each director shall hold office until the next annual meeting of stockholders or until the director s successor is elected, whichever is later. Directors need not be stockholders of the corporation or residents of the State of Delaware.

3.3 *Resignation*. Any director may resign at any time by delivering written notice to the President or the Secretary, or to the registered office of the corporation, or by giving oral notice at any meeting of the directors or stockholders.

3.4 *Annual and Regular Meetings*. An annual Board meeting shall be held without notice promptly after and at the same place as the annual meeting of the stockholders. By resolution, the Board may specify the time and place either within or without the State of Delaware for holding regular meetings without other notice than such resolution.

Table of Contents

3.5 *Special Meetings*. Special Board meetings may be called by or at the request of the President, the Secretary or any two directors. The person or persons authorized to call special meetings may fix any place either within or without the State of Delaware as the place for holding any special Board meeting called by them.

3.6 *Notice of Special Meetings*. Notice of each special meeting, stating the time and place of the meeting, shall be given to each director by mail, telephone, or other electronic transmission or personally. If by mail, such notice shall be given not less than five days before the meeting; and if by telephone, other electronic transmission or personally, not less than two days before the meeting. Neither the business to be transacted at nor the purpose of any special meeting need be specified in the notice of such meeting.

3.7 *Waiver of Notice*.

3.7.1 *Written*. Whenever any notice is required to be given to any director under the provisions of these Bylaws, the Certificate of Incorporation, or the DGCL, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at nor the purpose of any regular or special meeting of the Board need be specified in the waiver of notice of such meeting.

3.7.2 *Attendance*. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

3.8 *Quorum*. Except as provided in these Bylaws, the Certificate of Incorporation, or the DGCL, a majority of the total number of directors shall constitute a quorum for the transaction of business at any Board meeting but, if less than a majority is present at a meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

3.9 *Manner of Acting*. The act of the majority of the directors present at a meeting at which there is a quorum shall be the act of the Board, unless the vote of a greater number is required by these Bylaws, the Certificate of Incorporation, or the DGCL.

3.10 *Vacancies*. Any vacancy occurring on the Board may be filled by the affirmative vote of a majority of the remaining directors though less than a quorum of the Board. A director elected to fill a vacancy shall be elected for the unexpired term of such director s predecessor in office. Any directorship to be filled by reason of an increase in the number of directors may be filled by the Board for a term of office continuing only until the next election of directors by the stockholders.

3.11 *Removal*. At a meeting of stockholders called expressly for that purpose, one or more members of the Board (including the entire Board) may be removed, with or without cause, by a vote of the holders of a majority of the shares then entitled to vote on the election of directors.

3.12 *Presumption of Assent*. A director of the corporation present at a Board meeting at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless such director s dissent is entered in the minutes of the meeting, or unless such director files a written dissent to such action with the person acting at the secretary of the meeting before the adjournment thereof, or unless such director forwards such dissent by registered mail to the Secretary of the corporation immediately after the adjournment of the meeting. A director who voted in favor of such action may not dissent.

3.13 *Committees*. The Board may, by resolution passed by a majority of the whole Board, appoint standing or temporary committees, each committee to consist of one or more directors of the corporation, and invest such committees with such powers as it may see fit, subject to such conditions as may be prescribed by the Board and by applicable law. The Board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not

Table of Contents

disqualified from voting, whether or not they constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in the place of any such absent or disqualified member. The designation of any such committee and the delegation of authority thereto shall not relieve the Board, or any member thereof, of any responsibility imposed by law.

3.14 *Compensation*. By Board resolution, directors and committee members may be paid their expenses, if any, of attendance at each Board or committee meeting, or a fixed sum for attendance at each Board or committee meeting, or a stated salary as director or a committee member, or a combination of the foregoing. No such payment shall preclude any director or committee member from serving the corporation in any other capacity and receiving compensation therefor.

3.15 *Action by Directors Without a Meeting*. Any action that could be taken at a meeting of the Board or of any committee appointed by the Board may be taken without a meeting if a written consent setting forth the action to be taken is signed by each of the directors or by each committee member. Any such written consent shall be inserted in the minute book as if it were the minutes of a Board or a committee meeting.

3.16 *Meetings by Telephone*. Members of the Board or any committee thereof may participate in a meeting of such Board or committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation by such means shall constitute presence in person at a meeting.

ARTICLE 4. OFFICERS

4.1 *Number*. The officers of the corporation shall be a President, a Secretary, and a Treasurer, each of whom shall be elected by the Board. One or more Vice Presidents and such other officers, including a Chairman of the Board and assistant officers as may be deemed necessary, may be elected or appointed by the Board, such officers and assistant officers to hold office for such period, have such authority and perform such duties as are provided in these Bylaws or as may be provided by resolutions of the Board. The Board may delegate to any officer or agent the power to appoint any such subordinate officers or agents and to prescribe their respective terms of office, authorities, and duties. Any two or more offices may be held by the same person.

4.2 *Election or Appointment and Term of Office*. The officers of the corporation shall be elected or appointed annually by the Board at the Board meeting held after the annual meeting of the stockholders. If the officers are not elected at such meeting, such election shall be held as soon thereafter as a Board meeting conveniently may be held. Unless an officer dies, resigns, or is removed, each officer shall hold office until the next annual meeting of the Board or until such officer s successor is elected.

4.3 *Removal*. Any officer or agent elected or appointed by the Board may be removed by the Board whenever in its judgment the best interests of the corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

4.4 *Vacancies*. A vacancy in any office because of death, resignation, removal, disqualification, or any other cause may be filled by the Board for the unexpired portion of the term.

4.5 *Chairman of the Board*. The Chairman of the Board, if elected, shall be chosen from among the directors. The Chairman shall preside, when present, at all meetings of the stockholders and at all meetings of the Board and shall have such other powers and duties as may from time to time be prescribed by the Board upon written directions given to him pursuant to Resolutions duly adopted by the Board.

4.6 *President*. The President shall be the chief executive officer of the corporation unless some other officer is so designated by the Board, and, subject to the Board s control, the President shall supervise and control all of

Table of Contents

the business and affairs of the corporation. In the absence of the Chairman of the Board, the President shall preside over all meetings of the stockholders and over all Board meetings. The President may sign certificates for shares of the corporation, deeds, mortgages, bonds, contracts, or other instruments, except when the signing thereof has been expressly delegated by the Board or by these Bylaws to some other officer or agent of the corporation or is required by law to be otherwise signed by some other officer or in some other manner. In general, the President shall perform all duties incident to the office of President and such other duties prescribed by the Board from time to time.

4.7 *Vice President*. In the event of the absence or death, inability or refusal to act, of the President, the Vice President (or, in the event of more than one Vice President, the Vice President who was first elected to such office) shall perform the duties of the President, with all the powers of and subject to all the restrictions upon the President. Any Vice President may sign, with the Secretary or Assistant Secretary, certificates for shares of the corporation. Vice Presidents shall have, to the extent authorized by the President or the Board, the same powers as the President to sign deeds, mortgages, bonds, contracts, or other instruments. Vice Presidents shall perform such other duties as from time to time may be assigned to them by the President or by the Board.

4.8 *Secretary*. The Secretary shall: (a) keep the minutes of meetings of the stockholders and the Board in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records and seal of the corporation, the execution of which on behalf of the corporation under its seal is duly authorized; (d) keep registers of the post office address of each stockholder as furnished to him or her by each stockholder; (e) sign with the President or a Vice President certificates for shares of the corporation, the issuance of which has been authorized by resolution of the Board; (f) have general charge of the stock transfer books of the corporation; (g) sign with the President deeds, mortgages, contracts, bonds, or other instruments; and (h) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to the Secretary by the President or by the Board. In the absence of the Secretary, an Assistant Secretary may perform his or her duties.

4.9 *Treasurer*. If required by the Board, the Treasurer shall give a bond for the faithful discharge of his or her duties in such sum and with such surety or sureties as the Board shall determine. The Treasurer shall have charge and custody of and be responsible for all funds and securities of the corporation; receive and give receipts for monies due and payable to the corporation from any source whatsoever, and deposit all such monies in the name of the corporation in banks, trust companies, or other depositories selected by the Board in accordance with the provisions of these Bylaws; and in general perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him or her by the President or by the Board. In the absence of the Treasurer, an Assistant Treasurer may perform his or her duties.

ARTICLE 5. CONTRACTS, LOANS, CHECKS, AND DEPOSITS

5.1 *Loans*. No loans shall be contracted on behalf of the corporation and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board. Such authority may be general or confined to specific instances. No loans shall be made by the corporation secured by its shares.

5.2 *Loans to Officers and Directors*. No loans shall be made by the corporation to its officers or directors, unless first approved by the holders of two-thirds of the shares.

5.3 *Checks, Drafts, Etc*. All checks, drafts, or other orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the corporation shall be signed by such officers or agents of the corporation and in such manner as is from time to time determined by resolution of the Board.

5.4 *Deposits*. All funds of the corporation not otherwise employed shall be deposited from time to time to the credit of the corporation in such banks, trust companies, or other depositories as the Board may select.

Table of Contents

ARTICLE 6. CERTIFICATES FOR SHARES AND THEIR TRANSFER

6.1 *Issuance of Shares*. No shares of the corporation shall be issued unless authorized by the Board, which authorization shall include the maximum number of shares to be issued and the consideration to be received for each share.

6.2 *Certificates for Shares*.

6.2.1 Certificates representing shares of the corporation shall be signed by the President or the Vice President and by the Secretary or an Assistant Secretary and shall include on their face written notice of any restrictions which the Board may impose on the transferability of such shares. All certificates shall be consecutively numbered or otherwise identified.

6.2.2 The name and address of the person to whom the shares represented thereby are issued, together with the number of shares and date of issue, shall be entered on the stock transfer books of the corporation. The person in whose name shares stand on the books of the corporation shall be deemed by the corporation to be the owner thereof for all purposes.

6.3 *Transfer of Shares*. Transfer of shares of the corporation shall be made only on the stock transfer books of the corporation by the holder of record thereof or by such holder s legal representative, who shall furnish proper evidence of authority to transfer, or by such holder s attorney-in-fact authorized by power of attorney duly executed and filed with the Secretary of the corporation. All certificates surrendered to the corporation for transfer shall be canceled and no new certificate shall be issued until the former certificates for a like number of shares shall have been surrendered and canceled, except that in case of a lost, destroyed, or mutilated certificate, a new one may be issued therefor upon such terms and indemnity to the corporation as the Board may prescribe.

ARTICLE 7. BOOKS AND RECORDS

The corporation shall keep correct and complete books and records of account, stock transfer books, minutes of the proceedings of its stockholders and Board, and such other records as may be necessary or advisable.

ARTICLE 8. FISCAL YEAR

The fiscal year of the corporation shall be the calendar year, provided that if a different fiscal year is selected for purposes of federal income taxes, the fiscal year shall be the year so selected.

ARTICLE 9. SEAL

The seal of the corporation shall consist of the name of the corporation, the state of its incorporation, and the year of its incorporation.

ARTICLE 10. INDEMNIFICATION AND INSURANCE

10.1 Each person who was or is made a party or is threatened to be made a party to or is involved in any action, suit, or proceeding, whether civil, criminal, administrative or investigative (hereinafter a proceeding), by reason of the fact that he or she or a person of whom he or she is the legal representative is or was a director, officer or employee of the corporation or is or was serving at the request of the corporation as a director, officer or employee of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action in an official

Table of Contents

capacity as a director, officer or employee or in any other capacity while serving as a director, officer or employee, shall be indemnified and held harmless by the corporation to the fullest extent authorized by the DGCL as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the corporation to provide broader indemnification rights than said law permitted the corporation to provide prior to such amendment), against all expense, liability and loss (including, without limitation, attorneys fees, judgments, fines, ERISA excise taxes or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a director, officer or employee and shall inure to the benefit of his or her heirs, executors and administrators; provided, however, that except as provided in section 10.2 of this Bylaw with respect to proceedings seeking to enforce rights to indemnification, the corporation shall indemnify any such person seeking indemnification in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the Board of the corporation.

10.2 If a claim under section 10.1 of this Bylaw is not paid in full by the corporation within thirty days after a written claim has been received by the corporation, the claimant may at any time thereafter bring suit against the corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the corporation) that the claimant has not met the standards of conduct which make it permissible under the DGCL for the corporation to indemnify the claimant for the amount claimed, but the burden of proving such defense shall be on the corporation. Neither the failure of the corporation (including its Board, independent legal counsel or stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the corporation (including its Board, independent legal counsel or stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

10.3 Following any change in control of the corporation of the type required to be reported under Item 1 of Form 8-K promulgated under the Securities Exchange Act of 1934, as amended, any determination as to entitlement to indemnification shall be made by independent legal counsel selected by the claimant, which such independent legal counsel shall be retained by the Board on behalf of the corporation.

10.4 The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this Bylaw shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, provision of the Restated Certificate of Incorporation, Bylaws, agreement, vote of stockholders or disinterested directors or otherwise.

10.5 The corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the corporation would have the power to indemnify such person against such expense, liability or loss under the DGCL.

10.6 The corporation may, to the extent authorized from time to time by the Board, grant rights to indemnification, and rights to be paid by the corporation the expenses incurred in defending any proceeding in advance of its final disposition, to any agent of the corporation to the fullest extent of the provisions of this Bylaw with respect to the indemnification and advancement of expenses of directors, officers and employees of the corporation.

10.7 The right to indemnification conferred in this Bylaw shall be a contract right and shall include the right to be paid by the corporation the expenses incurred in defending any such proceeding in advance of its final

Table of Contents

disposition; provided, however, that if the DGCL requires, the payment of such expenses incurred by a director or officer in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such person while a director or officer, including, without limitation, service to an employee benefit plan) in advance of the final disposition of a proceeding, shall be made only upon delivery to the corporation of an undertaking by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined that such director or officer is not entitled to be indemnified under this Bylaw or otherwise.

ARTICLE 11. AMENDMENTS

These Bylaws may be altered, amended or repealed and new Bylaws may be adopted by the Board at any regular or special meeting of the Board. The stockholders may also make, alter, amend, and repeal the Bylaws of the corporation at any annual meeting or at a special meeting called for that purpose; and all Bylaws made by the directors may be amended, repealed, altered, or modified by the stockholders at any regular or special meeting called for that purpose.

ARTICLE 12. ACTIONS BY THE CORPORATION AS STOCKHOLDER

Each of the Chairman, the President, any Vice President and the Secretary of the corporation may from time to time execute on behalf of the corporation (a) waivers of notice of annual or special stockholders meetings of any of the corporation s subsidiary corporations or any other corporation the stock of which is held by or for the benefit of the corporation; (b) written consents to action taken without a meeting by all stockholders of such corporations; and (c) proxies appointing persons to vote the stock of such corporations that is held by or for the benefit of the corporation at annual or special meetings for the purpose of electing directors of such corporations and for the transaction of such other business as may properly come before such meetings or any adjournment thereof, and instructing the person or persons so appointed as to the manner of casting such vote or giving such consent.

Table of Contents

ANNEX B

Opinion of Credit Suisse Securities (USA) LLC

Table of Contents

CREDIT SUISSE SECURITIES (USA) LLC
Eleven Madison Avenue Phone 212 325 2000

New York, NY 10010-3629

www.credit-suisse.com

April 30, 2006

Board of Directors

Aviall, Inc.

2750 Regent Boulevard

DFW Airport, TX 75261

Members of the Board:

You have asked us to advise you with respect to the fairness, from a financial point of view, to the holders of common stock, par value $0.01 per share (Company Common Stock), of Aviall, Inc. (the Company), other than The Boeing Company (the Acquiror) and its affiliates, of the Per Share Merger Consideration (as defined below) to be received by such stockholders pursuant to the terms of the Agreement and Plan of Merger, dated as of April 30, 2006 (the Merger Agreement), among the Company, the Acquiror and Boeing-Avenger, Inc., a wholly owned subsidiary of the Acquiror (the Sub). The Merger Agreement provides for, among other things, the merger (the Merger) of the Company with the Sub pursuant to which the Company will become the surviving corporation and a wholly owned subsidiary of the Acquiror and each outstanding share of Company Common Stock will be converted into the right to receive $48.00 in cash (the Per Share Merger Consideration).

In arriving at our opinion, we have reviewed the Merger Agreement and certain publicly available business and financial information relating to the Company. We have also reviewed certain other information relating to the Company, including financial forecasts, provided to or discussed with us by the Company and have met with the Company s management to discuss the business and prospects of the Company. We have also considered certain financial and stock market data of the Company, and we have compared that data with similar data for other publicly held companies in businesses we deemed similar to that of the Company and we have considered, to the extent publicly available, the financial terms of certain other business combinations and other transactions which have recently been effected or announced. We also considered such other information, financial studies, analyses and investigations and financial, economic and market criteria which we deemed relevant.

In connection with our review, we have not assumed any responsibility for independent verification of any of the foregoing information and have relied on such information being complete and accurate in all material respects. With respect to the financial forecasts for the Company, the management of the Company has advised us, and we have assumed, that such forecasts have been reasonably prepared on bases reflecting the best currently available estimates and judgments of the Company s management as to the future financial performance of the Company. We also have assumed, with your consent, that, in the course of obtaining any regulatory or third party consents, approvals or agreements in connection with the Merger, no delay, limitation, restriction or condition will be imposed that would have an adverse effect on the Company or the Merger, and that the Merger will be consummated in accordance with the terms of the Merger Agreement without waiver, modification or amendment of any material term, condition or agreement thereof. In addition, we have not been requested to make, and have not made, an independent evaluation or appraisal of the assets or liabilities (contingent or otherwise) of the Company, nor have we been furnished with any such evaluations or appraisals. Our opinion addresses only the fairness, from a financial point of view, to the holders of Company Common Stock, other than the Acquiror and its affiliates, of the Per Share Merger Consideration to be received in the Merger and does not address any other aspect or implication of the Merger or any other agreement, arrangement or understanding entered into in connection with the

Table of Contents

Merger or otherwise. Our opinion is necessarily based upon information made available to us as of the date hereof and financial, economic, market and other conditions as they exist and can be evaluated on the date hereof. Our opinion does not address the merits of the Merger as compared to alternative transactions or strategies that may be available to the Company nor does it address the Company s underlying decision to proceed with the Merger. We were not requested to, and did not, solicit third party indications of interest in acquiring all or any part of the Company.

We have acted as financial advisor to the Company in connection with the Merger and will receive a fee for our services, which is contingent upon the consummation of the Merger. In addition, the Company has agreed to indemnify us for certain liabilities and other items arising out of our engagement. From time to time, we and our affiliates have in the past provided, are currently providing and in the future may provide, investment banking and other financial services to the Company and the Acquiror, for which we have received, and would expect to receive, compensation. We are a full service securities firm engaged in securities trading and brokerage activities as well as providing investment banking and other financial services. In the ordinary course of business, we and our affiliates may acquire, hold or sell, for our and our affiliates own accounts and the accounts of customers, equity, debt and other securities and financial instruments (including bank loans and other obligations) of the Company, the Acquiror and any other company that may be involved in the Merger, as well as provide investment banking and other financial services to such companies.

It is understood that this letter is for the information of the Board of Directors of the Company in connection with its consideration of the Merger and does not constitute a recommendation to any stockholder as to how such stockholder should vote or act on any matter relating to the proposed Merger.

Based upon and subject to the foregoing, it is our opinion that, as of the date hereof, the Per Share Merger Consideration to be received by the holders of Company Common Stock, other than the Acquiror and its affiliates, in the Merger is fair, from a financial point of view, to such stockholders.

Very truly yours,

CREDIT SUISSE SECURITIES (USA) LLC

Table of Contents

ANNEX C

Appraisal Rights

Section 262 of the Corporation Law of the State of Delaware

§ 262. Appraisal rights.

(a) Any stockholder of a corporation of this State who holds shares of stock on the date of the making of a demand pursuant to subsection (d) of this section with respect to such shares, who continuously holds such shares through the effective date of the merger or consolidation, who has otherwise complied with subsection (d) of this section and who has neither voted in favor of the merger or consolidation nor consented thereto in writing pursuant to § 228 of this title shall be entitled to an appraisal by the Court of Chancery of the fair value of the stockholder s shares of stock under the circumstances described in subsections (b) and (c) of this section. As used in this section, the word stockholder means a holder of record of stock in a stock corporation and also a member of record of a nonstock corporation; the words stock and share mean and include what is ordinarily meant by those words and also membership or membership interest of a member of a nonstock corporation; and the words depository receipt mean a receipt or other instrument issued by a depository representing an interest in one or more shares, or fractions thereof, solely of stock of a corporation, which stock is deposited with the depository.

(b) Appraisal rights shall be available for the shares of any class or series of stock of a constituent corporation in a merger or consolidation to be effected pursuant to § 251 (other than a merger effected pursuant to § 251(g) of this title), § 252, § 254, § 257, § 258, § 263 or § 264 of this title:

(1) Provided, however, that no appraisal rights under this section shall be available for the shares of any class or series of stock, which stock, or depository receipts in respect thereof, at the record date fixed to determine the stockholders entitled to receive notice of and to vote at the meeting of stockholders to act upon the agreement of merger or consolidation, were either (i) listed on a national securities exchange or designated as a national market system security on an interdealer quotation system by the National Association of Securities Dealers, Inc. or (ii) held of record by more than 2,000 holders; and further provided that no appraisal rights shall be available for any shares of stock of the constituent corporation surviving a merger if the merger did not require for its approval the vote of the stockholders of the surviving corporation as provided in subsection (f) of § 251 of this title.

(2) Notwithstanding paragraph (1) of this subsection, appraisal rights under this section shall be available for the shares of any class or series of stock of a constituent corporation if the holders thereof are required by the terms of an agreement of merger or consolidation pursuant to §§ 251, 252, 254, 257, 258, 263 and 264 of this title to accept for such stock anything except:

a. Shares of stock of the corporation surviving or resulting from such merger or consolidation, or depository receipts in respect thereof;

b. Shares of stock of any other corporation, or depository receipts in respect thereof, which shares of stock (or depository receipts in respect thereof) or depository receipts at the effective date of the merger or consolidation will be either listed on a national securities exchange or designated as a national market system security on an interdealer quotation system by the National Association of Securities Dealers, Inc. or held of record by more than 2,000 holders;

c. Cash in lieu of fractional shares or fractional depository receipts described in the foregoing subparagraphs a. and b. of this paragraph; or

d. Any combination of the shares of stock, depository receipts and cash in lieu of fractional shares or fractional depository receipts described in the foregoing subparagraphs a., b. and c. of this paragraph.

Table of Contents

(3) In the event all of the stock of a subsidiary Delaware corporation party to a merger effected under § 253 of this title is not owned by the parent corporation immediately prior to the merger, appraisal rights shall be available for the shares of the subsidiary Delaware corporation.

(c) Any corporation may provide in its certificate of incorporation that appraisal rights under this section shall be available for the shares of any class or series of its stock as a result of an amendment to its certificate of incorporation, any merger or consolidation in which the corporation is a constituent corporation or the sale of all or substantially all of the assets of the corporation. If the certificate of incorporation contains such a provision, the procedures of this section, including those set forth in subsections (d) and (e) of this section, shall apply as nearly as is practicable.

(d) Appraisal rights shall be perfected as follows:

(1) If a proposed merger or consolidation for which appraisal rights are provided under this section is to be submitted for approval at a meeting of stockholders, the corporation, not less than 20 days prior to the meeting, shall notify each of its stockholders who was such on the record date for such meeting with respect to shares for which appraisal rights are available pursuant to subsection (b) or (c) hereof that appraisal rights are available for any or all of the shares of the constituent corporations, and shall include in such notice a copy of this section. Each stockholder electing to demand the appraisal of such stockholder s shares shall deliver to the corporation, before the taking of the vote on the merger or consolidation, a written demand for appraisal of such stockholder s shares. Such demand will be sufficient if it reasonably informs the corporation of the identity of the stockholder and that the stockholder intends thereby to demand the appraisal of such stockholder s shares. A proxy or vote against the merger or consolidation shall not constitute such a demand. A stockholder electing to take such action must do so by a separate written demand as herein provided. Within 10 days after the effective date of such merger or consolidation, the surviving or resulting corporation shall notify each stockholder of each constituent corporation who has complied with this subsection and has not voted in favor of or consented to the merger or consolidation of the date that the merger or consolidation has become effective; or

(2) If the merger or consolidation was approved pursuant to § 228 or § 253 of this title, then either a constituent corporation before the effective date of the merger or consolidation or the surviving or resulting corporation within 10 days thereafter shall notify each of the holders of any class or series of stock of such constituent corporation who are entitled to appraisal rights of the approval of the merger or consolidation and that appraisal rights are available for any or all shares of such class or series of stock of such constituent corporation, and shall include in such notice a copy of this section. Such notice may, and, if given on or after the effective date of the merger or consolidation, shall, also notify such stockholders of the effective date of the merger or consolidation. Any stockholder entitled to appraisal rights may, within 20 days after the date of mailing of such notice, demand in writing from the surviving or resulting corporation the appraisal of such holder s shares. Such demand will be sufficient if it reasonably informs the corporation of the identity of the stockholder and that the stockholder intends thereby to demand the appraisal of such holder s shares. If such notice did not notify stockholders of the effective date of the merger or consolidation, either (i) each such constituent corporation shall send a second notice before the effective date of the merger or consolidation notifying each of the holders of any class or series of stock of such constituent corporation that are entitled to appraisal rights of the effective date of the merger or consolidation or (ii) the surviving or resulting corporation shall send such a second notice to all such holders on or within 10 days after such effective date; provided, however, that if such second notice is sent more than 20 days following the sending of the first notice, such second notice need only be sent to each stockholder who is entitled to appraisal rights and who has demanded appraisal of such holder s shares in accordance with this subsection. An affidavit of the secretary or assistant secretary or of the transfer agent of the corporation that is required to give either notice that such notice has been given shall, in the absence of fraud, be prima facie evidence of the facts stated therein. For purposes of determining the stockholders entitled to receive either notice, each constituent corporation may fix, in advance, a record date that shall be not more than 10 days prior to the date the notice is given, provided, that if the notice is given on or after the

Table of Contents

effective date of the merger or consolidation, the record date shall be such effective date. If no record date is fixed and the notice is given prior to the effective date, the record date shall be the close of business on the day next preceding the day on which the notice is given.

(e) Within 120 days after the effective date of the merger or consolidation, the surviving or resulting corporation or any stockholder who has complied with subsections (a) and (d) hereof and who is otherwise entitled to appraisal rights, may file a petition in the Court of Chancery demanding a determination of the value of the stock of all such stockholders. Notwithstanding the foregoing, at any time within 60 days after the effective date of the merger or consolidation, any stockholder shall have the right to withdraw such stockholder s demand for appraisal and to accept the terms offered upon the merger or consolidation. Within 120 days after the effective date of the merger or consolidation, any stockholder who has complied with the requirements of subsections (a) and (d) hereof, upon written request, shall be entitled to receive from the corporation surviving the merger or resulting from the consolidation a statement setting forth the aggregate number of shares not voted in favor of the merger or consolidation and with respect to which demands for appraisal have been received and the aggregate number of holders of such shares. Such written statement shall be mailed to the stockholder within 10 days after such stockholder s written request for such a statement is received by the surviving or resulting.

Table of Contents

PRELIMINARY COPY

Appendix A

Form of Proxy Card

AVIALL, INC.

SPECIAL MEETING OF STOCKHOLDERS

September 19, 2006

11:30 a.m. Dallas, Texas Time

The Four Seasons Resort and Club

4150 N. MacArthur Boulevard

Irving, Texas 75038

Aviall, Inc.

P.O. Box 619048

Dallas, TX 75261-9048

proxy

The undersigned acknowledge(s) receipt of the Proxy Statement of Aviall, Inc. relating to the Special Meeting of Stockholders (the Special Meeting) to be held at 11:30 a.m. (Dallas, Texas Time) on September 19, 2006, at the Four Seasons Resort and Club, 4150 N. MacArthur Boulevard, Irving, Texas 75038, and hereby constitute(s) and appoint(s) Colin M. Cohen, Jacqueline K. Collier and Jeffrey J. Murphy, attorneys and proxies of the undersigned, with full power of substitution and re-substitution to each and with all the powers the undersigned would posses if personally present, to vote for and in the name and place of the undersigned all shares of Common Stock of Aviall, Inc. held or owned by the undersigned, or standing in the name of the undersigned, at the Special Meeting, or any adjournment or postponement thereof, upon the matters referred to in the Proxy Statement for the Special Meeting as stated below and on the reverse side. The proxies are further authorized to vote, in their discretion, upon such other business as may properly come before the Special Meeting or any adjournment or postponement thereof. A majority of said attorneys and proxies present and acting at the Special Meeting (or if only one shall be present and act, then that one) shall have, and may exercise, all the powers of all said attorneys and proxies hereunder.

THIS PROXY IS BEING SOLICITED ON BEHALF OF THE BOARD OF DIRECTORS OF AVIALL, INC. THE BOARD OF DIRECTORS RECOMMENDS A VOTE FOR THE ADOPTION OF THE AGREEMENT AND PLAN OF MERGER, DATED AS OF APRIL 30, 2006, BY AND AMONG THE BOEING COMPANY, BOEING-AVENGER, INC., A WHOLLY OWNED SUBSIDIARY OF BOEING, AND AVIALL, INC. AND FOR THE APPROVAL OF ANY PROPOSAL TO ADJOURN OR POSTPONE THE SPECIAL MEETING, IF NECESSARY OR APPROPRIATE, TO SOLICIT ADDITIONAL PROXIES IN THE EVENT THERE ARE NOT SUFFICIENT VOTES IN FAVOR OF ADOPTION OF THE MERGER AGREEMENT AT THE TIME OF THE SPECIAL MEETING. DISCRETIONARY AUTHORITY IS HEREBY CONFERRED AS TO ALL OTHER MATTERS THAT MAY PROPERLY COME BEFORE THE SPECIAL MEETING.

PLEASE DATE AND SIGN ON THE REVERSE SIDE AND RETURN IN THE ENCLOSED POSTAGE-PAID ENVELOPE.

Table of Contents

There are three ways to vote your proxy: **COMPANY #**

1. VOTE BY PHONE TOLL FREE 1-800-560-1965 QUICK * EASY *** IMMEDIATE**

Use any touch-tone telephone to vote your proxy 24 hours a day, 7 days a week, until ____p.m. (Dallas, Texas Time) on _____ __, 2006.

Please have your proxy card and the last four digits of your Social Security Number or Tax Identification Number available. Follow the simple instructions the voice provides you.

2. VOTE BY INTERNET http://www.eproxy.com/avl/ QUICK * EASY *** IMMEDIATE**

Use the Internet to vote your proxy 24 hours a day, 7 days a week, until ____p.m (Dallas, Texas Time) on_____ __, 2006.

Please have your proxy card and the last four digits of your Social Security Number or Tax Identification Number available. Follow the simple instructions to obtain your records and create an electronic ballot.

3. VOTE BY MAIL

Mark, sign and date your proxy card and return it in the postage-paid envelope we have provided or return it to Aviall, Inc., [c/o Shareowner Services, P.O. Box 64873, St. Paul, MN 55164-0873].

Your Telephone or Internet vote authorizes the Named Proxies to vote your shares in the same manner as if you marked, signed and returned your proxy card.

If you vote by Phone or Internet, please do not mail your proxy card.

Please detach here.

The Board of Directors Recommends a Vote FOR Items 1 and 2.

1. Adoption of the Agreement and Plan of Merger, dated as of April 30, 2006, by and among The Boeing Company, Boeing-Avenger, Inc., a wholly owned subsidiary of Boeing, and Aviall, Inc.

¨ For ¨ Against ¨ Abstain

2. Adjournment or postponement to allow further solicitation of proxies in favor of Item 1, if necessary.

¨ For ¨ Against ¨ Abstain

THIS PROXY, WHEN EXECUTED, WILL BE VOTED IN THE MANNER DIRECTED HEREIN. **IF NO DIRECTION IS MADE, THIS PROXY WILL BE VOTED FOR THE ADOPTION OF THE MERGER AGREEMENT AND FOR ADJOURNMENT OR POSTPONEMENT TO PERMIT FURTHER SOLICITATION OF PROXIES IN FAVOR OF THE MERGER.**

Address Change? Mark Box ¨ Indicate changes below:

Date_____

Signature(s) in Box

IMPORTANT: Whether or not you expect to attend the meeting in person, please date, sign and return this proxy. Please sign exactly as your name appears hereon. Joint owners should each sign. When signing as attorney, executor, administrator, trustee or guardian, please give full title as such.