HAWKINS INC
Form DEF 14A
June 16, 2010

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

SCHEDULE 14A INFORMATION
Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934 (Amendment No.___)

Filed by the registrant x

Filed by a party other than the registrant o

Check the appropriate box:

o Preliminary proxy statement.

o Confidential, for use of the Commission only (as permitted by Rule 14A-6(e)(2)).

x Definitive proxy statement.

o Definitive additional materials.

o Soliciting material pursuant to section 240.14a-11(c) or Section 240.14a-12.

HAWKINS, INC.
(Name of Registrant as Specified in its Charter)

(Name of Person(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of filing fee (check the appropriate box):
x No fee required.

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(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

HAWKINS, INC.

3100 East Hennepin Avenue
Minneapolis, Minnesota 55413

NOTICE OF ANNUAL MEETING OF SHAREHOLDERS

To Be Held
July 28, 2010

To our Shareholders:

The Annual Meeting of Shareholders of Hawkins, Inc. will be held at the Midland Hills Country Club, 2001 Fulham Street, Roseville, Minnesota on Wednesday, July 28, 2010, at 3:00 p.m., Central Daylight Time, for the following purposes:

1. To elect seven directors;

2. To approve the Hawkins, Inc. 2010 Omnibus Incentive Plan;

3. To amend and restate our articles of incorporation; and

4. To transact such other business as may properly come before the meeting or any adjournment thereof.

The Board of Directors has fixed the close of business on June 1, 2010 as the record date for determining the shareholders entitled to vote at the Annual Meeting. Accordingly, only shareholders of record at the close of business on that date will be entitled to vote. Our transfer books will not be closed.

Dated: June 16, 2010

BY ORDER OF THE BOARD OF DIRECTORS

RICHARD G. ERSTAD, *Secretary*

IMPORTANT: To assure the necessary representation at the Annual Meeting, you are urged to SIGN AND RETURN THE ENCLOSED PROXY PROMPTLY TO SAVE THE COMPANY THE EXPENSE OF ADDITIONAL SOLICITATION. You may revoke your proxy at any time prior to its exercise, and returning your proxy will not affect your right to vote in person if you attend the Annual Meeting and revoke the proxy.

PROXY STATEMENT

HAWKINS, INC.

3100 East Hennepin Avenue
Minneapolis, Minnesota 55413

June 16, 2010

The following statement is furnished in connection with the solicitation of proxies by our Board of Directors to be voted at the Annual Meeting of Shareholders (the Annual Meeting) to be held on Wednesday, July 28, 2010 at the Midland Hills Country Club, 2001 Fulham Street, Roseville, Minnesota, at 3:00 p.m., Central Daylight Time, and at any adjournments of such meeting. Distribution of this Proxy Statement and proxy to shareholders began on or about June 16, 2010.

SOLICITATION

The cost of soliciting proxies and of the notices of the meeting, including the preparation, assembly and mailing of proxies and this Proxy Statement, will be borne by us. In addition to the use of the mail, proxies may be solicited personally or by telephone, mail or electronic mail by our directors, officers and regular employees. Furthermore, arrangements may be made with brokers, banks and similar organizations to send proxies and proxy materials to beneficial owners for voting instructions. We will reimburse such organizations for their expenses.

REVOCATION AND VOTING OF PROXY

Any proxy given pursuant to this solicitation and received in time for the Annual Meeting will be voted in accordance with the instructions in such proxy, unless the proxy is properly revoked prior to the meeting. Any shareholder giving a proxy may revoke it prior to its exercise at the meeting by (1) delivering a written notice expressly revoking the proxy to our Secretary at our offices, (2) signing and forwarding to us at our offices a later dated proxy, or (3) attending the Annual Meeting and casting his or her votes personally.

If you indicate on your proxy that you wish to abstain from voting, and you hold your shares in street name or your broker records abstentions, your shares will be considered present and entitled to vote at the Annual Meeting. Such shares will also count toward determining whether or not a quorum is present for the Annual Meeting. However, abstentions will not be taken into account in determining the approval of any of the proposals and will have the effect of casting a negative vote. If a shareholder (including a broker) does not give authority to a proxy to vote, or withholds authority to vote on a certain proposal, then the shareholder s shares will not be considered present or entitled to vote on that proposal.

If you hold your shares in street name and do not provide voting instructions to your broker, your broker has authority under New York Stock Exchange rules to vote those shares for or against routine proposals, such as an amendment and restatement of our articles of incorporation. Brokers cannot vote on their customers behalf on non-routine proposals such as the approval of an equity compensation plan or the election of directors. These rules apply to us even though the shares of our common stock are traded on the NASDAQ Global Market. If a broker votes shares for which its customers have not provided voting instructions for or against a routine proposal, then those shares are counted for the purpose of establishing a quorum at the Annual Meeting and also will be counted for the purpose of determining the outcome of routine proposals. If a broker does not receive voting instructions as to a non-routine proposal, or chooses to leave shares unvoted on a routine proposal, a broker non-vote will occur and those shares will be counted for the purpose of establishing a quorum at the Annual Meeting, but not for determining the outcome of those proposals. Shares that are subject to broker non-votes are considered not entitled to vote on the particular proposal, and effectively reduce the number of shares needed to approve that proposal.

As of the date of this proxy statement, we know of no matters that will be presented for determination at the meeting other than those referred to in this proxy statement. If any other matters properly come before the meeting calling for a vote of shareholders, proxies in the enclosed form returned to us will be voted in accordance with the recommendation of the Board of Directors or, in the absence of such a recommendation, in accordance with the judgment of the proxy holders.

OUTSTANDING SHARES AND VOTING RIGHTS

At the close of business on June 1, 2010, the record date, there were 10,282,458 shares of our common stock, par value $0.05 per share, outstanding. The common stock is our only outstanding class of capital stock. Holders of common stock are entitled to one vote for each share held on the record date with respect to all matters that may be brought before the meeting. There is no cumulative voting for directors.

PROPOSAL ONE ELECTION OF DIRECTORS

At the Annual Meeting, seven persons are to be elected to our Board of Directors, each to hold office for the ensuing year and until his successor is duly elected and qualified. Our By-laws provide for a Board of Directors of not fewer than three nor more than eleven directors. Our Board of Directors currently consists of seven directors, as established by resolution of our Board of Directors. Our By-laws provide that the nominees must be elected by the affirmative vote of the holders of a majority of the voting power of the shares represented at the meeting (whether in person or by proxy). Abstentions and withhold votes have the effect of a vote against the nominees. Proxies will be voted for the election of all nominees unless you direct otherwise. Should any nominee decline or be unable to accept such nomination or to serve as a director (an event which our management does not now expect to occur), proxies will be voted for a substitute nominee or nominees in accordance with the best judgment of the person or persons acting under them.

Our Board of Directors has nominated James A. Faulconbridge, John R. Hawkins, Duane M. Jergenson, John S. McKeon, Daryl I. Skaar, James T. Thompson and Jeffrey L. Wright for election to the Board of Directors.

OUR BOARD OF DIRECTORS RECOMMENDS THAT SHAREHOLDERS VOTE FOR THE ELECTION OF ALL NOMINEES FOR DIRECTOR.

Information About Our Directors

Our directors have served as our directors continuously since the year indicated below. The following information, as of May 31, 2010, including the principal occupation or employment of each director nominee, has been furnished to us by the respective director nominees. All positions are with our Company unless otherwise noted.

Director	Principal Occupation or Employment	Age	Director Since
John S. McKeon	Chairman of the Board since 2005; Retired; President and Chief Operating Officer of ConAgra Foods, Inc. Venture Development Group from 2003 to 2005; President and Chief Operating Officer of ConAgra Foods Snack Group (formerly Golden Valley Microwave Foods, Inc.) from 1993 to 2003; President of McKeon Associates, Inc. (corporate finance consulting) from 1991 to 1993; Vice President of Northstar Industries, Inc. from 1976 to 1990.	65	1984
John R. Hawkins	Chief Executive Officer since 2000; Chairman of the Board from 2000 to 2005; President from 1998 to 2000; Executive Vice President from 1997 to 1998; Vice President of Sales from 1987 to 1997; Secretary from 1991 to 1999.	58	1989
James A. Faulconbridge	Principal of Karges-Faulconbridge, Inc. (engineering and technical services) since 1996.	42	2006
Duane M. Jergenson	Retired; Vice President of Operations of Taylor Corporation from 1985 to 1999; various positions with Taylor Corporation from 1966 to 1985.	63	1996
Daryl I. Skaar	Retired; Vice President and Chief Procurement Officer of Lucent Technologies from 1997 to 2000; various positions at 3M from 1965 to 1997, most recently as Vice President of Purchasing and Packaging Engineering.	68	2001

Director	Principal Occupation or Employment	Age	Director Since
James T. Thompson	Retired; Executive Vice President Commercial of The Mosaic Company from 2004 to 2007; board member, Sims Metal Management since 2009; various positions at Cargill, Inc. from 1974 to 2004, most recently as President of Cargill Steel from 1996 to 2004.	59	2009
Jeffrey L. Wright	G&K Services, Inc. Chief Financial Officer since 1999, Executive Vice President and Director since May 2009, Senior Vice President from 2004 to 2009, Treasurer and Secretary from 1999 to 2003; BMC Industries, Inc. Treasurer from 1998 to 1999, Controller from 1996 to 1998; various positions at Employee Benefit Plans, Inc. from 1993 to 1996, most recently as Vice President and Treasurer; employed by Arthur Andersen & Co. from 1984 to 1993.	47	2009

John R. Hawkins, our Chief Executive Officer and a director, is the uncle of Patrick H. Hawkins, our President. There are no other family relationships between any of our directors, executive officers, or director nominees.

Each director nominee brings unique capabilities to our Board of Directors. The Board believes the nominees as a group have the experience and skills in areas such as general business management, corporate governance, manufacturing, finance, strategic planning and risk management that are necessary to effectively oversee our Company. In addition, the Board believes that each of our directors possesses high standards of ethics, integrity and professionalism, sound judgment and a commitment to representing the long-term interests of our shareholders. The following is information as to why each nominee should serve as a director of our Company:

Mr. McKeon has been our Chairman of the Board since 2005 and has extensive experience in management, manufacturing and corporate finance, having served as President and Chief Operating Officer of ConAgra Foods, Inc. Venture Development Group. His knowledge of our Company and its business is valuable in formulating and executing our business plans and growth strategies.

Mr. Hawkins has been our Chief Executive Officer since 2000 and has been with the Company for more than 30 years, giving him an intimate knowledge of our Company and its business and a deep passion for our Company s continued success.

Mr. Faulconbridge is a principal of Karges-Faulconbridge, Inc., an engineering and technical services firm that services a broad variety of industries, including the ethanol industry. His background provides the Company with technical expertise and insight into ethanol and other industries we serve.

Mr. Jergenson has been on our Board for 14 years. His operations management experience with Taylor Corporation, one of the largest privately held companies in the United States, provides valuable perspective and insight as our Company seeks and implements growth opportunities.

Mr. Skaar has extensive experience in purchasing and procurement for large public companies, having served as Vice President and Chief Procurement Officer at Lucent Technologies and Vice President of Purchasing and Packing Engineering at 3M.

Mr. Thompson has experience with major manufacturing and commodity companies having served 30 years at Cargill, Inc., including eight years as President of Cargill Steel, and three years as Executive Vice President Commercial for The Mosaic Company, the world s leading producer and marketer of concentrated phosphate and potash. This knowledge and experience is valuable to us in our bulk chemicals business.

Mr. Wright has extensive public company finance and audit experience, serving as Chief Financial Officer of G&K Services, Inc. and having been employed by Arthur Andersen & Co. He also has public company board experience, serving as a director of G&K Services, Inc.

Director Independence

Our Board of Directors has determined that, of the director nominees, each of James A. Faulconbridge, Duane M. Jergenson, John S. McKeon, Daryl I. Skaar, James T. Thompson and Jeffrey L. Wright are Independent Directors as that term is defined under the applicable listing standards of the NASDAQ Stock Market. Accordingly, a majority of our directors are independent. When considering the independence of directors, the Board of Directors determined that Mr. Wright s position as Chief Financial Officer, Executive Vice President and Director of G&K Services, Inc., which is a customer of and supplier of services to the Company, did not impair the independence of Mr. Wright. All of the transactions with G&K Services, Inc. were conducted on arms-length terms in the ordinary course of business, and the amount of the transactions represent less than one percent of the revenues of G&K Services, Inc. and less than one percent of our revenues.

CORPORATE GOVERNANCE

Meetings of the Board of Directors

Our Board of Directors held five meetings during the fiscal year ended March 28, 2010, hereinafter referred to as fiscal 2010. All directors attended at least 75% of the meetings of our Board of Directors and the committees on which they served. All directors attended our Annual Meeting of Shareholders in 2009. Our Board of Directors encourages, but does not require, director attendance at annual meetings of shareholders.

Leadership Structure of the Board of Directors

Our Board of Directors does not have a policy regarding the separation of the roles of Chief Executive Officer and Chairman of the Board as the Board of Directors believes it is in the best interests of the Company to make that determination based on the position and direction of the Company and the membership of the Board. The positions of Chief Executive Officer and Chairman of the Board are not currently held by the same person. This structure allows us to more fully utilize the skills of Mr. McKeon and ensures a greater active participation of the directors in setting agendas and establishing Board priorities and procedures. Further, this structure permits our Chief Executive Officer to focus on the management of the Company s day-to-day operations.

Audit Committee

The Audit Committee, which consists of James A. Faulconbridge (Chair), Daryl I. Skaar, James T. Thompson and Jeffrey L. Wright, is responsible for, among other things, selecting and appointing our independent auditors, meeting with the independent auditors and financial management to review the scope of the audit and the audit procedures, reviewing annually the responsibilities of the Audit Committee and recommending to our Board of Directors any changes to these responsibilities, and establishing and reviewing internal controls. The Audit Committee held six meetings during fiscal 2010.

Our Board of Directors has determined that all members of the Audit Committee are independent as that term is used in Section 10A(m) of the Securities Exchange Act of 1934 and Independent Directors as that term is defined under the applicable listing standards of the NASDAQ Stock Market. Our Board of Directors has determined that Messrs. Faulconbridge, Skaar, Thompson and Wright are audit committee financial experts, as the term is defined by regulations promulgated by the Securities and Exchange Commission (SEC).

The responsibilities of the Audit Committee are set forth in the Audit Committee Charter. A current copy of the charter is available on our website (www.hawkinsinc.com).

Compensation Committee

The Compensation Committee, which consists of Duane M. Jergenson (Chair), Daryl I. Skaar, James T. Thompson and Jeffrey L. Wright, is responsible for establishing compensation policies for our Company and for reviewing and setting compensation for our executive officers. The Compensation Committee held seven meetings during fiscal 2010.

Our Board of Directors has determined that all members of the Compensation Committee are Independent Directors as that term is defined under the applicable listing standards of the NASDAQ Stock Market, non-employee directors as that term is defined in Rule 16b-3 promulgated under the Securities Exchange Act of 1934, and outside directors as that term is used in Section 162(m) of the Internal Revenue Code of 1986, as amended.

The Compensation Committee retained independent compensation consultant Towers Perrin, a nationally recognized compensation consulting firm with expertise in our industry, to provide the committee with independent advice regarding industry practices and peer company compensation programs for fiscal 2010. In September 2009, the Compensation Committee retained independent compensation consultant Amalfi Consulting to provide the committee with independent advice regarding industry practices and peer company compensation programs to take effect in the fiscal year ending April 3, 2011, hereinafter referred to as fiscal 2011. No member of the Board of

Directors or any executive officer has any affiliation with Towers Perrin or Amalfi Consulting. Neither Towers Perrin nor Amalfi Consulting do other work for the Company, and each has reported directly to the Chair of the Compensation Committee. Towers Perrin advised the Compensation Committee on the principal aspects of our executive compensation components and best practices in executive compensation and provides market information and analysis regarding the competitiveness of levels and components of total compensation for the Company s named executive officers for fiscal 2010. In determining the competitiveness of such compensation, the Compensation Committee reviewed survey data prepared by Towers Perrin. The Company does not benchmark its compensation. The Compensation Committee reviews and considers the information provided by Towers Perrin to understand current compensation practices, levels and structures and to inform its compensation decisions, but not to establish specific compensation parameters based on such data.

The Compensation Committee also regularly consults with our Chief Executive Officer, who makes recommendations to the committee regarding compensation of our executive officers other than the Chief Executive Officer. Additional information on the role of the compensation consultants and management in the Compensation Committee s processes and procedures can be found in the Compensation Discussion and Analysis section below.

The responsibilities of the Compensation Committee are set forth in the Compensation Committee Charter. A current copy of the charter is available on our website (www.hawkinsinc.com).

Governance and Nominating Committee

Until August 5, 2009, we had a Governance Committee, which consisted of John S. McKeon (Chair), James A. Faulconbridge and Duane M. Jergenson, and a Nominating Committee, which consisted of James A. Faulconbridge (Chair) and Duane M. Jergenson. The Governance Committee was responsible for monitoring and recommending to our Board corporate governance principles and business conduct guidelines; recommending as necessary changes in the size of the Board and its committees; reviewing and approving the processes for Board evaluation and director education policies; recommending to the Board the number, timing and duration of Board and committee meetings; and recommending to the Board changes in director compensation. The Governance Committee held two meetings in fiscal 2010. The Nominating Committee was responsible for recommending as necessary changes in the composition of the Board and its committees, developing a pool of potential director candidates for consideration in the event of a vacancy on the Board, recommending to the Board nominees for membership on the Board and reviewing and approving the processes for new director orientation. The Nominating Committee held one meeting in fiscal 2010.

On August 5, 2009, our Board of Directors combined the Governance Committee and the Nominating Committee into one committee. The new Governance and Nominating Committee, which consists of John S. McKeon (Chair), James A. Faulconbridge and Duane M. Jergenson, is responsible for identifying individuals qualified to become directors and recommending nominees to our Board for election at annual meetings of shareholders, monitoring developments in director compensation and, as appropriate, developing and recommending to our Board corporate governance principles applicable to us and overseeing public policy matters and compliance with our Code of Conduct. The Governance and Nominating Committee held two meetings during fiscal 2010. The responsibilities of the Governance and Nominating Committee are set forth in the Governance and Nominating Committee Charter. A current copy of the charter is available on our website (www.hawkinsinc.com). The Governance and Nominating Committee evaluated potential candidates for director nomination on the basis indicated below and recommended to the Board that the director nominees included in this Proxy Statement be submitted to the shareholders for election at the upcoming Annual Meeting of Shareholders.

Nominating Process

In order to maintain flexibility in its consideration of candidates, our Board of Directors does not have a formal policy regarding the consideration of any director candidates recommended by shareholders. However, the Governance and Nominating Committee would consider for possible nomination qualified nominees recommended by shareholders in compliance with our By-laws. To make a director nomination, a shareholder should send the director candidate s name, credentials and contact information, a signed statement consenting to his or her nomination and agreeing, if elected, to serve as a director, a completed director nominee questionnaire (available from our Secretary upon request) and the other information required by our By-laws, to our Secretary no later than 90 days prior to the first anniversary of the preceding year s annual meeting. The proposing shareholder should also include his or her contact information and evidence that the person submitting the nomination is a shareholder of the Company. The Nominating Committee will evaluate candidates (nominated by shareholders or otherwise) based on financial literacy, knowledge of our industry or other background relevant to our needs, status as a stakeholder in our Company, independence for purposes of compliance with SEC rules and NASDAQ Stock Market listing standards, and willingness, ability and availability for service. The Company does not have a formal policy with regard to the consideration of diversity in identifying director nominees, but the Governance and Nominating Committee strives to nominate directors with a variety of complementary skills so that, as a group, the Board will possess the appropriate talent, skills, and expertise to oversee the Company s businesses.

Risk Oversight

The Company s management is responsible for defining the various risks facing the company, formulating risk management policies and procedures, and managing the Company s risk exposures on a day-to-day basis. The Board of Directors responsibility is to monitor the Company s risk management processes by informing itself concerning the Company s material risks and evaluating whether management has reasonable controls in place to address the material risks; the Board is not responsible, however, for defining or managing the Company s various risks. The Audit Committee of the Board of Directors is primarily responsible for monitoring management s responsibility in the area of risk oversight, and risk management is a factor the Board and the Nominating and Governance Committee consider when determining which directors serve on the Audit Committee. Accordingly, management has reported to the Audit Committee on various risk management matters during fiscal 2010. The Audit Committee, in turn, reports on the matters discussed at the committee level to the full Board of Directors. The Audit Committee and the Board of Directors focus on the material risks facing the company, including operational, market, liquidity, legal and regulatory risks, to assess whether management has reasonable controls in place to address these risks. The Board believes this allocation of responsibility provides an effective and efficient approach for addressing risk management.

Communications with Directors

Shareholders can contact the full Board of Directors, the independent directors as a group or any of the individual directors by writing to our Secretary at 3100 East Hennepin Avenue, Minneapolis, Minnesota 55413. All communications will be compiled by the Secretary and submitted to the addressees on a periodic basis.

REPORT OF THE AUDIT COMMITTEE OF THE BOARD OF DIRECTORS

The Audit Committee has (i) reviewed and discussed our audited financial statements for fiscal 2010 with both our management and KPMG LLP (KPMG); (ii) discussed with KPMG the matters required to be discussed by Statement of Auditing Standards No. 61, as amended, regarding communications with audit committees; (iii) received from KPMG the written disclosures and the letter required by applicable requirements of the Public Company Accounting Oversight Board regarding the independent accountant s communications with the audit committee concerning independence and discussed with KPMG its independence; and (iv) considered whether the non-audit services provided by KPMG are compatible with maintaining the independence of KPMG.

Based on the review and discussions described above, the Audit Committee recommended to our Board of Directors that our audited financial statements be included in our Annual Report on Form 10-K for fiscal 2010 for filing with the SEC.

James A. Faulconbridge (Chair) Daryl I. Skaar James T. Thompson Jeffrey L. Wright

Audit Committee of the Board of Directors

INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM S FEES

Our Audit Committee dismissed Deloitte & Touche LLP as the Company s independent registered public accounting firm effective June 9, 2009. Neither of Deloitte s reports on the financial statements of the Company for fiscal years ended March 30, 2008 or March 29, 2009, hereinafter referred to as fiscal 2008 and fiscal 2009, respectively, contained an adverse opinion or disclaimer of opinion, or was qualified or modified as to uncertainty, audit scope, or accounting principles. During fiscal years 2008 and 2009 and through June 9, 2009, there were no disagreements with Deloitte on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure which, if not resolved to Deloitte s satisfaction, would have caused Deloitte to make reference to the subject matter in connection with its reports on the Company s financial statements for such periods. During the same periods, there were no reportable events of the type set forth in Item 304(a)(1)(v) of Regulation S-K.

The Company provided Deloitte with a copy of this disclosure and requested that Deloitte furnish the Company with a letter addressed to the Securities and Exchange Commission stating whether it agrees with the above statements. The letter from Deloitte was filed under cover of Amendment No. 1 to a Current Report on Form 8-K/A on June 17, 2009.

On June 9, 2009, our Audit Committee approved the engagement of KPMG LLP as the Company s independent registered public accounting firm for fiscal 2010. During fiscal years 2008 and 2009 and through June 9, 2009, the Company had not consulted with KPMG with respect to any of the matters or reportable events set forth in Item 304(a)(2)(i) or (ii) of Regulation S-K.

The following table shows the aggregate fees billed to us by KPMG LLP for services rendered during fiscal 2010 and by Deloitte & Touche LLP for services rendered during fiscal 2009. The Audit Committee pre-approved 100% of the services described below.

Description of Fees	KPMG LLP Fiscal 2010 Amount	Deloitte & Touche LLP Fiscal 2009 Amount
Audit Fees	$ 212,000	$ 390,000
Audit-Related Fees (a)		46,000
Tax Fees (b)	44,350	38,000
Total	$ 256,350	$ 474,000

(a) Includes fees for audits in connection with our benefit plans and $21,000 in fiscal 2009 for services related to responding to SEC staff comments.

(b) Includes tax preparation and consulting fees.

The Audit Committee s current practice on pre-approval of services performed by the independent registered public accounting firm is to approve annually all audit services, as well as the nature and extent of specific types of audit-related, tax and other non-audit services to be provided by the independent registered public accounting firm during the year. The Audit Committee reviews each non-audit service to be provided and assesses the impact of the service on the auditors independence. As the need arises, other specific permitted services are pre-approved on a case-by-case basis during the year. The Audit Committee has delegated to its chair pre-approval authority between meetings of the Audit Committee. Any pre-approvals made by the chair must be reported to the Audit Committee.

COMPENSATION OF EXECUTIVE OFFICERS AND DIRECTORS

Compensation Discussion and Analysis

Our executive compensation program is designed to attract and retain executives who will lead our Company to achieve long-term success and growth in shareholder value. Consistent with that goal, our executive compensation is based on individual performance, Company performance and the alignment of the interests of our executive officers with those of our shareholders and is used to encourage our executive officers to remain with our Company. We seek to reward current results and motivate long-term performance through a combination of short- and long-term incentives that meet our performance, alignment and retention objectives.

Our results of operations and financial condition in fiscal 2010 improved over fiscal 2009 levels and remained at levels significantly over those of fiscal 2008 despite the national economic difficulties. Gross profit from continuing operations was $64.4 million, an increase of $2.0 million from fiscal 2009, cash provided by operating activities was $38.8 million, and cash and cash equivalents increased to $53.7 million as of the end of fiscal 2010. As a result, our executive officers received near the maximum payout under the corporate and business unit performance measures under our annual non-equity incentive compensation arrangement and earned the maximum number of restricted shares under the performance-based restricted stock units granted for fiscal 2010 as described below.

Determining Executive Compensation for Fiscal 2010

Our executive compensation program for the last fiscal year consisted of the following elements:

- base salary,
- annual non-equity incentive compensation,
- annual equity awards,
- contributions to long-term benefit plans, and
- other benefits.

The Compensation Committee does not benchmark the total compensation or any element of compensation to our executives. It also does not apply a mechanical formula or target a specific amount relative to comparative data for any individual nor does it target a specific amount or relative weight for any component of compensation. Rather, the committee members reviewed and considered broad-based third-party survey data to understand current compensation practices, levels and structures and thereby inform its compensation decisions, but not to establish specific compensation parameters based on such data. The committee considered all elements of compensation together and utilized the members experience and judgment in determining the total compensation opportunity and mix of compensation elements appropriate for each executive officer in light of our compensation objectives.

Independent compensation consultant Towers Perrin, a nationally recognized compensation consulting firm with expertise in our industry, also provided the Compensation Committee with independent advice regarding industry practices and information on compensation programs of companies offering products similar to ours and from companies of comparable size to us that the committee used in determining the compensation received by our executives during fiscal 2010. The Compensation Committee did not have a role in selecting the list of companies that Towers Perrin included in its sample. The Compensation Committee did not use the information provided to it by Towers Perrin in a formulaic manner, but instead used the information to inform its judgment regarding the appropriate levels and components of total compensation for the Company s executive officers.

The Compensation Committee viewed the information provided by Towers Perrin as one of a number of tools available to the Committee in assessing executive compensation. The Compensation Committee also regularly consults with our Chief Executive Officer, who makes recommendations to the committee regarding compensation of our executive officers other than the Chief Executive Officer. Our Chief Executive Officer participates in some of the Compensation Committee s deliberations regarding compensation for our other executive officers, although all determinations are made by the Compensation Committee.

Elements of Executive Officer Compensation

Base Salary

We provide base salaries to our executive officers to compensate them for fulfilling their primary responsibilities and to provide financial stability. The Compensation Committee annually reviews, and adjusts as appropriate, base salaries for our executive officers. In each of October 2008 and October 2009, the Compensation Committee made modest increases to the base salaries for fiscal 2009 and fiscal 2010 based on its evaluation of the competitive information available to it and to approximate increases in the cost of living. The base salaries paid to our executive officers during the last three completed fiscal years are listed in the Summary Compensation Table below.

Annual Non-Equity Incentive Compensation

Annual non-equity incentive compensation is a key component of our executive compensation strategy. The purpose of annual incentive compensation is to provide cash compensation that is variable based on the achievement of performance goals established by the Compensation Committee. Our executive officers do not have a contractual right to receive a fixed bonus for any fiscal year.

In 2008, the Compensation Committee, with the assistance of Towers Perrin, reviewed our cash incentive program for executive officers and adopted a new non-equity incentive arrangement (described below) that provides for no payout to executive officers unless a specified portion of the target is achieved and allows for a significantly increased payout if the target is exceeded. This revised cash incentive program was implemented starting with the second half of fiscal 2008 and was in place for fiscal 2009 and 2010.

Cash incentive payments have been determined and paid twice each year with 60% of the payment opportunity based on the first six months of our fiscal year and 40% based on the last six months. This split reflects the fact that we have historically generated a higher level of profits during the first six months of our fiscal year than the second half of our fiscal year.

For fiscal 2010, the Compensation Committee designated the following factors for determining whether a cash incentive payment would be paid under the arrangement for a particular performance period and in what amount:

- corporate performance,
- business unit performance for the executive in charge of such unit, and
- individual objectives.

The corporate performance portion of the annual cash incentive payment was based on our Company-wide results for each half of fiscal 2010 as measured by income before taxes as compared to a targeted level of income before taxes for that period. For the first half of fiscal 2010, the targeted level of income before taxes was $13,900,000, while the actual performance was $20,612,000, and for the second half of fiscal 2010, the targeted level of income before taxes was $3,485,000, while the actual performance was $18,689,000. The business unit performance portion of the incentive payment was based on an operational measure of business unit profitability for fiscal 2010 as compared to a targeted measure for the respective business unit for that period. For first half of fiscal 2010, the targeted Water Treatment Group measure was $22,800,000, while the actual performance was $24,795,000, and for the second half of fiscal 2010, the targeted measure was $16,500,000, while the actual performance was $17,383,000. For the first half of fiscal 2010, the targeted Industrial Group measure was $19,300,000, while the actual performance was $24,482,000, and for the second half of fiscal 2010, the targeted measure was $12,900,000, while the actual performance was $22,506,000. In each case, the targeted levels of performance were based on the level of anticipated performance that was derived from the Company s annual operating plan. The Compensation Committee set these target performance levels to ensure that a substantial portion of each executive officer s cash compensation is tied to corporate and business unit performance, as appropriate, and to provide our executives with a performance-based opportunity to achieve market-competitive total compensation.

The committee established multiple individual objectives for each executive officer for each half of the fiscal year. The individual objectives for our Chief Executive Officer included succession planning, strategic planning matters and developing a growth plan for the business. For our Chief Financial Officer, the individual objectives included efforts to drive efficiencies within the accounting organization and manage the costs of our employee benefits. For our General Counsel, the individual objectives included improving risk management processes and revising and updating our public filings and our organizational documents. For our Vice President Water Treatment Group, the individual objectives included business expansion initiatives and succession planning within the Water Treatment Group. For our Vice President Industrial, the individual objectives included business expansion and project management initiatives. The Compensation Committee consulted with the Chief Executive Officer for his assessment of the degree to which the other executive officers had met their respective individual objectives and then made its own determination as to the appropriate level of payout under these measures for each of the executive officers.

The Compensation Committee determined that 80% of the annual cash incentive payment opportunities for our Chief Executive Officer, Chief Financial Officer and General Counsel for fiscal 2010 should be based upon Company-wide performance against the income targets to reflect their significant Company-wide responsibilities and resulting ability to impact the overall success of the Company. In addition, the committee determined that 20% should be based upon meeting their individual objectives.

The committee determined that 40% of the annual cash incentive payment opportunities for Ms. Paulson and Mr. Sevenich for fiscal 2010 should be based upon Company-wide performance and 40% should be based upon the profitability of their respective business units to reflect their dual roles as leaders of their respective business units and as members of the Company s overall executive management team. In addition, the committee determined that 20% should be based upon meeting their individual objectives.

The annual cash incentive payment opportunities for participating executive officers were based on the following percentages of base salary for fiscal 2010:

Position	Threshold Annual Cash Incentive Payment	Target Annual Cash Incentive Payment	Maximum Annual Cash Incentive Payment
Chief Executive Officer	30%	60%	120%
Chief Financial Officer	20%	40%	80%
General Counsel	15%	30%	60%
Vice President Water Treatment Group	20%	40%	80%
Vice President Industrial Group	20%	40%	80%

The Compensation Committee established the targets for each of the executive officers based on the relative scope of his or her responsibilities and resulting ability to impact the Company s performance. The committee established a higher target opportunity for the Chief Executive Officer to reflect his significant responsibilities regarding the creation and implementation of long-term strategic direction for the entire Company.

No annual cash incentive payments are made unless the threshold level of 80% of the respective performance target is achieved. Performance between 80% and 100% of the respective target is awarded on a sliding scale from

50% of the target annual cash incentive payment for exactly achieving 80% of the performance target to 100% of the target annual cash incentive payment for achieving the respective target (e.g., 90% of performance target will lead to an award of 75% of the target annual cash incentive payment). Performance between 100% and 120% of the respective target is awarded on a sliding scale from 100% of the target annual cash incentive payment for exactly meeting the performance target to 200% of the target annual cash incentive payment for exceeding the performance target by 20% (e.g., 105% of performance target will lead to an award of 125% of the target annual cash incentive payment). Performance over 120% of the applicable performance target does not result in any additional annual cash incentive payment.

As a result of our strong financial performance for the fiscal year, each participating executive officer exceeded their respective corporate and business unit performance targets and, in most cases, exceeded the maximum targets. As a result, with the exception of Ms. Paulson, each participating executive officer received the maximum payout under the financial measures. Because the Water Treatment Group profitability measure exceeded the targeted measure, but did not exceed the maximum measure, Ms. Paulson s payout under the business unit performance target was less than the maximum payout. Each participating executive officer was determined to have attained his or her individual objectives for the fiscal year, while Ms. Paulson was determined to have exceeded her individual objectives for the second half of the fiscal year. Each participating executive officer received the targeted annual cash incentive payment for individual objectives, while Ms. Paulson received the maximum annual cash incentive payment for individual objectives for the second half of the fiscal year based on exceeding the targeted performance on her personal objectives. No participating executive officer received more than the maximum total payment under the annual non-equity incentive arrangement.

Equity Awards

We had not traditionally used long-term equity incentive awards as part of our executive compensation program. We had previously contributed approximately 5% of the executive s pay for his or her account to our Employee Stock Ownership Plan (ESOP) and allowed executives to receive matching contributions under our Employee Stock Purchase Plan (ESPP).

After fiscal 2008, the Compensation Committee, with the assistance of Towers Perrin, reviewed our equity incentive award practices for the executives officers and determined to adopt a new equity incentive compensation program with the first grants made in May 2008 for fiscal 2009 and subsequent grants made in June 2009 for fiscal 2010. Factors considered by the Compensation Committee in establishing this equity incentive program included:

- aligning the interests of the participants with those of our shareholders,
- providing incentives for the retention of executive officers,
- establishing a minimum level of performance for payouts under certain of the equity awards,
- providing an opportunity for increased payouts for performance in excess of established targets under certain of the equity awards, and
- review of comparable equity incentive programs at competitive companies.

The equity incentive award program has consisted of a combination of:

- grants to each executive officer of traditional stock options at fair market value on the date of grant with vesting on the third anniversary of the date of grant, and
- grants of performance-based restricted stock unit awards based on Company performance during the current fiscal year with any related restricted stock vesting on the second anniversary of the end of that fiscal year.

To partially offset the potential cost of the equity incentive program, the Compensation Committee determined that executive officers would no longer participate in our ESOP beginning in fiscal 2009 or receive matching contributions under the ESPP beginning in June 2008. Excluding our executive officers, all of our non-bargaining unit employees remain eligible to participate in both our ESOP and ESPP.

Under this program, each executive officer was granted in each of May 2008 and June 2009 a non-statutory stock option agreement and a performance-based restricted stock unit award representing a future issuance of restricted shares of our common stock based on a pre-tax income target for the fiscal year. Based on the Compensation Committee s assessment of the equity incentive awards program, including information provided by Towers Perrin, in each of May 2008 and June 2009, our CEO was granted an option to purchase 33,333 shares of our common stock, while the other executive officers were each granted an option to purchase 9,333 shares of our common stock. The options granted in May 2008 were all granted at an exercise price of $15.43 per share, the fair market value (as defined in our 2004 Omnibus Stock Plan, the 2004 Plan) as of the date of grant, vest in their entirety on May 13, 2011 and will terminate on May 13, 2018. The options granted in June 2009 were all granted at an exercise price of $19.90 per share, the fair market value (as defined in the 2004 Plan) as of the date of grant, vest in their entirety on June 10, 2012 and will terminate on June 10, 2019.

The Compensation Committee determined the appropriate number of options to purchase shares for each of the executive officers based on the relative scope of his or her responsibilities and resulting ability to impact the Company s performance and information available to the committee about market practices. The committee granted to the Chief Executive Officer an option to purchase a higher number of shares to reflect his significant responsibilities regarding the creation and implementation of the long-term strategic direction for the entire Company.

The actual number of restricted shares issued to each executive officer under the performance-based restricted stock unit is based on a sliding scale for pre-tax income above or below the target and is subject to minimum and maximum thresholds. For fiscal 2010, the pre-tax income target was set at $17,385,000, the same level as our annualized target used for our non-equity incentive plan arrangement described above, while our actual performance was $39,301,000. If our pre-tax income were less than 80% of the target pre-tax income in fiscal 2010, then no executive officer would have received restricted shares from the performance-based restricted stock units. If our pre-tax income were between 80% and 100% of the target in fiscal 2010, then the executive officers would have received a number of restricted shares based on a sliding scale between 50% of the target restricted shares and 100% of the target restricted shares. If our pre-tax income were between 100% and 120% of the target in fiscal 2010, then the executive officers would have received a number of restricted shares based on a sliding scale between 100% of the target restricted shares and 150% of the target restricted shares. Because our pre-tax income exceeded 120% of the target in fiscal 2010, the executive officers each received a maximum number of restricted shares based on 150% of the target restricted share amounts.

The Compensation Committee established the following target restricted share amounts for the executive officers for fiscal 2010:

Position	**Minimum**	**Target**	**Maximum**
CEO	4,167	8,333	12,500
Other Officers	1,167	2,333	3,500

The Compensation Committee established the targets for each of the executive officers based on the relative scope of his or her responsibilities and their resulting ability to impact the Company s performance. The committee established a higher target opportunity for the Chief Executive Officer to reflect his significant responsibilities regarding the creation and implementation of the long-term strategic direction for the entire Company.

The actual number of restricted shares issued to each executive officer was determined after our final financial information became available for fiscal 2010. The restricted shares will vest 100% two years after the last day of fiscal 2010. The restricted shares will terminate in their entirety if the executive officer departs the Company before the end of the vesting period other than in cases of death or disability.

In the event of a change in control of the Company or other fundamental change as defined below, then the performance-based restricted stock unit award will vest immediately at 100% of its target if the Compensation Committee determines that the fundamental change will not result in the continuation of the performance-based restricted stock unit award. Any shares of restricted stock outstanding under performance-based restricted stock unit awards will also immediately vest. If a performance-based restricted stock unit award is continued after a fundamental change, but, in connection with the fundamental change, an executive is terminated without cause or resigns for good cause, then the performance-based restricted stock unit award and any restricted stock granted under the performance-based restricted stock unit award will vest in the same manner. We believe that these triggers in our performance-based restricted stock unit award notices in connection with a fundamental change strike an appropriate balance between Company and shareholder concerns about executive retention in the event of a fundamental change and an executive s legitimate concerns regarding termination or diminution of duties as a result of a fundamental change or a change in control. As currently defined in the 2004 Plan, a fundamental change includes the dissolution of the Company, a sale of substantially all our assets, a merger or consolidation of the Company with or into any other corporation, regardless of whether our Company is the surviving entity, or a statutory share exchange involving our capital stock.

Contribution to Long-Term Benefit Plan

All of our executive officers participate in our Profit Sharing Plan, which is generally available to all other non-bargaining unit employees. Contributions to the Profit Sharing Plan by us on behalf of our executive officers have been a key component of our retention objectives since the contributed benefits initially vest over a six-year period.

Under the plan, our executive officers participate on the same terms as all other eligible employees, with the annual compensation that was used to determine plan benefits being capped at $245,000 for fiscal 2010. This limit will be adjusted in future years under federal tax law for cost-of-living increases.

Under our Profit Sharing Plan, we contributed a percentage of each eligible participant s compensation to an account maintained for the participant under the plan. Participant accounts are credited with the appropriate gains or losses resulting from employee-directed investments made by the plan. During recent years, including fiscal 2010, we made contributions to this plan equal to 15% of each participant s compensation. For fiscal 2010, we contributed $36,750 on behalf of each named executive officer other than Richard G. Erstad, who was hired in calendar 2008 and was not yet eligible for a contribution.

Employee Stock Purchase Plan

Our employees may acquire our stock through an employee stock purchase plan, which is generally available to all employees. As noted above, we ceased matching contributions by the Company on behalf of our executive officers under the plan beginning in June 2008. Purchases of common stock under this plan are made from accumulated contributions at the end of each month at the prevailing market price on the designated purchase dates, with the objective of allowing our employees to profit when the value of our stock increases over time. Participants in this plan may authorize us to deduct up to $500 a month from his or her paycheck and, for non-executive participants, we generally make a matching contribution of 75% of the participant s purchases under the plan.

Other Benefits

The Compensation Committee believes that we must offer a competitive benefits program to attract and retain our executive officers. During fiscal 2010, we provided medical and other health and welfare benefits to our executive officers that are generally available to our other employees.

Chief Executive Officer Compensation

The Compensation Committee reviewed Mr. Hawkins performance for fiscal 2010. The committee reviewed Mr. Hawkins total compensation opportunity and determined that it was appropriately positioned relative to both the market for his position and the compensation of our other executive officers. The committee considers Mr. Hawkins potential for increased compensation through achievement of performance equal to, or exceeding, his performance targets, and long-term appreciation in our stock price through his options as critical to aligning his compensation with the interests of our shareholders.

Other Agreements and Policies

Post-Retirement Healthcare Coverage

We currently permit any employee who retires after working for us for at least 25 years to continue to participate in our health insurance coverage until that person reaches the age of 65. The cost to the retired employee for that coverage is equal to the amount that the retiree would have been obligated to pay for the coverage under COBRA (the Consolidated Omnibus Budget Reconciliation Act). This policy is based on the importance we place on the retention of our employees, including our executive officers.

Tax Deductibility of Compensation

Section 162(m) of the Internal Revenue Code denies a deduction to any publicly-held corporation for compensation paid to certain covered employees in a taxable year to the extent that compensation to such covered employee exceeds $1.0 million. Under current IRS interpretations, a covered employee is the chief executive officer of the Company and any other executive officer (other than the chief financial officer) who is among the three other most highly compensated officers employed by the Company at a year-end. Certain kinds of compensation, including qualified performance-based compensation, are disregarded for purposes of the deduction limitation.

In order to qualify as performance-based compensation for Section 162(m) purposes, compensation must satisfy certain requirements, including that the vesting and payment such compensation must generally be

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conditioned upon the satisfaction over a specified performance period of pre-established performance goals set by the Compensation Committee. We did not believe that the amounts of the cash incentive payment opportunities under our fiscal 2010 non-equity incentive plan for any of our covered executive officers, when combined with other applicable cash compensation, would have exceeded the $1.0 million limit. As a result, the Compensation Committee did not take steps to have the potential cash incentive payments qualified as performance-based compensation for Section 162(m) purposes.

Compensation Committee Report

The Compensation Committee has discussed and reviewed the Compensation Discussion and Analysis with management. Based upon this review and discussion, the Compensation Committee recommended to the Board of Directors that the Compensation Discussion and Analysis be included in this Proxy Statement and incorporated by reference in our Annual Report on Form 10-K.

Duane M. Jergenson (Chair)   Daryl I. Skaar James T. Thompson   Jeffrey L. Wright

Compensation Committee of the Board of Directors

Summary Compensation Table

The following table sets forth the compensation of our Chief Executive Officer, Chief Financial Officer and the three other highest paid executive officers (collectively, the named executive officers).

Name and Principal Position	Year	Salary ($)	Bonus ($)(a)	Stock Awards ($)(b)(c)	Option Awards ($)(b)	Non-Equity Incentive Plan Compensation ($)(d)	All Other Compensation ($)(e)	Total ($)
John R. Hawkins	2010	341,242		165,827	144,332	378,000	55,136	1,084,537
Chief Executive Officer	2009	327,642		128,578	98,370	359,083	46,384	960,057
	2008	300,424	195,065				45,000	540,489
Kathleen P. Pepski	2010	212,652		46,427	40,412	156,600	38,080	494,171
Vice President, Chief Financial Officer and	2009	208,075		35,998	27,544	158,785		430,402
Treasurer (beginning February 26, 2008)	2008	20,237	7,878					28,115
Richard G. Erstad	2010	203,000		46,427	40,412	111,240	10,470	411,549
Vice President, General Counsel and	2009	74,359	25,000					99,359
Secretary (beginning November 17, 2008)	2008							
Keenan A. Paulson	2010	212,208		46,427	40,412	139,676	38,080	476,803
Vice President Water Treatment	2009	205,233		35,998	27,544	136,970	34,500	440,245
Group	2008	191,584	89,049				45,000	325,633
John R. Sevenich	2010	198,853		46,427	40,412	145,440	38,080	469,212
Vice President Industrial Group	2009	193,053		35,998	27,544	141,052	34,500	432,147
	2008	181,163	86,627				45,000	312,790

(a) In the second half of fiscal 2008, we converted from a cash bonus program to an annual non-equity incentive arrangement, effective for the last six months of fiscal 2008 and future periods.

(b) Amounts represent the aggregate grant date fair value of awards made each fiscal year, as computed in accordance with Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) Topic 718. See Note 9, Profit Sharing and Employee Stock Ownership Plans, to our audited financial statements included in our Annual Report on Form 10-K for fiscal 2010 for a description of our accounting and the assumptions used.

(c) Reflects the aggregate grant date fair value of performance based restricted stock unit awards that were computed based on the probable outcome of the performance conditions as of the grant date. The values of the performance-based restricted stock unit awards granted in fiscal 2010, assuming the highest level of performance conditions are achieved, are set forth below.

Name	Amount Reported	Maximum Amount
Mr. Hawkins	$ 165,827	$ 248,750
Ms. Pepski	$ 46,427	$ 69,650

Mr. Erstad	$	46,427	$	69,650
Ms. Paulson	$	46,427	$	69,650
Mr. Sevenich	$	46,427	$	69,650

(d) See the description of target levels corporate performance, business unit performance and individual objectives, as described under Annual Non-Equity Incentive Compensation in the Compensation Discussion and Analysis above. Of the amounts reported for fiscal 2010, the following amounts were paid during the fiscal year and the remaining amounts were paid after we completed our annual audit: Mr. Hawkins, $226,800; Ms. Pepski, $93,960; Mr. Erstad, $66,744; Ms. Paulson, $81,091; and Mr. Sevenich, $87,264.

(e) Amounts reported for fiscal 2010 include:

Contributions of $36,750 to our Profit Sharing Plan by the Company on behalf of each of John R. Hawkins, Kathleen P. Pepski, Keenan A. Paulson and John R. Sevenich.

With respect to John R. Hawkins, $9,888 as the personal value of a Company-provided car (based on the incremental cost to the Company, calculated as a portion of the amortized cost of the car) and $3,748 as the personal portion of a country club membership (based on the incremental cost to the Company, calculated as a portion of the annual dues paid). For income tax purposes, the amount included in his income is based on IRS regulations. This amount is not grossed up for taxes.

With respect to Richard G. Erstad, consists of $7,200 paid as an automobile allowance for a portion of the year and $3,270 as the personal value of a Company-provided car for the remainder of the year (based on the incremental cost to the Company, calculated as a portion of the amortized cost of the car). For income tax purposes, the amount included in his income is based on IRS regulations. This amount is not grossed up for taxes.

Grants of Plan-Based Awards

The following table sets forth information concerning grants of plan-based awards to our named executive officers during fiscal 2010.

		Estimated Possible Payouts Under Non-Equity Incentive Plan Awards (a)			Estimated Future Payouts Under Equity Incentive Plan Awards (b)			All Other Option Awards: Number of Securities Underlying Options (#)(c)	Per Share Exercise or Base Price of Option Awards ($)(d)	Grant Date Fair Value of Stock and Option Awards ($)(e)
Name	**Grant Date**	**Threshold ($)**	**Target ($)**	**Maximum ($)**	**Threshold (#)**	**Target (#)**	**Maximum (#)**			
John R.	6/10/09	105,000	210,000	420,000						
Hawkins	6/10/09				4,167	8,333	12,500			248,750
	6/10/09							33,333	19.90	144,332
Kathleen	6/10/09	43,500	87,000	174,000						
P. Pepski	6/10/09				1,167	2,333	3,500			69,650
	6/10/09							9,333	19.90	40,412
Richard G.	6/10/09	30,900	61,800	123,600						
Erstad	6/10/09				1,167	2,333	3,500			69,650
	6/10/09							9,333	19.90	40,412
Keenan A.	6/10/09	42,900	85,800	171,600						
Paulson	6/10/09				1,167	2,333	3,500			69,650
	6/10/09							9,333	19.90	40,412
John R.	6/10/09	40,360	80,720	161,440						
Sevenich	6/10/09				1,167	2,333	3,500			69,650
	6/10/09							9,333	19.90	40,412

(a) Awards represent potential payments under our annual non-equity incentive arrangement for fiscal 2010. Payments are based on specified target levels of corporate performance, business unit performance and individual objectives, as described under Annual Non-Equity Incentive Compensation in the Compensation Discussion and Analysis.

The actual amounts earned for fiscal 2010 are the sole components of Non-Equity Incentive Plan Compensation in the Summary Compensation Table above. Executives must be employed on the date the payments are made (typically in June of each year with respect to the most recently completed fiscal year) to be eligible for a payment. The threshold, target and maximum payments are based on the plan s requirements, which were 30%, 60% and 120% of base salary, respectively, for our CEO; 15%, 30% and 60% of base salary, respectively, for our General Counsel; and 20%, 40% and 80% of base salary, respectively, for the other named executive officers.

(b) Awards represent potential awards of shares of restricted stock under performance-based restricted stock unit awards granted for fiscal 2010. Actual awards were made at the maximum level. Payments are based on specified target levels of income before taxes. See Equity Awards in the Compensation Discussion and Analysis for the performance targets applicable to the performance-based restricted stock units granted in fiscal 2009 for performance in fiscal 2010. Additional terms of the outstanding performance-based restricted stock units are described in Note (a) to the Outstanding Equity Awards table.

(c) Awards represent stock options granted under the 2004 Plan. See Equity Awards in the Compensation Discussion & Analysis for the terms of these awards.

(d) The exercise price of all options was based on fair market value as of the date of grant as defined in the 2004 Plan (i.e., the closing price of our common stock on the date of grant).

(e) Grant date fair value for stock options and performance-based restricted stock units was determined in accordance with FASB ASC Topic 718. For the performance-based restricted stock units, the actual number of restricted shares that can be earned ranges from 0 to 150% of the target amount. For the performance-based restricted stock units, the amount reported is based on an assumption that the maximum number of restricted shares will be earned.

Outstanding Equity Awards at 2009 Fiscal Year-End

The following table sets forth certain information concerning outstanding equity awards held by our named executive officers as of March 28, 2010.

	Option Awards				Stock Awards			
Name	**Number of Securities Underlying Unexercised Options (#) Exercisable**	**Number of Securities Underlying Unexercised Options (#) Unexercisable**	**Option Exercise Price ($)**	**Option Expiration Date**	**Number of Shares or Units of Stock That Have Not Vested (#)(a)**	**Market Value of Shares or Units of Stock that Have Not Vested ($)(b)**	**Equity Incentive Plan Awards: Number of Unearned Shares, Units or Other Rights That Have Not Vested (#)**	**Equity Incentive Plan Awards: Market or Payout Value of Unearned Shares, Units or Other Rights That Have Not Vested ($)**
John R. Hawkins		33,333(c)	15.43	5/13/2018	25,000	586,000		
		33,333(c)	19.90	6/10/2019				
Kathleen P. Pepski		9,333(c)	15.43	5/13/2018	7,000	164,080		
		9,333(c)	19.90	6/10/2019				
Richard G. Erstad		9,333(c)	19.90	6/10/2019	3,500	82,040		
Keenan A. Paulson		9,333(c)	15.43	5/13/2018	7,000	164,080		
		9,333(c)	19.90	6/10/2019				
John R. Sevenich		9,333(c)	15.43	5/13/2018	7,000	164,080		
		9,333(c)	19.90	6/10/2019				

(a) Consists of shares of restricted stock actually issued under the performance-based restricted stock unit awards granted for fiscal 2009 and 2010. The restricted shares vest 100% two years after the last day of fiscal year for which they were awarded. The restricted shares will be forfeited in their entirety if the executive officer departs the Company before the end of the vesting period. The vesting of the units and restricted shares may be accelerated upon the occurrence of certain events described below under Potential Payments Upon Termination or Change in Control .

(b) Based on closing market price of our common stock as of the most recently completed fiscal year of $23.44 per share.

(c) All reported options vest three years after the date of grant. The vesting of the options may be accelerated upon the occurrence of certain events described below under Potential Payments Upon Termination or Change in Control .

Option Exercises and Stock Vested

None of the named executive officers exercised stock options or had any other form of stock award that vested during fiscal 2010.

Potential Payments Upon Termination or Change in Control

It has not been our practice to provide our officers with any right to severance payments or benefits, and none of our executive officers currently has an employment, severance or change in control agreement or arrangement with us, except as provided in the equity incentive awards described below. The Compensation Committee does, however, retain the discretion to make severance payments to an executive officer if it believes the specific circumstances warrant a payment.

Termination Other than Due to Death or Disability Following a Fundamental Change

All named executive officers with performance-based restricted stock units or shares of restricted stock are entitled to accelerated vesting of the interests following a fundamental change as outlined in the table below. In the event of a change in control of the Company or other fundamental change as defined below, then the performance-based restricted stock unit equity award will vest immediately at 100% of its target if the Compensation Committee determines that the fundamental change will not result in the continuation of the performance-based restricted stock unit. Any shares of restricted stock outstanding under the performance-based restricted stock unit equity award will also immediately vest. If a performance-based restricted stock unit equity award is continued after a fundamental change, but, in connection with the fundamental change, an executive is terminated without cause or resigns for good cause, then the performance-based restricted stock unit and any restricted stock granted under the performance-based restricted stock unit equity award will vest in the same manner. As defined in the 2004 Plan, a fundamental change includes the dissolution of the Company, a sale of substantially all our assets, a merger or consolidation of the Company with or into any other corporation, regardless of whether our Company is the surviving entity, or a statutory share exchange involving our capital stock.

In addition, all named executive officers with outstanding unvested stock options are entitled to accelerated vesting of the stock options following a fundamental change as outlined in the table below. In the event of a change in control of the Company or other fundamental change , then the Compensation Committee may either (1) make appropriate provision to protect the stock option in a manner that equitably preserves the compensation element of the stock option at the time of the fundamental change, or (2) cancel the stock option in exchange for payment of cash equal to the amount, if any, by which the fair market value per share exceeds the exercise price per share covered by the stock option. Fair market value per share means the cash plus the fair market value, as determined in good faith by the Compensation Committee, of the non-cash consideration to be received per share by the shareholders of the Company upon the occurrence of the fundamental change.

The following table presents the value of all outstanding stock and option awards that would have been received by each named executive officer if a fundamental change took place on the last business day of our most recently completed fiscal year.

Name	Early Vesting of Performance-Based Restricted Stock Units/Restricted Stock ($)(a)	Early Vesting of Stock Options ($)(b)	Total ($)
John R. Hawkins	488,326	384,996	873,322
Kathleen P. Pepski	136,726	107,796	244,522
Richard G. Erstad	54,686	33,039	87,724
Keenan A. Paulson	136,726	107,796	244,522
John R. Sevenich	136,726	107,796	244,522

(a) Amounts determined by multiplying the number of shares for which vesting is accelerated by our closing stock price on March 26, 2010 ($23.44 per share).

(b) Amounts determined by multiplying the number of option shares for which vesting is accelerated by our closing stock price on March 26, 2010 ($23.44 per share) and subtracting the exercise price of such option shares.

Termination of Employment Due to Death or Disability

All named executive officers with performance-based restricted stock units or shares of restricted stock are entitled to accelerated vesting of the interests upon termination of employment due to death or disability as outlined in the table below. In the event that the executive officer s employment with the Company ceases due to death or disability during the performance period, then the performance-based restricted stock unit equity award will vest immediately at 100% of its target. The Company will issue one unrestricted share in exchange for each vested unit.

In addition, all named executive officers with outstanding unvested stock options are entitled to accelerated vesting of the stock options upon termination of employment due to death or disability as outlined in the table below.

The following table presents the value of all outstanding stock and option awards that would have been received by each named executive officer if a triggering event took place on the last business day of our most recently completed fiscal year.

Name	**Early Vesting of Performance-Based Restricted Stock Units/Restricted Stock ($)(a)**	**Early Vesting of Stock Options ($)(a)**	**Total $**
John R. Hawkins	488,326	384,996	873,322
Kathleen P. Pepski	136,726	107,796	244,522
Richard G. Erstad	54,686	33,039	87,724
Keenan A. Paulson	136,726	107,796	244,522
John R. Sevenich	136,726	107,796	244,522

(a) Amounts determined by multiplying the number of shares for which vesting is accelerated by our closing stock price on March 26, 2010 ($23.44 per share).

(b) Amounts determined by multiplying the number of option shares for which vesting is accelerated by our closing stock price on March 26, 2010 ($23.44 per share) and subtracting the exercise price of such option shares.

On June 2, 2010, we entered into a Retention Bonus Agreement with John R. Hawkins, our Chief Executive Officer. The Retention Bonus Agreement provides that we will pay to Mr. Hawkins a retention bonus in the amount of $680,000 so long as: (1) Mr. Hawkins remains actively employed with the Company from the date of the agreement through June 2, 2013, (2) Mr. Hawkins s separation from service occurs thereafter for any reason other than for Cause; and (3) Mr. Hawkins signs and does not rescind a release of claims in a form prescribed by the Company.

Cause is defined in the Retention Bonus Agreement as Mr. Hawkins s: (1) willful and material failure or refusal to carry out any reasonable directive of the Board, (2) any willful and material failure during his employment to comply with any material policy, rule or code of conduct generally applicable to employees of the Company or to management employees of the Company, which failure is materially and demonstratively injurious to the financial condition or business reputation of the Company, (3) embezzlement or misappropriation of Company funds or any other willful act or omission which is materially injurious to the financial condition or business reputation of the Company, or (4) conviction or confession of an act or acts constituting a felony related to the business of the Company or which is materially injurious to the financial condition or business reputation of the Company. The circumstances in items (1) or (2) will only constitute Cause if the Company provides written notice to Mr. Hawkins and he does not cure within 30 days following the notice.

In the event Mr. Hawkins s employment terminates prior to June 2, 2013 due to termination initiated by the Company without Cause or due to Mr. Hawkins s death, the retention bonus will become fully vested and payable, provided the release condition set forth above has been satisfied. The retention bonus will be paid in substantially equal installments over a period of three years.

Director Compensation for Fiscal 2010

During fiscal 2010, we paid each non-employee director an annual retainer of $20,000. We paid a supplemental annual retainer of $10,000 to our Chairman of the Board. We also paid supplemental annual retainers of $5,000 to the chairs of the Audit and Compensation committees and $2,500 to the chairs of our Governance and Nominating committees. Additionally, our non-employee directors received a meeting fee of $1,000 for each Board and committee meeting attended.

The Compensation Committee oversees our non-employee director compensation program, under which each non-employee director is entitled to receive a grant of 1,000 shares of restricted common stock on the date of our annual meeting of shareholders following the director s election or reelection to the Board by our shareholders. The restricted stock vests one year from the date of issuance, subject to acceleration in the event of the director s death or disability. For service during fiscal 2010, each non-employee director was granted 1,000 shares of restricted common stock on August 5, 2009 and these shares will vest in their entirety one year from their date of issuance.

During fiscal 2006, we entered into a consulting agreement with John S. McKeon, our Chairman of the Board, which was amended in fiscal 2010, to provide consulting services for certain strategic projects. Mr. McKeon received consulting fees of $70,000 under this arrangement in fiscal 2010.

The following table shows, for each of our current and former non-employee directors, information concerning annual compensation earned for services in all capacities during fiscal 2010:

Name	Fees Earned or Paid in Cash ($)	Stock Awards ($)(a)	All Other Compensation ($)(b)	Total ($)
Eapen Chacko (c)	5,000	--	260	5,260
James A. Faulconbridge	42,000	16,680	640	59,320
G. Robert Gey (c)	1,000	--	260	1,260
Howard M. Hawkins (c)	4,000	--	260	4,260
Duane M. Jergenson	42,000	16,680	640	59,320
John S. McKeon	54,500	16,680	70,640 (d)	141,820
Daryl I. Skaar	37,000	16,680	640	54,320
James T. Thompson	35,000	16,680	380	52,060
Jeffrey L. Wright	38,000	16,680	380	55,060

(a) Each member of the Board received 1,000 shares of restricted stock as part of his retainer on August 5, 2009 pursuant to the 2004 Plan. The grant-date fair value of each of the awards were computed in accordance with FASB ASC Topic 718. All of these shares vest in full on August 5, 2010, are eligible to receive dividends paid on our common stock and were the only shares of restricted stock held by each director at the end of our most recently completed fiscal year.

(b) Includes dividends paid on unvested restricted stock grants.

(c) Term as a director expired on August 5, 2009.

(d) Consists of $70,000 in consulting fees.

Compensation Committee Interlocks and Insider Participation

All decisions regarding compensation of our executive officers during fiscal 2010 were made by the Compensation Committee of our Board of Directors. During fiscal 2010, the following directors served on the Compensation Committee: Duane M. Jergenson, James T. Thompson, Daryl I. Skaar and Jeffrey L. Wright. None of our executive officers participates in any Board or committee vote setting his or her annual salary or non-equity cash incentive payments. None of the members of the Compensation Committee is a current or former officer or employee of our Company, and there were no interlocking relationships as defined by the SEC, involving our executive officers, our directors, and other entities with which our directors or executive officers are associated.

EQUITY COMPENSATION PLAN INFORMATION

The following table provides information about shares that may be issued under the 2004 Plan as of March 28, 2010. We do not have any other equity compensation plans required to be included in this table.

Plan Category	Number of Securities to Be Issued upon Exercise of Outstanding Options, Warrants and Rights	Weighted Average Exercise Price of Outstanding Options, Warrants and Rights ($)	Number of Securities Remaining Available for Future Issuance Under Equity Compensation Plans
Equity compensation plans approved by security holders(a)	131,997	17.82	89,093(b)(c)

(a) We maintain one plan that was approved by our shareholders, the 2004 Omnibus Stock Plan. The 2004 Plan allows awards in the form of restricted or unrestricted stock, incentive or non-statutory stock options, stock appreciation rights, performance-based restricted stock units or other stock-based awards.

(b) Includes securities available for future issuance under the 2004 Plan. There is no limit on the portion of the 350,000 shares of common stock available for distribution under this plan that may be awarded in the form of restricted or unrestricted stock.

(c) Does not include 26,500 shares of restricted stock which were issuable upon vesting of outstanding performance-based restricted stock unit awards as of March 28, 2010.

SECURITY OWNERSHIP OF MANAGEMENT AND BENEFICIAL OWNERSHIP

The following table contains information as of June 8, 2010 (except as otherwise noted below) concerning the beneficial ownership of our common stock by all directors, the named executive officers, all directors and executive officers as a group and shareholders known by us to beneficially own more than 5% of our common stock. Unless otherwise noted, the address for each shareholder listed below is our executive offices.

Name of Beneficial Owner	Number of Shares Beneficially Owned (a)	Percent of Shares
Trustees, Hawkins, Inc. Employee Stock Ownership Plan and Trust	1,621,214(b)	15.8%
Royce & Associates, LLC	857,177(c)	8.3%
BlackRock, Inc.	575,512(d)	5.6%
T. Rowe Price Associates, Inc.	568,431(e)	5.5%
James A. Faulconbridge	4,106(f)	*
John R. Hawkins	182,303(g)	1.8%
Duane M. Jergenson	18,127(h)	*
John S. McKeon	31,568(h)	*
Daryl I. Skaar	7,507(h)	*
James T. Thompson	1,000(h)	
Jeffrey L. Wright	1,000(h)	
Richard G. Erstad	3,500(i)	
Keenan A. Paulson	61,412(j)	*
Kathleen P. Pepski	7,000(k)	
John R. Sevenich	33,675(l)	*
All directors and officers as a group (14 persons)	416,664(m)	4.1%

* Less than one percent.

(a) Unless otherwise noted, all shares shown are held by shareholders possessing sole voting and investment power with respect to such shares.

(b) The Trustee of the Hawkins, Inc. Employee Stock Ownership Plan and Trust is Charles Schwab Trust Company. The ESOP allows plan participants to direct voting of shares allocated to their plan accounts and all shares held by the ESOP are allocated to plan participant

accounts. Under the applicable trust agreement, the Trustee is to vote shares with respect to which no voting instructions are received from plan participants in proportion to the shares voted by plan participants who do submit voting instructions. As a result, the Trustee may theoretically be deemed to share, at least temporarily, voting power for all shares of the ESOP. The Trustee also has limited dispositive power with respect to all shares of the ESOP, reflecting a requirement that the assets of the ESOP must primarily consist of shares of Hawkins stock. The Trustee disclaims beneficial ownership of the shares attributed to it in its capacity as Trustee of the ESOP.

(c) Based on a Schedule 13G/A filed by Royce & Associates, LLC with the SEC on January 25, 2010. The address for Royce & Associates is 745 Fifth Avenue, New York, NY 10151.

(d) Based on a Schedule 13G filed by BlackRock, Inc. with the SEC on January 20, 2010. The address for BlackRock, Inc. is 40 East 52nd Street, New York, NY 10022.

(e) Based on a Schedule 13G filed by T. Rowe Price Associates, Inc. with the SEC on February 12, 2010. The address for T. Rowe Price Associates, Inc. is 100 E. Pratt Street, Baltimore, MD 21202.

(f) Includes 550 shares that Mr. Faulconbridge holds jointly with his wife as to which he shares voting and investment power and 1,000 shares of restricted stock, which shares vest and the related restrictions expire on August 5, 2010.

(g) Includes 101,324 shares representing the beneficial interest of Mr. Hawkins as of May 15, 2010 in our ESOP, 12,500 shares of restricted stock, which shares vest and the related restrictions expire on March 29, 2011, 12,500 shares of restricted stock, which shares vest and the related restrictions expire on March 28, 2012, and 46,552 shares that Mr. Hawkins holds jointly with his wife as to which he shares voting and investment power. Does not include outstanding Performance-Based Restricted Stock Unit Awards.

(h) Includes 1,000 shares of restricted stock, which shares vest and the related restrictions expire on August 5, 2010.

(i) Consists of 3,500 shares of restricted stock, which shares vest and the related restrictions expire on March 28, 2012. Does not include outstanding Performance-Based Restricted Stock Unit Awards.

(j) Includes 54,412 shares representing the beneficial interest of Ms. Paulson as of May 15, 2010 in our ESOP, 3,500 shares of restricted stock, which shares vest and the related restrictions expire on March 29, 2011, and 3,500 shares of restricted stock, which shares vest and the related restrictions expire on March 28, 2012. Does not include outstanding Performance-Based Restricted Stock Unit Awards.

(k) Consists of 3,500 shares of restricted stock, which shares vest and the related restrictions expire on March 29, 2011, and 3,500 shares of restricted stock, which shares vest and the related restrictions expire on March 28, 2012. Does not include outstanding Performance-Based Restricted Stock Unit Awards.

(l) Includes 26,675 shares representing the beneficial interest of Mr. Sevenich as of May 15, 2010 in our ESOP, 3,500 shares of restricted stock, which shares vest and the related restrictions expire on March 29, 2011, and 3,500 shares of restricted stock, which shares vest and the related restrictions expire on March 28, 2012. Does not include outstanding Performance-Based Restricted Stock Unit Awards.

(m) Includes 227,014 shares representing the beneficial interest of the directors and officers as of May 15, 2010 in our ESOP.

SECTION 16(a) BENEFICIAL OWNERSHIP REPORTING COMPLIANCE

Section 16(a) of the Securities Exchange Act of 1934 requires our executive officers, directors and persons who beneficially own more than ten percent of our common stock to file initial reports of ownership and reports of changes in ownership of our common stock with the SEC. Executive officers, directors and persons who beneficially own more than ten percent of our common stock are required by SEC regulations to furnish us with copies of all Section 16(a) forms they file. Based solely on a review of the copies of such forms furnished to us, and written representations from our executive officers and directors, all Section 16(a) filing requirements applicable to our executive officers and directors have been satisfied, except for one Form 3 for Theresa Moran that has been amended to reflect additional shares held by her on the date of her appointment as an officer. The amended Form 3 did not relate to a transaction in our common stock.

RELATED PARTY TRANSACTIONS

We employ Michael Clemens and John Clemens, the brothers of Theresa R. Moran, our Vice President Quality and Support; Patrick Hawkins, the nephew of John R. Hawkins, our Chief Executive Officer and a director of the Company; and Daniel Paulson, the son of Keenan A. Paulson, our Vice President Water Treatment Group. Including retirement plan contributions and bonuses, each such employee earned in excess of $120,000 in fiscal 2010.

The Audit Committee Charter provides that the Audit Committee is responsible for approving all related party transactions. The Audit Committee reviews and ratifies all transactions involving our Company and any director, nominee for director, executive officer, other employee or family member thereof on a quarterly basis. It is our intention that these transactions will be on terms no less favorable to us than we could obtain from unaffiliated third parties.

PROPOSAL TWO APPROVAL OF 2010 OMNIBUS INCENTIVE PLAN

On June 2, 2010, our Board of Directors authorized the adoption of the Hawkins, Inc. 2010 Omnibus Incentive Plan (the 2010 Plan), subject to shareholder approval at the Annual Meeting, and now recommends shareholder approval of this proposal. If our shareholders approve the 2010 Plan, it will be effective as of July 28, 2010.

Our Board of Directors and the Compensation Committee (the Committee) believe that an incentive program involving a combination of cash and stock-based compensation is a key element in achieving the Company s continued financial and operational success. Our compensation programs are designed to motivate Company representatives to work as a team to achieve the corporate goal of maximizing shareholder return.

The purpose of the 2010 Plan is to promote the interests of the Company and its shareholders by providing key personnel of the Company and its affiliates with incentives, including an opportunity to acquire or increase their proprietary interest in the Company, to put forth maximum effort for the continued success and growth of the Company and its affiliates and thereby reward them for achieving a high level of performance. In addition, the opportunity to receive such incentives and acquire a proprietary interest in the Company will aid in attracting and retaining key personnel of outstanding ability. The 2010 Plan is also intended to provide outside directors with an opportunity to acquire a proprietary interest in the Company, to compensate outside directors for their contribution to the Company and to aid in attracting and retaining outside directors.

Key Components of this Proposal

The primary terms of the 2010 Plan relating to stock-based awards are substantially similar to the terms of the 2004 Plan, which was approved by over 86% of the shareholders that voted on that proposal at our 2004 annual meeting of shareholders. The significant differences between the 2010 Plan and the 2004 Plan are described below.

In addition to the stock-based awards that are permitted under the 2004 Plan, the 2010 Plan covers certain forms of performance-based cash awards.

The 2010 Plan will enable the Company to continue to attract and retain employees who will lead our Company to achieve long-term success and growth in shareholder value.

Based upon historical data, stock-based awards under the 2004 Plan are estimated to have a three-year average annual burn rate of approximately 1.18% as of the most recently completed fiscal year.[1]

Upon approval of this proposal by our shareholders, the 2010 Plan will govern all future equity awards and certain cash and stock-based awards for the current fiscal year, as discussed under New Plan Benefits below.

Key Features of 2010 Omnibus Incentive Plan

Shares:	Hawkins, Inc. common stock, par value $.05 per share.
Eligibility:	Any employee, officer, non-employee director, consultant or advisor of the Company or its affiliates.
Awards:	Stock Options Stock Appreciation Rights Restricted and Unrestricted Stock Performance Units Other Stock-Based Awards Bonus Awards
Term:	The 2010 Plan, if approved, will expire on July 28, 2020.
Number of Shares Authorized:	1,000,000 + any shares available for future grants under the 2004 Plan as of July 28, 2010.

1 Calculated as the quotient of the number of shares granted during a year under the current plan divided by the number of weighted average common shares outstanding at the end of the fiscal year.

Summary of 2010 Omnibus Incentive Plan

The following summary of the proposed terms of the 2010 Plan may not contain all the information that is important to you. The complete text of the proposed 2010 Plan, reflecting the terms proposed in this proposal, is set forth in Appendix A. This summary is qualified by the text of the proposed 2010 Plan in Appendix A, which you are urged to read in its entirety.

Administration

The 2010 Plan is administered by the Company s Compensation Committee. The 2010 Plan calls for members of the Committee to be non-employee directors under Rule 16-b3 of the Securities Exchange Act of 1934 and outside directors within the meaning of Section 162(m) of the Internal Revenue Code. The Committee has the authority to adopt, revise and waive rules relating to the 2010 Plan and to determine the timing and identity of participants, the amount of any awards and other terms and conditions of awards. Subject to applicable law, the Committee may delegate its responsibilities under the 2010 Plan to members of management of the Company or to others with respect to the selection and grants of awards to employees of the Company who are not officers of the Company.

Eligibility and Number of Shares

All employees of the Company and its affiliates and other individuals or entities that are not employees but who provide services to the Company or its affiliates in capacities such as consultants, advisors and directors are eligible to receive awards under the 2010 Plan at the discretion of the Committee. Incentive stock options under the 2010 Plan may be awarded only to employees. There are approximately 270 employees and others who provide services to the Company, any or all of whom may be considered for the grant of awards under the 2010 Plan at the discretion of the Committee.

If our shareholders approve this proposal, the number of shares available for distribution under the 2010 Plan will be an aggregate amount of shares of the Company s common stock equal to the sum of (i) 1,000,000 shares, plus (ii) any shares available for future grants under the 2004 Plan as of July 28, 2010, subject to adjustment for future stock splits, stock dividends and similar changes in the capitalization of the Company. In addition, any shares that are both (a) subject to an award granted under the 2004 Plan that is outstanding on July 28, 2010 or subject to an award under the 2010 Plan and (b) not delivered to the award holder due to the expiration, forfeiture, or termination of the award or the settlement of the award in cash or any property other than shares will replenish the pool of available shares under the 2010 Plan. Based on the 89,093 shares that remained available for future grants under the 2004 Plan as of May 31, 2010, approximately 1,089,093 shares will be immediately available for future grants under the 2010 Plan upon shareholder approval. The closing sale price of a share of our common stock on the NASDAQ Global Market on June 1, 2010 was $25.43.

The 2010 Plan does provide, however, that the following shares subject to awards under the 2004 Plan or the 2010 Plan will not again become available for distribution under the 2010 Plan under the following circumstances: (i) shares which would have been issued upon any exercise of an option but for the fact that the exercise price was paid by a net exercise, or by any shares already owned by a participant that are delivered in payment of an option exercise price; (ii) shares withheld by the Company or already owned shares delivered by a participant to satisfy any tax withholding obligation with respect to an award; (iii) shares covered by a stock appreciation right that are not issued in connection with the stock settlement of the stock appreciation right upon its exercise; or (iv) shares that are repurchased by the Company using exercise proceeds from an option.

Shares subject to awards under the 2010 Plan that are issued in substitution for or in connection with the assumption of outstanding equity awards granted by a company acquired by the Company will not reduce the pool of available shares under the 2010 Plan. Similarly, if a company is acquired by, or combines with, the Company and has shares available under a pre-existing plan approved by its shareholders and not adopted in contemplation of the acquisition or combination, then such shares may be included in the pool of available shares under the 2010 Plan.

No more than 100,000 shares pursuant to stock options and no more than 100,000 shares pursuant to stock appreciation rights may be granted to any one participant under the 2010 Plan in any calendar year. The corresponding limits in the 2004 Plan were 50,000 shares. The 2010 Plan also provides for limits on the size of individual awards (other than stock options and stock appreciation rights) that are intended to qualify as performance-based compensation under Section 162(m) of the Internal Revenue Code. Such awards that are denominated in shares may not exceed 100,000 shares to any one participant in any calendar year and such awards (other than bonus awards) that are denominated in cash may not exceed $3.0 million to any one participant in any calendar year. Such awards that are considered bonus awards under the 2010 Plan may not result in a payout to any participant that exceeds $3.0 million for a twelve-month performance period (or a corresponding multiple of that amount for a performance period of greater or less than twelve months).

Types of Awards

Restricted and Unrestricted Stock and Other Stock-Based Awards

The Committee is authorized to grant, either alone or in conjunction with other awards, stock and stock-based awards. The Committee determines the persons to whom such awards are made, the timing and amount of such awards, and all other terms and conditions. The Company s common stock granted to participants may be unrestricted or may contain such restrictions, including any combination of provisions requiring forfeiture upon certain events, imposing performance- and service-based vesting conditions and restricting transfer of shares, as the Committee may determine. Unless forfeited, the recipient of restricted common stock ordinarily will have all other rights of a shareholder, including without limitation, voting and dividend rights.

Unlike the 2004 Plan, the 2010 Plan provides for minimum vesting periods for full value stock awards (equity-based awards other than stock options and stock appreciation rights). Full value stock awards with time-based vesting granted under the 2010 Plan will have a minimum vesting period of three years from the date of grant of the applicable award. Such time-based vesting may be pro rata over the minimum vesting period. Full value stock awards with performance-based vesting under the 2010 Plan will be subject to a minimum performance period of one year. These minimum periods will not apply (i) to awards made in payment of earned performance based awards and other earned cash-based incentive compensation, (ii) to a termination of employment due to death, disability or retirement, (iii) upon a fundamental change, (iv) to replacement awards issued in connection with a transaction involving a corporate merger, consolidation, acquisition, separation, reorganization or liquidation, (v) to an award made to a non-employee director of the Company, or (vi) to awards involving an aggregate number of shares not in excess of 5% of the number of shares available for awards under the 2010 Plan.

The 2010 Plan provides that, unless the Compensation Committee determines otherwise, any dividends or distributions paid with respect to unvested shares will be subject to the same restrictions on transfer and conditions of forfeiture as the shares to which the dividends or distributions relate. Regular quarterly cash dividends on restricted stock that are subject only to service-based vesting are not subject to this provision.

Stock Options

The 2010 Plan permits the grant of both incentive stock options that may qualify for favorable tax treatment under Section 422 of the Internal Revenue Code and non-statutory stock options that do not so qualify. The 2010 Plan provides that an option holder may pay an option exercise price in cash or, if the Committee permits, through a broker-assisted cashless exercise process, by delivering to the Company other shares already owned by the holder by authorizing the Company to withhold a portion of the shares otherwise issuable to the option holder (a net exercise), or some combination or the foregoing methods. The 2004 Plan did not permit net exercise.

The 2010 Plan provides that all stock options must be issued with an exercise price of at least 100% of the fair market value of a share of the Company s stock as of the date the stock option is granted. The 2004 Plan applied this minimum exercise price requirement only to incentive stock options.

The 2010 Plan eliminates the authority given to the Compensation Committee under the 2004 Plan to permit the issuance of reload options.

Consistent with the 2004 Plan, the 2010 Plan does not permit the Compensation Committee to reprice any outstanding stock option or stock appreciation right unless such action is approved by our shareholders.

Stock Appreciation Rights

The value of a stock appreciation right granted to a participant is determined by the appreciation in the Company s common stock, subject to any limitations upon the amount or percentage of total appreciation that the Committee may determine at the time the right is granted. The participant receives all or a portion of the amount by which the fair market value of a specified number of shares, as of the date the stock appreciation right is exercised, exceeds a price specified by the Committee at the time the right is granted. The price specified by the Committee must be at least 100% of the fair market value of the specified number of shares of the Company s common stock to which the right relates determined as of the date the stock appreciation right is granted. Payments with respect to stock appreciation rights may be paid in cash, shares of the Company s common stock or a combination of cash and shares as determined by the Committee. The provisions in the 2010 Plan relating to stock appreciation rights are substantially unchanged from those in the 2004 Plan.

Performance Units and Other Stock Based Awards

An award of performance units under the 2010 Plan entitles a participant to future payments of cash, shares or a combination of cash and shares, as determined by the Committee, based upon the achievement of pre-established performance goals. The Committee may also grant under the 2010 Plan awards pursuant to which shares are or may in the future be acquired, awards denominated in stock units, securities convertible into shares and phantom securities. The Committee is authorized determine the terms and conditions of performance unit and other stock-based awards, consistent with the terms and purposes of the Plan.

Bonus Awards

The Compensation Committee may grant cash-based awards to employee participants in such amounts and on such terms as the Committee may designate, including performance goal(s) and payment formulae or ranges. All bonus awards under the 2010 Plan will be earned only upon, and to the extent that, one or more performance goals are satisfied over the course of a performance period. During the applicable performance period, the Committee is authorized to reduce or eliminate (but not to increase) the amount of a bonus award otherwise payable to a participant. Notwithstanding the availability of bonus awards under the 2010 Plan, the Compensation Committee will retain authority to grant cash-based awards outside the 2010 Plan.

Performance-Based Compensation

Section 162(m) of the Internal Revenue Code denies a deduction to any publicly-held corporation for compensation paid to certain covered employees in a taxable year to the extent that compensation to such covered employee exceeds $1.0 million. Under current IRS interpretations, a covered employee is the chief executive officer of the Company and any other executive officer (other than the chief financial officer) who is among the three other most highly compensated officers employed by the Company at a year-end. Certain kinds of compensation, including qualified performance-based compensation, are disregarded for purposes of the deduction limitation.

In order to qualify as performance-based compensation for Section 162(m) purposes, awards under the 2010 Plan must satisfy certain requirements, including that the vesting and payment such awards must generally be conditioned upon the satisfaction over a specified performance period of pre-established performance goals set by the Committee. Stock options and stock appreciation rights granted under the 2010 Plan need not be conditioned upon the achievement of performance goals in order to constitute performance-based compensation for Section 162(m) purposes.

The 2010 Plan specifies that the pre-established performance goals set by the Committee must be based on one or more of the following financial or operational measures selected by the Committee: revenues; gross profit; income from operations; net income; earnings before income taxes; earnings before interest and taxes; earnings before interest, taxes, depreciation and amortization; earnings before interest, taxes, depreciation, amortization and share-based compensation expense; net income per share (basic or diluted); profitability as measured by return ratios (including, but not limited to, return on assets, return on equity, return on investment and return on revenues or gross profit) or by the degree to which any of the foregoing earnings measures exceed a percentage of revenues or gross profit; cash flow; market share; margins (including, but not limited to, one or more of gross, material, contribution, operating and net earnings margins); stock price; total stockholder return; asset quality; non-performing assets; revenue growth; cash flow per share; operating assets; balance of cash, cash equivalents and marketable securities; improvement in or attainment of expense levels or cost savings; economic value added; improvement in or attainment of working capital levels; employee retention; employee safety; customer satisfaction; and implementation or completion of critical projects.

Any performance goal utilized may be expressed in absolute amounts, on a per share basis, as a growth rate or change from preceding periods, or as a comparison to the performance of specified companies or other external measures, and may relate to one or any combination of corporate, subsidiary, business unit or individual performance. The Committee will define in an objective fashion the manner of calculating the performance goals based on the performance criteria it selects to use in any performance period, and will establish such performance goals within the time period prescribed by, and will otherwise comply with the requirements of, Section 162(m). In determining the actual amount to be paid with respect to an individual performance-based award for a performance period, the Committee may reduce (but not increase) the amount that would otherwise be payable as a result of satisfying the applicable performance goals.

Approval of the 2010 Plan at the Annual Meeting will be deemed to include, among other things, the performance criteria upon which awards intended to be performance-based compensation under Section 162(m) may be made, and the qualification of options and stock appreciation rights granted under the 2010 Plan as performance-based compensation for purposes of Section 162(m).

Acceleration of Awards, Lapse of Restrictions, Termination of Employment, Forfeiture

The Committee may provide for accelerated vesting and exercisability of awards under the 2010 Plan and for the modification of performance periods applicable to such awards, and may adjust targets and payments applicable to performance-based awards, in the event of certain fundamental changes affecting the Company, the death of the participant or such other events as the Committee may determine.

In the event of the death or disability of a participant, options and stock appreciation rights that were not previously exercisable will become immediately exercisable in full if the participant was continuously employed by the Company and its affiliates between the date the options or stock appreciation rights were granted and the date of such disability, or, in the event of death, a date not more than three months prior to such death. If a participant s employment or other relationship with the Company, including service as a director, terminates for any reason other than death or disability or cause as described below, then any option or stock appreciation right that has not expired remains exercisable for three months after termination of the participant s employment or other relationship with the Company, but, unless otherwise provided in the agreement, only to the extent such option or stock appreciation right was exercisable prior to termination of such participant s employment or other relationship with the Company. No award may be exercised after its term has expired.

Unless otherwise provided in an agreement, if a participant s employment or other relationship with the Company and its affiliates terminates due to death or disability, the participant shall be entitled to receive (i) accelerate vesting of a number of shares of restricted stock under outstanding awards that has been prorated for the portion of the term of the award during which the participant was employed by the Company or its affiliates, and (ii) a payment with respect to performance units at the end of the performance period based upon the extent to which the performance targets were satisfied at the end of such period and prorated for the portion of the performance period during which the participant was employed by the Company or its affiliates.

Unless as otherwise provided in an agreement, no bonus award will be paid to a participant whose employment with the Company and its affiliates terminates before the end of the applicable performance period. The Compensation Committee, in its discretion, pay a participant (or his or her beneficiaries) a pro rata portion of the bonus award payment that the participant would have received but for the termination of the participant s employment.

Consistent with the forms of Non-Statutory Stock Option Agreement and Performance-Based Restricted Stock Unit Award Notice previously adopted by our Board of Directors under the 2004 Plan, the 2010 Plan incorporates a definition of cause in relation to termination of employment. Under the 2010 Plan, if a participant s employment or other relationship with the Company terminates for cause, all unexercised stock options and stock appreciation rights and all unvested portions of any other outstanding awards are immediately forfeited without consideration.

The Committee may condition a grant upon the participant s agreement that in the event of certain occurrences, which may include a participant s competition with, unauthorized disclosure of confidential information of, or violation of the applicable business ethics policy or business policy of the Company or any of its affiliates, the awards paid to the participant within six months prior to the termination of employment of the participant (or their economic value) may be subject to forfeiture at the Committee s option.

Fundamental Change

The 2010 Plan addresses the treatment of outstanding awards in the event of various transformative events, each of which is considered a fundamental change. The 2004 Plan authorizes, but does not obligate, the Compensation Committee to take certain protective measures for options and stock appreciation rights in the event of a proposed fundamental change, which is defined as a dissolution or liquidation of the Company, a sale of substantially all of its assets, a merger or consolidation involving the Company, or a statutory share exchange involving Company stock.

In the 2010 Plan, fundamental change generally includes any one of the following, unless otherwise provided in an award agreement:

- the consummation of a corporate transaction, subject to certain exceptions;
- any person or group becomes the beneficial owner of more than 50% of the combined voting power of the Company, subject to certain exceptions; or
- continuing directors cease to constitute a majority of the members of our Board of Directors.

For purposes of the 2010 Plan, corporate transaction means any dissolution or liquidation of the Company, sale of substantially all of its assets, merger or consolidation involving the Company, or statutory share exchange involving Company stock. Similarly, continuing director means an individual who is, as of the effective date of the corporate transaction, a director of the Company, or who becomes a director after the effective date and whose initial election, or nomination for election by the Company s shareholders, was approved by at least a majority of the then continuing directors, but excluding anyone whose initial assumption of office occurs as a result of an actual or threatened election contest solicitation of proxies or consents by a person other than our Board of Directors.

Upon the occurrence of a fundamental change that is a corporate transaction, the surviving entity may continue, assume or replace outstanding awards under the 2010 Plan. To the extent that outstanding awards are not continued, assumed or replaced, the Compensation Committee may provide that either (i) some or all outstanding stock options and stock appreciation rights will become fully exercisable for a period before the fundamental change and some or all full value awards will fully vest immediate prior to the fundamental change or (ii) some or all outstanding awards under the plan must be surrendered for payment. If awards are continued, assumed or replaced, the Committee is authorized to provide additional rights to award holders upon termination of employment during a period time after the occurrence of the fundamental change.

In connection with a fundamental change that does not involve a corporate transaction, the Committee may provide for one or more of the following: (i) that any award shall become vested and exercisable, in whole or in part, upon the occurrence of the fundamental change or upon the involuntary termination of the participant without cause within a specified period of time, (ii) that any stock option or stock appreciation right shall remain exercisable during all or some specified portion of its remaining term, or (iii) that awards must be surrendered in exchange for payments. Regardless of whether a fundamental change involves a corporate transaction, the 2010 Plan does not require the Compensation Committee to treat all awards similarly.

Adjustments, Modifications, Cancellations.

The 2010 Plan provides the Compensation Committee with the authority to provide for the modification of a performance period or an adjustment or waiver of the achievement of performance goals upon the occurrence of certain events, which may include a fundamental change, a recapitalization, a change in the accounting practices of the Company, or the participant s death or disability.

U.S. Federal Income Tax Considerations

The following is a summary of the principal U.S. federal income tax consequences generally applicable to awards under the 2010 Plan.

Restricted and Unrestricted Stock

Unless the participant files an election to be taxed under Section 83(b) of the Code, (a) the participant will not realize income upon the grant of restricted stock, (b) the participant will realize ordinary income and the Company will be entitled to a corresponding deduction when the restrictions have been removed or expire and (c) the amount of such ordinary income and deduction will be the fair market value of the restricted stock on the date the restrictions are removed or expire. If the recipient files an election to be taxed under Section 83(b) of the Code, the tax consequences to the participant and the Company will be determined as of the date of the grant of the restricted stock rather than as of the date of the removal or expiration of the restrictions.

With respect to awards of unrestricted stock, (a) the participant will realize ordinary income and the Company will be entitled to a corresponding deduction upon the grant of the unrestricted stock and (b) the amount of such ordinary income and deduction will be the fair market value of such unrestricted stock on the date of grant.

When the participant disposes of restricted or unrestricted stock, the difference between the amount received upon such disposition and the fair market value of such shares on the date the recipient realizes ordinary income will be treated as a capital gain or loss.

Incentive Stock Options

A participant will not realize any taxable income, and the Company will not be entitled to any related deduction, when any incentive stock option is granted under the 2010 Plan. If certain statutory employment and holding period conditions are satisfied before the participant disposes of shares acquired pursuant to the exercise of such an option, then no taxable income will result upon the exercise of such option and the Company will not be entitled to any deduction in connection with such exercise. Upon disposition of the shares after expiration of the statutory holding periods, any gain or loss a recipient realizes will be a capital gain or loss. The Company will not be entitled to a deduction with respect to a disposition of the shares by a participant after the expiration of the statutory holding periods.

Except in the event of death, if shares acquired upon the exercise of an incentive stock option are disposed of before the expiration of the statutory holding periods (a disqualifying disposition), the participant will be considered to have realized as compensation, taxable as ordinary income in the year of disposition, an amount, not exceeding the gain realized on such disposition, equal to the difference between the exercise price and the fair market value of the shares on the date of exercise of the option. The Company will be entitled to a deduction at the same time and in the same amount as the participant is deemed to have realized ordinary income.

Any gain realized on the disposition in excess of the amount treated as compensation or any loss realized on the disposition will constitute capital gain or loss, respectively. If the participant pays the option price with shares that were originally acquired pursuant to the exercise of an incentive stock option and the statutory holding periods for such shares have not been met, the participant will be treated as having made a disqualifying disposition of such shares and the tax consequences of such disqualifying disposition will be as described above.

The foregoing discussion applies only for regular tax purposes. For alternative minimum tax purposes an incentive stock option will be treated as if it were a non-statutory stock option, the tax consequences of which are discussed below.

Non-Statutory Stock Options

A participant will not realize any taxable income, and the Company will not be entitled to any related deduction, when any non-statutory stock option is granted under the 2010 Plan. When a participant exercises a non-statutory stock option, the participant will realize compensation taxable as ordinary income, and the Company will be entitled to a deduction, equal to the excess of the fair market value of the stock on the date of exercise over the option price. Upon disposition of the shares, any additional gain or loss the participant realizes will be a capital gain or loss.

Stock Appreciation Rights and Performance-Based Compensation

Generally (i) the participant will not realize income upon the grant of a stock appreciation right or performance unit award, (ii) the participant will realize compensation taxable as ordinary income, and the Company will be entitled to a corresponding deduction, when cash, shares of Common Stock or a combination of cash and shares are delivered to the participant upon exercise of a stock appreciation right or in payment of the performance unit award and (iii) the amount of such ordinary income and deduction will be the amount of cash received plus the fair market value of the shares of common stock received on the date they are received. The Federal income tax consequences of a disposition of unrestricted shares received by the participant upon exercise of a stock appreciation right or in payment of a performance unit award are the same as described above with respect to a disposition of unrestricted shares.

Limitations on Deferred Compensation

The foregoing discussion of tax consequences of awards under the 2010 Plan assumes that the award discussed is either not considered a deferred compensation arrangement subject to Section 409A of the Internal Revenue Code, or has been structured to comply with its requirements. If an award under the 2010 Plan is considered a deferred compensation arrangement subject to Section 409A but fails to comply, in operation or form, with the requirements of Section 409A, the affected participant would generally be required to include in income when the award vests the amount deemed deferred, would be required to pay an additional 20% income tax, and would be required to pay interest on the tax that would have been paid but for the deferral. The Committee intends to administer the 2010 Plan in a manner intended to comply with Section 409A. The 2010 Plan and any agreement thereunder may be unilaterally amended by the Company in any manner deemed necessary or advisable by the Compensation Committee or our Board of Directors in order to maintain such exemption from or compliance with Section 409A

Potential Limitation on Company Deductions

Section 162(m) of the Internal Revenue Code denies a deduction to any publicly-held corporation for compensation paid to certain covered employees in a taxable year to the extent that compensation to such covered employee exceeds $1.0 million, unless, among other exceptions, the compensation qualifies as performance-based compensation. The 2010 Plan is designed to be able to meet the requirements of Section 162(m), but awards other than stock options and stock appreciation rights granted under the 2010 Plan will only be treated as qualified performance-based compensation under Section 162(m) if the awards and the procedures associated with them comply with all other requirements of Section 162(m), including that the maximum amount of compensation a covered employee may receive is based on the satisfaction of pre-established performance goals.

Withholding

The 2010 Plan permits the Company to withhold from cash awards, and to require a participant receiving Common Stock under the 2010 Plan to pay the Company in cash, an amount sufficient to cover any required withholding taxes. In lieu of cash, the Compensation Committee may permit a participant to cover withholding obligations through a reduction in the number of shares delivered to such participant or a surrender to the Company of shares then owned by the participant.

New Plan Benefits

The Compensation Committee approved awards of performance-based restricted stock units for executive officers on June 2, 2010 and those awards are contingent upon shareholder approval of the 2010 Plan. Performance-based restricted stock units will be settled in shares of restricted stock if, and to the extent that, the applicable performance goals are satisfied during a performance period that corresponds to fiscal 2011. The actual number of restricted shares to be issued to each recipient will be determined after our final financial information becomes available for fiscal 2011, and the restricted shares will vest 100% two years after the last day of fiscal 2011. The other terms of the performance-based restricted stock unit awards are consistent with the terms of similar awards made in fiscal 2009 and 2010.

On June 2, 2010, the Compensation Committee also approved annual cash incentive payment opportunities for executive officers for fiscal 2011, all of which are contingent upon shareholder approval of the 2010 Plan. The Committee intends for the cash incentive payment opportunities to be bonus awards under the 2010 Plan and, correspondingly, qualified as performance-based compensation under Section 162(m) of the Internal Revenue Code. The annual cash incentive payment opportunities are based on corporate performance (as measured by income before taxes as compared to a targeted level of income before taxes for fiscal 2011) and, for executives in charge of business units, business unit performance (as measured by business unit profitability as compared to a targeted level of business unit profitability for fiscal 2011). The target annual cash incentive payment opportunities for executive officers are based on a percentage of base salary.

The following table summarizes the awards that were granted by our Compensation Committee and are conditioned upon shareholder approval of the 2010 Plan. Because future awards under the 2010 Plan will be granted at the discretion of the Compensation Committee, the amount of such future awards cannot be determined at this time.

Award Recipient(s)	**Bonus Award Dollar Value ($)(i)**	**Performance-Based Restricted Stock Unit Award(s) (Shares)(ii)**
John R. Hawkins *Chief Executive Officer*	204,000	14,820
Kathleen P. Pepski *Vice President, Chief Financial Officer and Treasurer*	76,800	5,579
Richard G. Erstad *Vice President, General Counsel and Secretary*	54,000	5,231
Keenan A. Paulson *Vice President Water Treatment Group*	75,200	5,463
John R. Sevenich *Vice President Industrial Group*	73,600	4,928
Executive officers as a group (8 individuals)	683,290	51,370

(i) Represents potential payments assuming actual performance equals target performance for fiscal 2011. Depending on actual performance, payments could range from zero to 200% of the dollar amounts shown. See Annual Non-Equity Incentive Compensation in the Compensation Discussion and Analysis above for historical corporate performance and business unit performance and targets.

(ii) Represents represent potential awards of shares of restricted stock under performance-based restricted stock unit awards assuming actual performance equals target performance for fiscal 2011. Payments are based on specified target levels of income before taxes. Depending on actual performance awards could range from zero to 150% of share amounts shown. See Equity Awards in the Compensation Discussion and Analysis for the performance targets applicable to the performance-based restricted stock units granted in previous fiscal years. Additional terms of the performance-based restricted stock units are described in Note (a) to the Outstanding Equity Awards table above.

If our shareholders do not approve this proposal, the Compensation Committee intends (i) to grant performance-based restricted stock units under the 2004 Plan to the extent shares are available and (ii) to revisit the annual cash incentive structure for our named executive officers for fiscal 2011, as appropriate. The Compensation Committee anticipates that any annual cash incentive program resulting from such a reevaluation would be reasonably consistent with the programs implemented in fiscal 2009 and 2010.

No awards granted by our Compensation Committee to our current directors who are not executive officers are conditioned upon shareholder approval of the 2010 Plan. If the 2010 Plan had been in effect during the last completed fiscal year, our non-employee directors would have received grants of restricted stock in the amounts and under the terms and conditions such awards were actually granted under the 2004 Plan for the same period. See Director Compensation for Fiscal 2010 above.

Amendment

Our Board of Directors will be authorized to terminate, suspend or modify the 2010 Plan and the Compensation Committee will be authorized to alter or amend any or all agreements under the 2010 Plan to the extent permitted by law. No termination, suspension or modification of the 2010 Plan will materially and adversely affect any right of any participant under an outstanding award without the consent of the participant. The Compensation Committee may not reprice an outstanding option or stock appreciation right unless such action is approved by our shareholders. Adjustments for changes in capitalization will be presumed not to materially and adversely affect any rights of any participant or to constitute a repricing.

Effective Date and Duration

If our shareholders approve this proposal at the Annual Meeting, the 2010 Plan will become effective as of July 28, 2010. The 2010 Plan, if approved, will expire ten years after shareholder approval of this proposal on July 28, 2020.

Voting Requirements, Recommendation

The affirmative vote of the holders of a majority of the outstanding shares of our common stock of the entitled to vote on this item and present in person or by proxy at the Annual Meeting is required for approval of this proposal, including the 2010 Plan and shares authorized for issuance under the 2010 Plan. Proxies solicited by our Board of Directors will be voted for approval of this proposal, unless otherwise specified.

THE BOARD RECOMMENDS THAT SHAREHOLDERS VOTE FOR PROPOSAL TWO

PROPOSAL THREE APPROVAL OF AMENDED AND RESTATED ARTICLES OF INCORPORATION

Our Board of Directors, as a part of its continuing review of corporate governance practices, and after careful consideration, has unanimously adopted and now recommends shareholder approval of this proposal to amend and restate our articles of incorporation. None of the proposed amendments would change our authorized capital stock, indemnification of officers and directors or limitation-of-liability provisions, and we believe that none of the amendments would adversely affect the rights of our shareholders.

The following summary of the proposed amendments may not contain all the information that is important to you. The complete text of the proposed amended and restated articles of incorporation, reflecting the amendments proposed in this proposal, is set forth in Appendix B. This summary is qualified by the text of the proposed amended and restated articles in Appendix B, which you are urged to read in its entirety.

Articles II, III and IV of our current articles of incorporation set forth the duration, purpose and powers of our company. The substance of these articles is presumed by the Minnesota Business Corporation Act (MBCA), which governs the company. Approval of this proposal would eliminate Articles II, III and IV from our articles of incorporation in favor of the default provisions of the MBCA, which provide for perpetual existence, a general business purpose and broad corporate powers.

Article VIII, Section 1, of our current articles of incorporation states that, until otherwise fixed by the By-laws, our Board of Directors consists of three members. Article II, Section 1, of our By-laws does not fix the number of directors but states that our Board of Directors must consist of not less than three nor more than eleven directors. Approval of this proposal would grant express authority for our Board of Directors to fix the number of directors in accordance with a range set forth in the By-laws, as reflected in Article V, Section 1, of the proposed amended and restated articles of incorporation. This express authority would harmonize the relationship between our articles of incorporation and our By-laws and would allow our Board of Directors to determine its size as may be necessary to accommodate vacancies and opportunities for expansion.

Under the default provisions of the MBCA, our Board of Directors is authorized to take action without a meeting only by a writing signed by all directors. Approval of this proposal would grant our Board of Directors authority to take action, other than an action that requires approval by our shareholders under the MBCA, by a writing signed, or consented to by authenticated electronic communication, by the number of directors that would be required to take the action at a meeting of the Board of Directors at which all directors were present, as reflected in Article V, Section 7, of the proposed amended and restated articles of incorporation.

Articles IX and XI of our current articles of incorporation set forth the names and addresses of our directors as of the previous amendment and the effect of the previous amendment, respectively. Because this historical information is no longer relevant, approval of this proposal would omit the information previously set forth in Articles IX and XI from our articles of incorporation.

Voting Requirements, Recommendation

The affirmative vote of the holders of a majority of the outstanding shares of our common stock of the entitled to vote on this item and present in person or by proxy at the Annual Meeting is required for approval of this proposal. Proxies solicited by our Board of Directors will be voted for approval of this proposal, unless otherwise specified.

THE BOARD RECOMMENDS THAT SHAREHOLDERS VOTE FOR PROPOSAL THREE

OTHER MATTERS

Our management does not know of any other business that will be presented for consideration at the Annual Meeting. If, however, any other business does properly come before the Annual Meeting, proxies will be voted in accordance with the judgment of the person or persons acting under them as to what is in the best interests of our Company.

INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

KPMG LLP, an independent registered public accounting firm, was retained by the Audit Committee in June 2009 auditor for fiscal 2010 and has been retained by the Audit Committee as our auditor for fiscal 2011.

Representatives of KPMG LLP are expected to attend the Annual Meeting and will have the opportunity to make a statement if they desire to do so. They are expected to be available to respond to appropriate questions.

PROPOSALS BY SHAREHOLDERS

In order for a shareholder proposal to be considered for inclusion in our proxy statement for next year s annual meeting of shareholders, the written proposal must be received by us at our principal executive office no later than February 16, 2011. Any such proposals also must comply with all applicable requirements of Minnesota law and the rules and regulations of the SEC regarding shareholder proposals. In order for any other shareholder proposal to be properly brought before next year s annual meeting of shareholders, we must receive a written notice at our principal executive office no later than, April 29, 2011, in conformance with our By-Laws. The persons named as proxies by us for that meeting will have discretionary authority to vote on any shareholder proposal for which such notice is not properly received by us and as otherwise permitted pursuant to the SEC s rules and regulations regarding the voting of proxies. Any director nominations made by shareholders also must comply with the relevant provisions set forth in Article II of our By-laws, as described under the Nominating Process section above. A copy of our By-laws has been filed with the SEC and is available on the SEC s website (www.sec.gov) or may be obtained by sending a written request to our Secretary at our executive offices.

FORM 10-K

Our Annual Report on Form 10-K for fiscal 2010, including financial statements, is being mailed with this Proxy Statement. Shareholders who wish to obtain an additional copy of our Annual Report on Form 10-K for fiscal 2010 may do so without charge by writing to: Hawkins, Inc., 3100 East Hennepin Avenue, Minneapolis, Minnesota 55413, Attention: Secretary. Our Annual Report on Form 10-K, as well as other Company reports, are also available on the SEC s website (www.sec.gov).

APPENDIX A

HAWKINS, INC.
2010 OMNIBUS INCENTIVE PLAN

1. *Purpose*. The purpose of the Hawkins, Inc. 2010 Omnibus Incentive Plan (the *Plan*) is to promote the interests of the Company and its shareholders by providing key personnel of the Company and its Affiliates with incentives, including an opportunity to acquire or increase their proprietary interest in the Company, to put forth maximum effort for the continued success and growth of the Company and its Affiliates and thereby reward them for achieving a high level of performance. In addition, the opportunity to receive such incentives and acquire a proprietary interest in the Company will aid in attracting and retaining key personnel of outstanding ability. The Plan is also intended to provide Outside Directors with an opportunity to acquire a proprietary interest in the Company, to compensate Outside Directors for their contribution to the Company and to aid in attracting and retaining Outside Directors.

2. *Definitions*.

2.1 The capitalized terms used elsewhere in the Plan have the meanings set forth below.

(a) *Affiliate* means any corporation that is a parent corporation or subsidiary corporation of the Company, as those terms are defined in Code Sections 424(e) and (f), or any successor provisions.

(b) *Agreement* means a written contract (i) consistent with the terms of the Plan entered into between the Company or an Affiliate and a Participant and (ii) containing the terms and conditions of an Award in such form and not inconsistent with the Plan as the Committee shall approve from time to time, together with all amendments thereto, which amendments may be unilaterally made by the Company (with the approval of the Committee) unless such amendments are deemed by the Committee to be materially adverse to the Participant and not required as a matter of law.

(c) *Award* or *Awards* means a grant made under the Plan in the form of Restricted Stock, Options, Stock Appreciation Rights, Performance Units, Stock or any other stock-based award.

(d) *Board* means the Board of Directors of the Company.

(e) *Bonus Award* means an award granted pursuant to Section 12.

(f) *Cause* means what the term is expressly defined to mean in a then-effective employment agreement between the Participant and the Company, or in the absence of any such then-effective agreement or definition, it means:

(i) the Participant s commission of any act constituting a felony, or the Participant s conviction or guilty or no contest plea to any criminal misdemeanor or more serious act;

(ii) gross misconduct or any act of fraud, disloyalty or dishonesty by the Participant related to or connected with the Participant s employment by the Company or any of its Subsidiaries or otherwise likely to cause material harm to the Company or its reputation;

(iii) a material violation by the Participant of the Company s policies or codes of conduct; and

(iv) the willful or material breach by the Participant of any agreement between the Participant and the Company.

(g) *Code* means the Internal Revenue Code of 1986, as amended and in effect from time to time or any successor statute.

(h) *Committee* means two or more Non-Employee Directors designated by the Board to administer the Plan under Section 3.1 of the Plan and constituted so as to permit grants thereby to comply with Exchange Act Rule 16b-3 and Code Section 162(m).

(i) *Company* means Hawkins, Inc., a Minnesota corporation, or any successor to all or substantially all of its businesses by merger, consolidation, purchase of assets or otherwise.

(j) *Continuing Director* means an individual (A) who is, as of the Effective Date, a director of the Company, or (B) who becomes a director of the Company after the effective date hereof and whose initial election, or nomination for election by the Company s stockholders, was approved by at least a majority of the then Continuing Directors, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a person other than the Board.

(k) *Corporate Transaction* means a dissolution or liquidation of the Company, a sale of substantially all of the assets of the Company, a merger or consolidation of the Company with or into any other corporation, regardless of whether the Company is the surviving corporation, or a statutory share exchange involving capital stock of the Company.

(l) *Effective Date* means the date specified in Section 13.1 of the Plan.

(m) *Employee* means an employee (including an officer or director who is also an employee) of the Company or an Affiliate.

(n) *Exchange Act* means the Securities Exchange Act of 1934, as amended and in effect from time to time or any successor statute.

(o) *Exchange Act Rule 16b-3* means Rule 16b-3 promulgated by the Securities and Exchange Commission under the Exchange Act, as now in force and in effect from time to time or any successor regulation.

(p) *Fair Market Value* means the fair market value of a Share determined as follows, subject to adjustment as provided in Section 17 of the Plan:

(i) If the Shares are readily tradable on an established securities market (as determined under Code Section 409A), then Fair Market Value will be the closing sales price for a Share on the principal securities market on which it trades on the date for which it is being determined, or if no sale of Shares occurred on that date, on the next preceding date on which a sale of Shares occurred, as reported in The Wall Street Journal or such other source as the Committee deems reliable; or

(ii) If the Shares are not then readily tradable on an established securities market (as determined under Code Section 409A), then Fair Market Value will be determined by the Committee as the result of a reasonable application of a reasonable valuation method that satisfies the requirements of Code Section 409A.

(q) *Full Value Award* means an Award other than an Option, Stock Appreciation Right or Bonus Award.

(r) *Fundamental Change* means, unless otherwise provided in an Agreement, one of the following:

(i) the consummation of a Corporate Transaction unless, immediately following such Corporate Transaction, all or substantially all of the persons who were the beneficial owners of Company voting securities immediately prior to such Corporate Transaction beneficially own, directly or indirectly, more than 50% of the combined voting power of the then outstanding Voting Securities (or comparable equity interests) of the surviving or acquiring entity (or its parent) resulting from such Corporate Transaction in substantially the same proportions as their ownership of Company voting securities immediately prior to such Corporate Transaction; or

(ii) any person or group, other than (i) one or more Subsidiaries, or (ii) any employee benefit plan (or related trust) sponsored or maintained by the Company or any Affiliate, becomes the beneficial owner of equity securities of the Company representing more than 50% of the combined voting power of the then outstanding Voting Securities, except that (A) any acquisition of Company equity securities directly from the Company for the purpose of providing financing to the Company, any formation of a group consisting solely of beneficial owners of the Company s Voting Securities as of the Effective Date, or any repurchase or other acquisition by the Company of its equity securities that causes any person to become the beneficial owner of more than 50% of the combined voting power of the Voting Securities, will not be considered a Fundamental Change unless and until, in either case, such person acquires beneficial ownership of additional Voting Securities after the Person

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initially became the beneficial owner of more than 50% of the combined voting power of the Voting Securities by one of the means described in this clause (A); and (B) a Fundamental Change will occur if a person or group becomes the beneficial owner of more than 50% of the Voting Securities as the result of a Corporate Transaction only if the Corporate Transaction is itself a Fundamental Change pursuant to subsection 2.1(r)(i); or

(iii) individuals who are Continuing Directors cease for any reason to constitute a majority of the members of the Board.

Notwithstanding the foregoing, to the extent that any Award constitutes a deferral of compensation subject to Code Section 409A, and if that Award provides for a change in the time or form of payment upon a Fundamental Change, then no Fundamental Change shall be deemed to have occurred upon an event described in this Section 2.1(r) unless the event would also constitute a change in ownership or effective control of, or a change in the ownership of a substantial portion of the assets of, the Company under Code Section 409A.

(s) *Incentive Stock Option* means any Option designated as such and granted in accordance with the requirements of Code Section 422 or any successor provision.

(t) *Insider* as of a particular date means any person who, as of that date, is an officer of the Company as defined under Exchange Act Rule 16a-1(f) or its successor provision.

(u) *Non-Employee Director* means a member of the Board who is considered (i) a non-employee director within the meaning of Exchange Act Rule 16b-3(b)(3) or its successor provision, (ii) an independent director within the meaning of the applicable rules of principal securities market on which the Shares are readily tradable and (iii) an outside director for purposes of Code Section 162(m).

(v) *Non-Statutory Stock Option* means an Option other than an Incentive Stock Option.

(w) *Option* means a right to purchase Stock, including both Non-Statutory Stock Options and Incentive Stock Options.

(x) *Outside Director* means a director who is not an Employee.

(y) *Participant* means a person or entity to whom an Award is or has been made in accordance with the Plan.

(z) *Performance-Based Compensation* means an Award or Bonus Award to a person who is, or is determined by the Committee to likely become, a covered employee (as defined in Code Section 162(m)(3)) and that is intended to constitute performance-based compensation within the meaning of Section 162(m)(4)(C) of the Code.

(aa) *Performance Period* means the period of time as specified in an Agreement over which a Performance Unit Award or other Award or Bonus Award whose vesting or payment is subject to the satisfaction of a performance condition is to be earned.

(bb) Performance Targets means the performance measures that are used by the Committee in granting Awards or Bonus Awards whose vesting or payment is contingent upon achievement of one or more performance goals based on such performance measures over a specified Performance Period. For any Award or Bonus Award intended to constitute Performance-Based Compensation, Performance Targets means one or more of the following financial or operational measures established by the Committee: revenues; gross profit; income from operations; net income; earnings before income taxes; earnings before interest and taxes; earnings before interest, taxes, depreciation and amortization; earnings before interest, taxes, depreciation, amortization and share-based compensation expense; net income per share (basic or diluted); profitability as measured by return ratios (including, but not limited to, return on assets, return on equity, return on investment and return on revenues or gross profit) or by the degree to which any of the foregoing earnings measures exceed a percentage of revenues or gross profit; cash flow; market share; margins (including, but not limited to, one or more of gross, material, contribution, operating and net earnings margins); stock price; total stockholder return; asset quality; non-performing assets; revenue growth; cash flow per share; operating assets; balance of cash, cash equivalents and marketable securities; improvement in or attainment of expense levels or cost savings; economic value added; improvement in or attainment of working capital levels; employee retention; employee safety; customer satisfaction; and implementation or completion of critical projects. Any performance goal utilized may be expressed in

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absolute amounts, on a per share basis, as a growth rate or change from preceding periods, or as a comparison to the performance of specified companies or other external measures, and may relate to one or any combination of corporate, group, unit, division, Affiliate or individual performance.

(cc) *Performance Units* means an Award made pursuant to Section 11 of the Plan.

(dd) *Plan* means this Hawkins, Inc. 2010 Omnibus Incentive Plan, as may be amended and in effect from time to time.

(ee) *Prior Plan* means the Hawkins, Inc. 2004 Omnibus Stock Plan.

(ff) *Restricted Stock* means Stock granted under Section 7 of the Plan so long as such Stock remains subject to one or more restrictions.

(gg) *Section 16* or *Section 16(b)* means Section 16 or Section 16(b), respectively, of the Exchange Act or any successor statute and the rules and regulations promulgated thereunder as in effect and as amended from time to time.

(hh) *Share* means a share of Stock.

(ii) *Stock* means the common stock, par value $.05 per share, of the Company.

(jj) *Stock Appreciation Right* means a right, the value of which is determined in relation to the appreciation in value of Shares, pursuant to an Award granted under Section 10 of the Plan.

(kk) *Subsidiary* means a subsidiary corporation, as that term is defined in Code Section 424(f) or any successor provision.

(ll) *Successor* with respect to a Participant means the legal representative of an incompetent Participant, and if the Participant is deceased, the estate of the Participant or the person or persons who may, by bequest or inheritance, or pursuant to the terms of an Award, acquire the right to exercise an Option or Stock Appreciation Right or to receive cash and/or Shares issuable in satisfaction of an Award in the event of the Participant s death.

(mm) *Term* means, with respect to any Award, the period beginning on the date of the Award and continuing through the period during which an Option or Stock Appreciation Right may be exercised or the period during which the restrictions or terms and conditions placed on Restricted Stock or any other Award are in effect.

(nn) *Transferee* means any member of the Participant s immediate family (*i.e.*, his or her children, step-children, grandchildren and spouse) or one or more trusts for the benefit of such family members or partnerships in which such family members are the only partners.

(oo) *Voting Securities* means, with respect to any company, the company s outstanding securities entitled to vote generally in the election of directors.

2.2 *Gender and Number*. Except when otherwise indicated by the context, reference to the masculine gender shall include, when used, the feminine gender and any term used in the singular shall also include the plural.

3. *Administration and Indemnification*.

3.1 *Administration*.

(a) The Committee shall administer the Plan. The Committee shall have exclusive power to (i) make Awards and Bonus Awards, (ii) determine when and to whom Awards and Bonus Awards will be granted, the form of each Award, the amount of each Award and Bonus Award, and any other terms or conditions of each Award or Bonus Award consistent with the Plan, and (iii) determine whether, to what extent and under what circumstances, Awards may be settled, paid or exercised in cash, Shares or other Awards, or other property or canceled, forfeited or suspended. Each Award shall be subject to an Agreement authorized by the Committee. A majority of the members of the Committee shall constitute a quorum for any meeting of the Committee, and acts of a majority of the members present at any meeting at which a quorum is present or the acts unanimously approved in writing by all members of the Committee shall be the acts of the Committee. Notwithstanding the foregoing, (A) the Board shall have the sole and exclusive power to administer the Plan with respect to Awards granted to Outside Directors, and (B) the

Board may, at any time and from time to time, without any further action of the Committee, exercise the powers and duties of the Committee under the Plan except to the extent that the grant or exercise of such authority would cause any Award, Bonus Award or transaction to fail to qualify as performance-based compensation for purposes of Code Section 162(m). To the extent that any permitted action taken by the Board conflicts with action taken by the Committee, the Board action will control.

(b) Solely for purposes of determining and administering Awards and Bonus Awards to Participants who are not Insiders, the Committee may delegate all or any portion of its authority under the Plan to one or more persons who are not Non-Employee Directors to the extent permitted by applicable law.

(c) To the extent within its discretion and subject to Sections 16 and 17 of the Plan, the Committee may amend the terms and conditions of any outstanding Award or Bonus Award. Notwithstanding the foregoing, except for adjustments pursuant to Section 17 of the Plan, the Committee shall not reprice any Options or Stock Appreciation Rights unless such action is approved by the Company s shareholders. For purposes of the Plan, the term reprice shall mean the reduction, directly or indirectly, in the per-share exercise price of an Option or Stock Appreciation Right issued under the Plan by amendment, cancellation, exchange, repurchase or substitution.

(d) The Plan and all Awards granted pursuant to it shall be administered by the Committee to permit the Plan and Awards to comply with Exchange Act Rule 16b-3, except in such instances as the Committee, in its discretion, may so provide. If any provision of the Plan or of any Award would otherwise frustrate or conflict with the intent expressed in this Section 3.1(d), that provision to the extent possible shall be interpreted and deemed amended in the manner determined by the Committee so as to avoid the conflict. To the extent of any remaining irreconcilable conflict with this intent, the provision shall be deemed void as applicable to Insiders to the extent permitted by law and in the manner deemed advisable by the Committee.

(e) The Committee s interpretation of the Plan and of any Award, Bonus Award or Agreement made under the Plan and all related decisions or resolutions of the Board or Committee shall be final and binding on all parties with an interest therein. Consistent with its terms, the Committee shall have the power to establish, amend or waive regulations to administer the Plan. In carrying out any of its responsibilities, the Committee shall have discretionary authority to construe the terms of the Plan and any Award, Bonus Award or Agreement made under the Plan.

3.2 *Indemnification*. Each person who is or shall have been a member of the Committee, or of the Board, and any other person to whom the Committee delegates authority under the Plan, shall be indemnified and held harmless by the Company, to the extent permitted by law, against and from any loss, cost, liability or expense that may be imposed upon or reasonably incurred by such person in connection with or resulting from any claim, action, suit or proceeding to which such person may be a party or in which such person may be involved by reason of any action taken or failure to act, made in good faith, under the Plan and against and from any and all amounts paid by such person in settlement thereof, with the Company s approval, or paid by such person in satisfaction of any judgment in any such action, suit or proceeding against such person, provided such person shall give the Company an opportunity, at the Company s expense, to handle and defend the same before such person undertakes to handle and defend it on such person s own behalf. The foregoing right of indemnification shall not be exclusive of any other rights of indemnification to which such person or persons may be entitled under the Company s Articles of Incorporation or By-laws, as a matter of law, or otherwise, or any power that the Company may have to indemnify them or hold them harmless.

4. *Shares Available Under the Plan*.

(a) Subject to Section 4(b) and to adjustment as provided in Section 17, the number of Shares available for distribution under all Awards under the Plan shall not exceed 1,000,000, plus any Shares remaining available for future grants under the Prior Plan on the Effective Date. All such Shares may be the subject of Incentive Stock Option Awards.

(b) Any Shares subject to an Award under the Plan, or to an award granted under the Prior Plan that is outstanding on the Effective Date (a Prior Plan Award), that lapses, expires, is forfeited (including issued Shares forfeited under a Restricted Stock Award) or for any reason is terminated unexercised or unvested or is settled or paid in cash or any form or property other than Shares shall, to the extent of such lapse, expiration, forfeiture or settlement other than in Shares, automatically again become available for issuance under the Plan and correspondingly increase the total number of Shares available for issuance under Section 4(a). Notwithstanding anything to the contrary in this Section 4(b), the following Shares will not again become available for issuance under the Plan: (i) any Shares which would have been issued upon any exercise of an Option but for the fact that the exercise price was paid by a net exercise as provided in Section 9.1(b) of the Plan or a comparable provision of the Prior Plan, or any Shares already owned by a Participant that are delivered (either actually or by attestation) in payment of an Option exercise price as provided in Section 9.1(b)of the Plan or a comparable provision of the Prior Plan; (ii) any Shares withheld by the Company or already owned Shares delivered (either actually or by attestation) by a Participant to satisfy any tax withholding obligation with respect to an Award or a Prior Plan Award; (iii) Shares covered by a stock appreciation right issued under the Plan or the Prior Plan that are not issued in connection with the stock settlement of the stock appreciation right upon its exercise; or (iv) Shares that are repurchased by the Company using exercise proceeds from an Option granted under the Plan or the Prior Plan.

(c) For the purposes of computing the total number of Shares granted under the Plan, the following rules shall apply to Awards payable in Shares where appropriate:

(i) each Option shall be deemed to be the equivalent of the maximum number of Shares that may be issued upon exercise of the particular Option;

(ii) an Award (other than an Option) payable in some other security shall be deemed to be equal to the number of Shares to which it relates;

(iii) where the number of Shares available under the Award is variable on the date it is granted, the number of Shares shall be deemed to be the maximum number of Shares that could be received under that particular Award until the Award is actually settled and the number of Shares is determined;

(iv) where two or more types of Awards (all of which are payable in Shares) are granted to a Participant in tandem with each other, such that the exercise of one type of Award with respect to a number of Shares cancels at least an equal number of Shares of the other, each such joint Award shall be deemed to be the equivalent of the maximum number of Shares available under the largest single Award; and

(v) Awards granted pursuant to Section 20, whether or not payable in Shares or any other security, shall not be counted.

Additional rules for determining the number of Shares granted under the Plan may be made by the Committee as it deems necessary or desirable.

(d) No fractional Shares may be issued under the Plan; however, cash shall be paid in lieu of any fractional Share in settlement of an Award.

(e) The maximum number of Shares that may be awarded to a Participant in any calendar year in the form of Options is 100,000 and the maximum number of Shares that may be awarded to a Participant in any calendar year in the form of Stock Appreciation Rights is 100,000.

(f) If a company acquired by the Company or any Subsidiary or with which the Company or any Subsidiary combines has shares available under a pre-existing plan approved by stockholders and not adopted in contemplation of such acquisition or combination, the shares available for grant pursuant to the terms of such pre-existing plan (as adjusted, to the extent appropriate, using the exchange ratio or other adjustment or valuation ratio or formula used in such acquisition or combination to determine the consideration payable to the holders of common stock of the entities party to such acquisition or combination) may be used for Awards under the Plan and shall not reduce the Shares authorized for grant under the Plan. Awards using such available shares shall not be made after the date awards or grants could have been made under the terms of the pre-existing plan, absent the acquisition or combination, and shall only be made to individuals who were not Employees or Outside Directors prior to such acquisition or combination.

5. *Eligibility*. Participation in the Plan shall be limited to Employees and to individuals or entities who are not Employees but who provide services to the Company or an Affiliate, including services provided in the capacity of a consultant, advisor or director. The granting of Awards and Bonus Awards is solely at the discretion of the Committee, except that Incentive Stock Options and Bonus Awards may only be granted to Employees. References herein to employed, employment or similar terms (except Employee) shall include the providing of services

in any capacity or as a director. Neither the transfer of employment of a Participant between any of the Company or its Affiliates, nor a leave of absence granted to such Participant and approved by the Committee, shall be deemed a termination of employment for purposes of the Plan.

6. *General Terms of Awards*.

6.1 *Amount of Award*. Each Agreement shall set forth the number of Shares of Restricted Stock, Stock or Performance Units subject to the Agreement, or the number of Shares to which the Option subject to the Agreement applies or with respect to which payment upon the exercise of the Stock Appreciation Right subject to the Agreement is to be determined, as the case may be, together with such other terms and conditions applicable to the Award as determined by the Committee acting in its sole discretion.

6.2 *Term*. Each Agreement, other than those relating solely to Awards of Shares without restrictions, shall set forth the Term of the Option, Stock Appreciation Right, Restricted Stock or other Award and the Performance Period applicable to the Award, as the case may be. Acceleration of the expiration of the applicable Term is permitted, upon such terms and conditions as shall be set forth in the Agreement, which may, but need not, include, without limitation, acceleration in the event of the Participant s death or retirement. Acceleration of the Performance Period of the Performance Units will be subject to Section 11 of the Plan.

6.3 *Transferability*. Except as provided in this Section, during the lifetime of a Participant to whom an Award is granted, only that Participant (or that Participant s legal representative) may exercise an Option or Stock Appreciation Right, or receive payment with respect to Performance Units or any other Award. No Award of Restricted Stock (before the expiration of the restrictions), Options, Stock Appreciation Rights, Performance Units or other Award (excluding Stock without restrictions) may be sold, assigned, transferred, exchanged or otherwise encumbered other than to a Successor in the event of a Participant s death; any attempted transfer in violation of this Section 6.3 shall be of no effect. Notwithstanding the immediately preceding sentence, the Committee, in an Agreement or otherwise at its discretion, may provide that the Award (other than Incentive Stock Options) may be transferable to a Transferee (i) if the Participant does not receive any consideration for the transfer or (ii) pursuant to a qualified domestic relations order as defined in the Code or Title 1 of the Employee Retirement Income Security Act of 1974, as amended, or the rules thereunder. Any Award held by a Transferee shall continue to be subject to the same terms and conditions that were applicable to that Award immediately before the transfer thereof to the Transferee. For purposes of any provision of the Plan relating to notice to a Participant or to acceleration or termination of an Award upon the death, disability or termination of employment of a Participant, the references to Participant shall mean the original grantee of an Award and not any Transferee.

6.4 *Termination of Employment*. Except as otherwise determined by the Committee or provided by the Committee in an Agreement, in case of a Participant s termination of employment, the following provisions shall apply:

(a) *Options and Stock Appreciation Rights*.

(i) If a Participant s employment or other relationship with the Company and its Affiliates terminates because of the Participant s death, then any Option or Stock Appreciation Right that has not expired or been terminated shall become exercisable in full if the Participant s employment or other relationship with the Company and its Affiliates has been continuous between the date the Option or Stock Appreciation Right was granted and a date not more than three months prior to such death, and may be exercised by the Participant s Successor at any time, or from time to time, within one year after the date of the Participant s death.

(ii) If a Participant s employment or other relationship with the Company and its Affiliates terminates because the Participant is disabled (within the meaning of Section 22(e)(3) of the Code), then any Option or Stock Appreciation Right that has not expired or been terminated shall become exercisable in full if the Participant s employment or other relationship with the Company and its Affiliates has been continuous between the date the Option or Stock Appreciation Right was granted and the date of such disability, and the Participant or the Participant s Successor may exercise such Option or Stock Appreciation Right at any time, or from time to time, within one year after the date of the Participant s disability.

(iii) If a Participant s employment or other relationship with the Company and its Affiliates terminates for Cause, all unexercised Options and Stock Appreciation Rights and all unvested portions of any other outstanding Awards shall be immediately forfeited without consideration.

(iv) If a Participant s employment or other relationship with the Company and its Affiliates terminates for any reason other than death, disability or Cause, then any Option or Stock Appreciation Right that has not expired or been terminated shall remain exercisable for three months after termination of the Participant s employment or other relationship with the Company and its Affiliates, whichever occurs later, but, unless otherwise provided in the Agreement, only to the extent that such Option or Stock Appreciation Right was exercisable immediately prior to such Participant s termination of employment or other relationship with the Company and its Affiliates.

(v) Notwithstanding Sections 6.4(a)(i), (ii) and (iv) of the Plan, in no event shall an Option or a Stock Appreciation Right be exercisable after the expiration of the Term of such Award. Any Option or Stock Appreciation Right that is not exercised within the periods set forth in Sections 6.4(i), (ii) and (iv) of the Plan, except as otherwise provided by the Committee in the Agreement, shall terminate as of the end of the periods described in such Sections.

(b) *Performance Units*. If a Participant s employment or other relationship with the Company and its Affiliates terminates during a Performance Period because of death or disability, or under other circumstances provided by the Committee in its discretion in the Agreement or otherwise, the Participant, unless the Committee shall otherwise provide in the Agreement, shall be entitled to a payment with respect to the Performance Units at the end of the Performance Period based upon the extent to which achievement of performance targets was satisfied at the end of such period (as determined at the end of the Performance Period) and prorated for the portion of the Performance Period during which the Participant was employed by the Company or its Affiliates. Except as provided in this Section 6.4(b) or in the Agreement, if a Participant s employment or other relationship with the Company and its Affiliates terminates during a Performance Period, then such Participant shall not be entitled to any payment with respect to that Performance Period.

(c) *Restricted Stock Awards*. Unless otherwise provided in the Agreement, in case of a Participant s death or disability, the Participant shall be entitled to receive a number of Shares of Restricted Stock under outstanding Awards that has been prorated for the portion of the Term of the Awards during which the Participant was employed by the Company and its Affiliates, and, with respect to such Shares, all restrictions shall lapse. Any Shares of Restricted Stock as to which restrictions do not lapse under the preceding sentence shall terminate at the date of the Participant s termination of employment and such Shares of Restricted Stock shall be forfeited to the Company.

6.5 *Rights as Shareholder*. Each Agreement shall provide that a Participant shall have no rights as a shareholder with respect to any securities covered by an Award unless and until the date the Participant becomes the holder of record of the Stock, if any, to which the Award relates.

6.6 *Minimum Vesting Periods*. Except as otherwise provided in this Section 6.6, (i) Full Value Awards that will or may be settled in Shares and that vest solely as a result of the passage of time and continued service by the Participant shall be subject to a vesting period of not less than three years from the date of grant of the applicable Award (but permitting pro rata vesting over such time); and (ii) Full Value Awards that will or may be settled in Shares and whose vesting is subject to the achievement of specified Performance Targets over a Performance Period shall be subject to a Performance Period of not less than one year. The minimum vesting periods specified in clauses (i) and (ii) of the preceding sentence shall not apply: (A) to Awards made in payment of earned performance-based Awards, Bonus Awards and other earned cash-based incentive compensation; (B) to a termination of employment due to death, disability or retirement; (C) upon a Fundamental Change; (D) to an Award made pursuant to Section 19 that does not reduce the vesting period of the award being replaced; (E) to an Award made to a Non-Employee Director; or (F) to Awards involving an aggregate number of Shares not in excess of 5% of the number of shares available for Awards under Section 4(a).

6.7. *Performance-Based Awards.* Any Award may be granted as a performance-based Award if the Committee establishes one or more performance goals based on Performance Targets which must be attained, and the Performance Period over which the specified performance is to be attained, as a condition to the vesting, exercisability, lapse of restrictions and/or settlement in cash or Shares of such Award. Any performance-based Award, including Performance Units, that is intended by the Committee to qualify as Performance-Based

Compensation shall additionally be subject to the requirements of Section 28 of this Plan. Except as provided in Section 28 with respect to Performance-Based Compensation, the Committee shall also have the authority to provide, in an Agreement or otherwise, for the modification of a Performance Period and/or an adjustment or waiver of the achievement of performance goals upon the occurrence of certain events, which may include a Fundamental Change, a recapitalization, a change in the accounting practices of the Company, or the Participant s death or disability.

7. *Restricted Stock Awards*.

(a) An Award of Restricted Stock under the Plan shall consist of Shares subject to restrictions on transfer and conditions of forfeiture, which restrictions and conditions shall be included in the applicable Agreement. The Committee may provide for the lapse or waiver of any such restriction or condition based on such factors or criteria as the Committee, in its sole discretion, may determine.

(b) Except as otherwise provided in the applicable Agreement, each Stock certificate issued with respect to an Award of Restricted Stock shall either be deposited with the Company or its designee, together with an assignment separate from the certificate, in blank, signed by the Participant, or bear such legends with respect to the restricted nature of the Restricted Stock evidenced thereby as shall be provided for in the applicable Agreement.

(c) The Agreement shall describe the terms and conditions by which the restrictions and conditions of forfeiture upon awarded Restricted Stock shall lapse. Upon the lapse of the restrictions and conditions, Shares free of restrictive legends, if any, relating to such restrictions shall be issued to the Participant or a Successor or Transferee.

(d) A Participant or a Transferee with a Restricted Stock Award shall have all the other rights of a shareholder including, but not limited to, the right to receive dividends and the right to vote the Shares of Restricted Stock. Unless the Committee determines otherwise in the Agreement evidencing the Restricted Stock Award or at any time after the grant of the Restricted Stock Award, any dividends or distributions (other than regular quarterly cash dividends in the case of Restricted Stock Awards that are subject only to service-based vesting conditions) paid with respect to unvested Shares will be subject to the same restrictions on transfer and conditions of forfeiture as the Shares to which such dividends or distributions relate.

8. *Other Stock-Based Awards*. The Committee may from time to time grant Stock and other Awards under the Plan including, without limitation, those Awards pursuant to which Shares are or may in the future be acquired, Awards denominated in Stock units, securities convertible into Stock and phantom securities. The Committee, in its sole discretion, shall determine the terms and conditions of such Awards provided that such Awards shall not be inconsistent with the terms and purposes of the Plan. The Committee may, at its sole discretion, direct the Company to issue Shares subject to restrictive legends and/or stop transfer instructions that are consistent with the terms and conditions of the Award to which the Shares relate.

9. *Stock Options*.

9.1 *Terms of All Options*.

(a) An Option shall be granted pursuant to an Agreement as either an Incentive Stock Option or a Non-Statutory Stock Option. The purchase price of each Share subject to an Option shall be determined by the Committee and set forth in the Agreement; provided, however, that except with respect to Option Awards made pursuant to Section 20, such purchase price shall not be less than 100% of the Fair Market Value of a Share as of the date such Option is granted.

(b) The purchase price of the Shares with respect to which an Option is exercised shall be payable in full at the time of exercise, provided that to the extent permitted by law, the Agreement may permit some or all Participants to simultaneously exercise Options and sell the Shares thereby acquired pursuant to a brokerage or similar relationship and use the proceeds from the sale as payment of the purchase price of the Shares. The purchase price may be payable in cash, or in such other manner as the Committee may permit, including by withholding Shares otherwise issuable to the Participant upon exercise of the Option or by delivery to the Company of Shares (by actual delivery or attestation) already owned by the Participant (in each case, such Shares having a Fair Market Value as of the date the Option is exercised equal to the purchase price of the Shares being purchased), or a combination thereof, as determined by the Committee, but no fractional Shares will be issued or accepted. Notwithstanding the foregoing, a

Participant exercising an Option shall not be permitted to pay any portion of the purchase price with Shares if, in the opinion of the Committee, payment in such manner could have adverse financial accounting consequences for the Company.

(c) Each Option shall be exercisable in whole or in part on the terms provided in the Agreement. In no event shall any Option be exercisable at any time after the expiration of its Term. When an Option is no longer exercisable, it shall be deemed to have lapsed or terminated.

9.2 *Incentive Stock Options*. In addition to the other terms and conditions applicable to all Options:

(a) the aggregate Fair Market Value (determined as of the date the Option is granted) of the Shares with respect to which Incentive Stock Options held by an individual first become exercisable in any calendar year (under the Plan and all other incentive stock option plans of the Company and its Affiliates) shall not exceed $100,000 (or such other limit as may be required by the Code) if this limitation is necessary to qualify the Option as an Incentive Stock Option and to the extent any Option granted to a Participant exceeds this limit the Option shall be treated as a Non-Statutory Stock Option;

(b) an Incentive Stock Option shall not be exercisable more than 10 years after the date of grant (or such other limit as may be required by the Code) if this limitation is necessary to qualify the Option as an Incentive Stock Option;

(c) the Agreement covering an Incentive Stock Option shall contain such other terms and provisions that the Committee determines necessary to qualify the Option as an Incentive Stock Option; and

(d) notwithstanding any other provision of the Plan to the contrary, no Participant may receive an Incentive Stock Option under the Plan if, at the time the Award is granted, the Participant owns (after application of the rules contained in Code Section 424(d), or its successor provision), Shares possessing more than 10% of the total combined voting power of all classes of stock of the Company or its Subsidiaries, unless (i) the option price for that Incentive Stock Option is at least 110% of the Fair Market Value of the Shares subject to that Incentive Stock Option on the date of grant and (ii) that Option is not exercisable after the date five years from the date that Incentive Stock Option is granted.

10. *Stock Appreciation Rights*. An Award of a Stock Appreciation Right shall entitle the Participant (or a Successor or Transferee), subject to terms and conditions determined by the Committee, to receive upon exercise of the Stock Appreciation Right all or a portion of the excess of (i) the Fair Market Value of a specified number of Shares as of the date of exercise of the Stock Appreciation Right over (ii) a specified price that shall not be less than 100% of the Fair Market Value of such Shares as of the date of grant of the Stock Appreciation Right (except with respect to Stock Appreciation Rights Awards made pursuant to Section 20). A Stock Appreciation Right may be granted in connection with part or all of, in addition to, or completely independent of an Option or any other Award under the Plan. If issued in connection with a previously or contemporaneously granted Option, the Committee may impose a condition that exercise of a Stock Appreciation Right cancels a pro rata portion of the Option with which it is connected and vice versa. Each Stock Appreciation Right may be exercisable in whole or in part on the terms provided in the Agreement. No Stock Appreciation Right shall be exercisable at any time after the expiration of its Term. When a Stock Appreciation Right is no longer exercisable, it shall be deemed to have lapsed or terminated. Upon exercise of a Stock Appreciation Right, payment to the Participant or a Successor or Transferee shall be made at such time or times as shall be provided in the Agreement in the form of cash, Shares or a combination of cash and Shares as determined by the Committee. The Agreement may provide for a limitation upon the amount or percentage of the total appreciation on which payment (whether in cash and/or Shares) may be made in the event of the exercise of a Stock Appreciation Right.

11. *Performance Units*. An Award of Performance Units under the Plan shall entitle the Participant (or a Successor or Transferee) to future payments of cash, Shares or a combination of cash and Shares, as determined by the Committee, based upon the achievement of pre-established performance goals based on Performance Targets. The Agreement may establish that a portion of a Participant s Award will be paid for performance that exceeds the minimum target but falls below the maximum target applicable to the Award. The Agreement shall also provide for the timing of the payment. The Agreement also may provide for a limitation on the value of an Award of Performance Units that a Participant may receive. Following the conclusion or acceleration of each Performance Period, the Committee shall determine the extent to which (i) performance goals have been attained, (ii) any other terms and conditions with respect to an Award relating to the Performance Period have been satisfied and (iii) payment is due with respect to an Award of Performance Units. An Award of Performance Units that is intended to be Performance-Based Compensation shall also be subject to the requirements of Section 28.

12. *Bonus Awards*.

12.1 *Grant and Terms of Bonus Awards*. The Committee may, from time to time, grant Bonus Awards under the Plan in such amounts and on such terms and to such Employees as it may designate. At the time a Bonus Award is made, the Committee will specify the terms and conditions which will govern the Bonus Award, and which will be specified in writing in one or more of individual Agreements, notices to designated Participants, resolutions of the Committee or such other documents as the Committee determines to utilize. The terms and conditions governing each Bonus Award will include that the Bonus Award will be earned only upon, and to the extent that, the applicable performance goals specified by the Committee and based on such Performance Targets as the Committee may select are satisfied over the course of the applicable Performance Period designated by the Committee. Different terms and conditions may be established by the Committee for Bonus Awards to different participants over the same Performance Period. Bonus Awards that are intended to qualify as Performance-Based Compensation shall also be subject to the requirements of Section 28.

12.2 *Payment of Bonus Award*. Unless provision has been made to defer receipt of a Bonus Award payment as provided in Section 24, payment of any Bonus Award shall be made in cash no later than two and one-half months following the end of the Company s fiscal year in which the requirements for payment of the Bonus Award have been satisfied. The Committee is authorized at any time during or after a Performance Period, in its sole and absolute discretion, to reduce or eliminate the amount of a Bonus Award otherwise payable to any Participant for any reason. No reduction in the amount of a Bonus Award payable to any Participant shall increase the amount of a Bonus Award payable to any other Participant.

12.3 *Termination of Employment*. Except as otherwise provided in this section or in an applicable Agreement, no Bonus Award shall be paid to a Participant whose employment with the Company and its Affiliates terminates before the end of the applicable Performance Period. If a Participant s employment terminates during a Performance Period, the Committee may, in its discretion, determine that the Participant (or his or her beneficiaries) shall be paid a pro rata portion of the Bonus Award payment that the Participant would have received but for the fact that the Participant s employment terminated. Any such pro rated Bonus Award payment will be made at the same time as the other Bonus Award payments with respect to the applicable Performance Period.

12.4 *Non-Transferable*. Participants shall have no right to sell, assign, transfer, exchange or otherwise encumber all or any part of a Bonus Award under this Plan.

13. *Effective Date and Duration of the Plan*.

13.1 *Effective Date*. The Plan shall become effective as of July 28, 2010 (the Effective Date), provided that the Plan is approved by the requisite vote of shareholders at the 2010 Annual Meeting of Shareholders or any adjournment thereof.

13.2 *Duration of the Plan*. The Plan shall remain in effect until all Shares subject to it shall be distributed, all Awards have expired or lapsed, the Plan is terminated pursuant to Section 16 of the Plan, or July 28, 2020, (the *Termination Date*); provided, however, that Awards made before the Termination Date may be exercised, vested or otherwise effectuated beyond the Termination Date unless limited in the Agreement or otherwise. No Award of an Incentive Stock Option shall be made more than 10 years after the Effective Date (or such other limit as may be required by the Code) if this limitation is necessary to qualify the Option as an Incentive Stock Option. The date and time of approval by the Committee of the granting of an Award shall be considered the date and time at which the Award is made or granted.

14. *Plan Does Not Affect Employment Status*.

(a) Status as an eligible Employee shall not be construed as a commitment that any Award or Bonus Award will be made under the Plan to that eligible Employee or to eligible Employees generally.

(b) Nothing in the Plan or in any Agreement or related documents shall confer upon any Employee or Participant any right to continue in the employment of the Company or any Affiliate or constitute any contract of employment or affect any right that the Company or any Affiliate may have to change such person s compensation, other benefits, job responsibilities, or title, or to terminate the employment of such person with or without cause.

15. *Tax Withholding*. The Company shall have the right to withhold from any cash payment under the Plan to a Participant or other person (including a Successor or a Transferee) an amount sufficient to cover any required withholding taxes. The Company shall have the right to require a Participant or other person receiving Shares under the Plan to pay the Company a cash amount sufficient to cover any required withholding taxes before actual receipt of those Shares. In lieu of all or any part of a cash payment from a person receiving Shares under the Plan, the Committee may permit the individual to cover all or any part of the required withholdings through a reduction of the number of Shares delivered or delivery or tender return to the Company of Shares held by the Participant or other person, in each case valued in the same manner as used in computing the withholding taxes under the applicable laws.

16. *Amendment, Modification and Termination of the Plan*.

(a) The Board may at any time and from time to time terminate, suspend or modify the Plan. Except as limited in Sections 3.1(c) and 16(b) of the Plan, the Committee may at any time alter or amend any or all Agreements under the Plan to the extent permitted by law.

(b) No termination, suspension, or modification of the Plan will materially and adversely affect any right acquired by any Participant or Successor or Transferee under an Award granted before the date of termination, suspension, or modification, unless otherwise agreed to by the Participant in the Agreement or otherwise, or required as a matter of law; but it will be conclusively presumed that any adjustment for changes in capitalization provided for in Section 17 of the Plan does not adversely affect these rights.

17. *Adjustment for Changes in Capitalization*. In the event of any equity restructuring (within the meaning of FASB ASC Topic 718 - Stock Compensation) that causes the per share value of Shares to change, such as a stock dividend, stock split, spinoff, rights offering or recapitalization through an extraordinary dividend, the Committee shall make such adjustments as it deems equitable and appropriate to (i) the aggregate number and kind of Shares or other securities issued or reserved for issuance under the Plan, (ii) the number and kind of Shares or other securities subject to outstanding Awards, (iii) the exercise price of outstanding Options and Stock Appreciation Rights, and (iv) any maximum limitations prescribed by the Plan with respect to certain types of Awards or the grants to individuals of certain types of Awards. In the event of any other change in corporate capitalization, including a merger, consolidation, reorganization, or partial or complete liquidation of the Company, such equitable adjustments described in the foregoing sentence may be made as determined to be appropriate and equitable by the Committee to prevent dilution or enlargement of rights of Participants. In either case, any such adjustment shall be conclusive and binding for all purposes of the Plan. No adjustment shall be made pursuant to this Section 17 in connection with the conversion of any convertible securities of the Company, or in a manner that would cause Incentive Stock Options to violate Section 422(b) of the Code or cause an Award to be subject to adverse tax consequences under Section 409A of the Code. In connection with any such adjustments, fractional Shares shall be rounded to the nearest whole Share.

18. *Fundamental Change*.

18.1 Corporate Transactions. Unless otherwise provided in an applicable Agreement, the following provisions shall apply to outstanding Awards in the event of a Fundamental Change that involves a Corporate Transaction.

(a) Continuation, Assumption or Replacement of Awards. In the event of a Corporate Transaction, then the surviving or successor entity (or its Parent) may continue, assume or replace Awards outstanding as of the date of the Corporate Transaction (with such adjustments as may be required or permitted by Section 17), and such Awards or replacements therefor shall remain outstanding and be governed by their respective terms. A surviving or successor entity may elect to continue, assume or replace only some Awards or portions of Awards. For purposes of this Section 18.1(a), an Award shall be considered assumed or replaced if, in connection with the Corporate Transaction and in a manner consistent with Code Sections 409A and 424, either (i) the contractual obligations represented by the Award are expressly assumed by the surviving or successor entity (or its Parent) with appropriate adjustments to the number and type of securities subject to the Award and the exercise price thereof that preserves the intrinsic value of the Award existing at the time of the Corporate Transaction, or (ii) the Participant has received a comparable equity-based award that preserves the intrinsic value of the Award existing at the time of the Corporate Transaction and provides for a vesting or exercisability schedule that is the same as or more favorable to the Participant.

(b) Acceleration. If and to the extent that outstanding Awards under the Plan are not continued, assumed or replaced in connection with a Corporate Transaction, then the Committee may provide that (i) some or all outstanding Options and Stock Appreciation Rights shall become fully exercisable for such period of time prior to the effective time of the Corporate Transaction as is deemed fair and equitable by the Committee, and shall terminate at the effective time of the Corporate Transaction, and (ii) some or all outstanding Full Value Awards shall fully vest immediately prior to the effective time of the Corporate Transaction. The Committee will not be required to treat all Awards similarly for purposes of this Section 18.1(b). The Committee shall provide written notice of the period of accelerated exercisability of Options and Stock Appreciation Rights to all affected Participants. The exercise of any Option or Stock Appreciation Right whose exercisability is accelerated as provided in this Section 18.1(b) shall be conditioned upon the consummation of the Corporate Transaction and shall be effective only immediately before such consummation.

(c) *Payment for Awards*. If and to the extent that outstanding Awards under the Plan are not continued, assumed or replaced in connection with a Corporate Transaction, then the Committee may provide that holders of some or all of such outstanding Awards must surrender the Awards at or immediately prior to the effective time of the Corporate Transaction in exchange for payments to the holders as provided in this Section 18.1(c). The Committee will not be required to treat all Awards similarly for purposes of this Section 18.1(c). The payment for any Award surrendered shall be in an amount equal to the excess, if any, of the (i) the fair market value (as determined in good faith by the Committee) of the consideration that would otherwise be received in the Corporate Transaction for the number of Shares subject to the Award, or, if no consideration is to be received directly by the Company s stockholders in the Corporate Transaction, the Fair Market Value of such number of Shares immediately prior to the effective date of the Corporate Transaction, over (ii) the aggregate exercise price (if any) for the Shares subject to such Award. If there is no excess, the Award may be terminated without payment. Payment shall be made in such form, on such terms and subject to such conditions as the Committee determines in its discretion, which may or may not be the same as the form, terms and conditions applicable to payments to the Company s stockholders in connection with the Corporate Transaction, and may include subjecting such payments to vesting conditions comparable to those of the Award surrendered, or to escrow or holdback terms comparable to those imposed upon the Company s stockholders under the Corporate Transaction.

(d) *Termination of Employment After a Corporate Transaction*. If and to the extent that Awards are continued, assumed or replaced under the circumstances described in Section 18.1(a), the Committee may provide that if within a period of time determined by the Committee after the Corporate Transaction a Participant experiences an involuntary termination of employment for reasons other than Cause, then (i) all or any portion of outstanding Options and Stock Appreciation Rights issued to the Participant that are not yet fully exercisable shall immediately become exercisable in full and shall remain exercisable for one year following the Participant s termination of employment, and (ii) all or any portion of Full Value Awards that are not yet fully vested shall immediately vest in full. The Committee will not be required to treat all Awards similarly for purposes of this Section 18.1(d).

18.2 *Other Fundamental Changes*. In connection with a Fundamental Change that does not involve a Corporate Transaction, the Committee may provide (in the applicable Agreement or otherwise) for one or more of the following: (i) that any Award shall become vested and exercisable, in whole or in part, upon the occurrence of the Fundamental Change or upon the involuntary termination of the Participant without Cause within a specified period of time of the Fundamental Change, (ii) that any Option or Stock Appreciation Right shall remain exercisable during all or some specified portion of its remaining term, or (iii) that Awards shall be surrendered in exchange for payments in a manner similar to that provided in Section 18.1(c). The Committee will not be required to treat all Awards similarly in such circumstances.

19. *Forfeitures*. An Agreement may provide that if a Participant has received or been entitled to payment of cash, delivery of Shares, or a combination thereof pursuant to an Award or Bonus Award within six months before the Participant s termination of employment with the Company and its Affiliates, the Committee, in its sole discretion, may require the Participant to return or forfeit the cash and/or Shares received with respect to the Award or Bonus Award (or its economic value as of (i) the date of the exercise of Options or Stock Appreciation Rights, (ii) the date of, and immediately following, the lapse of restrictions on Restricted Stock or the receipt of Shares without restrictions or (iii) the date on which the right of the Participant to payment with respect to Performance Units, a Bonus Award or other Award vests, as the case may be) in the event of certain occurrences specified in the applicable Agreement or Bonus Award documentation. The Committee s right to require forfeiture must be exercised within 90 days after discovery of such an occurrence but in no event later than 15 months after the Participant s termination of employment with the Company and its Affiliates. The occurrences may, but need not, include

competition with the Company or any Affiliate, unauthorized disclosure of material proprietary information of the Company or any Affiliate, a violation of applicable business ethics policies of the Company or any Affiliate or any other occurrence specified in the Agreement or Bonus Award documentation within the period or periods of time specified therein.

20. *Corporate Mergers, Acquisitions, Etc*. The Committee may also grant Options, Stock Appreciation Rights, Restricted Stock or other Awards under the Plan in substitution for, or in connection with the assumption of, existing options, stock appreciation rights, restricted stock or other awards granted, awarded or issued by another corporation and assumed or otherwise agreed to be provided for by the Company pursuant to or by reason of a transaction involving a corporate merger, consolidation, acquisition of property or stock, separation, reorganization or liquidation to which the Company or a Subsidiary is a party. The terms and conditions of the substitute Awards may vary from the terms and conditions set forth in the Plan to the extent as the Board at the time of the grant may deem appropriate to conform, in whole or in part, to the provisions of the awards in substitution for which they are granted.

21. *Unfunded Plan*. The Plan shall be unfunded and the Company shall not be required to segregate any assets that may at any time be represented by Awards or Bonus Awards under the Plan. Neither the Company, its Affiliates, the Committee, nor the Board shall be deemed to be a trustee of any amounts to be paid under the Plan nor shall anything contained in the Plan or any action taken pursuant to its provisions create or be construed to create a fiduciary relationship between the Company and/or its Affiliates, and a Participant or Successor or Transferee. To the extent any person acquires a right to receive an Award or Bonus Award under the Plan, this right shall be no greater than the right of an unsecured general creditor of the Company.

22. *Limits of Liability*.

(a) Any liability of the Company to any Participant with respect to an Award or Bonus Award shall be based solely upon contractual obligations created by the Plan, and any applicable Award Agreement or Bonus Award documentation.

(b) Except as may be required by law, neither the Company nor any member of the Board or of the Committee, nor any other person participating in any determination of any question under the Plan, or in the interpretation, administration or application of the Plan, shall have any liability to any party for any action taken, or not taken, in good faith under the Plan.

23. *Compliance with Applicable Legal Requirements*. No certificate for Shares distributable pursuant to the Plan shall be issued and delivered unless the issuance of the certificate complies with all applicable legal requirements including, without limitation, compliance with the provisions of applicable state securities laws, the Securities Act of 1933, as amended and in effect from time to time or any successor statute, the Exchange Act and the requirements of the exchanges and markets on which the Company s Shares may, at the time, be listed.

24. *Deferrals and Settlements*. The Committee may require or permit Participants to elect to defer the issuance of Shares or the payment of Awards or Bonus Awards in cash under such written rules and procedures as it may establish under the Plan. It may also provide that deferred settlements include the payment or crediting of interest on the deferred amounts.

25. *Other Benefit and Compensation Programs*. Payments and other benefits received by a Participant under an Award or Bonus Award made pursuant to the Plan shall not be deemed a part of a Participant s regular, recurring compensation for purposes of the termination, indemnity or severance pay laws of any country and shall not be included in, nor have any effect on, the determination of benefits under any other employee benefit plan, contract or similar arrangement provided by the Company or an Affiliate unless expressly so provided by such other plan, contract or arrangement, or unless the Committee expressly determines that an Award or Bonus Award or portion thereof should be included to accurately reflect competitive compensation practices or to recognize that an Award has been made in lieu of a portion of competitive cash compensation.

26. *Beneficiary Upon Participant s Death*. To the extent that the transfer of a Participant s Award at his or her death is permitted under an Agreement or Bonus Award, a Participant s Award or Bonus Award shall be transferable at death to the estate or to the person who acquires the right to succeed to the Award by bequest or inheritance.

27. *Requirements of Law*.

(a) To the extent that federal laws do not otherwise control, the Plan and all determinations made and actions taken pursuant to the Plan shall be governed by the laws of the State of Minnesota without regard to its conflicts-of-law principles and shall be construed accordingly.

(b) If any provision of the Plan shall be held illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining parts of the Plan, and the Plan shall be construed and enforced as if the illegal or invalid provision had not been included.

(c) It is intended that (i) all Awards of Options, Stock Appreciation Rights and Restricted Stock under the Plan will not provide for the deferral of compensation within the meaning of Code Section 409A and thereby be exempt from Code Section 409A, and (ii) all other Awards or Bonus Awards under the Plan will either not provide for the deferral of compensation within the meaning of Code Section 409A, or will comply with the requirements of Code Section 409A, and Awards and Bonus Awards shall be structured and the Plan administered in accordance with this intent. The Plan and any Agreement or Bonus Award documentation may be unilaterally amended by the Company in any manner deemed necessary or advisable by the Committee or Board in order to maintain such exemption from or compliance with Code Section 409A, and any such amendment shall conclusively be presumed to be necessary to comply with applicable law.

28. *Performance-Based Compensation.*

28.1 *Designation of Awards*. If the Committee determines at the time a Full Value Award or Bonus Award is granted to a Participant that such Participant is, or is likely to be, a covered employee for purposes of Code Section 162(m) as of the end of the tax year in which the Company would ordinarily claim a tax deduction in connection with such Award or Bonus Award, then the Committee may provide that this Section 28 will be applicable to such Award or Bonus Award, which shall be considered Performance-Based Compensation.

28.2 *Performance Targets*. If an Award or Bonus Award is subject to this Section 28, then the lapsing of restrictions thereon and the distribution of cash, Shares or other property pursuant thereto, as applicable, shall be subject to the achievement of one or more performance goals based on the Performance Targets specified in Section 2.1(bb) over the applicable Performance Period. The Committee shall specify in an objective fashion the manner of calculating the performance goals based on the Performance Targets it selects to use in any Performance Period, which may include adjustments to such measures as otherwise defined under U.S. Generally Accepted Accounting Principles. The Committee may also adjust performance goals for a Performance Period to the extent permitted by Code Section 162(m) in connection with an event described in Section 16 to prevent the dilution or enlargement of a Participant s rights with respect to performance-based compensation. The Committee will determine the applicable Performance Targets and performance goals for any Performance Period and any amount payable in connection with an Award or Bonus Award subject to this Section 28 within the time periods prescribed by and consistent with the other requirements of Code Section 162(m). Following completion of an applicable Performance Period, the Committee shall certify in writing, in the manner and to the extent required by Code Section 162(m), that the applicable performance goals based on the selected Performance Targets have been met prior to payment of the compensation. The Committee may also adjust downward, but not upward, any amount determined to be otherwise payable in connection with such an Award or Bonus Award based on such factors as the Committee deems appropriate, including by reference to performance goals and Performance Targets established in connection with Awards and Bonus Awards that are not considered Performance-Based Compensation. The Committee may also provide, in an Agreement or otherwise, that the achievement of specified performance goals in connection with an Award or Bonus Award subject to this Section 28 may be waived upon the death or disability of the Participant or under any other circumstance, such as the occurrence of a Fundamental Change, with respect to which the existence of such possible waiver will not cause the Award or Bonus Award to fail to qualify as performance-based compensation under Code Section 162(m).

28.3 *Limitations*. With respect to Performance-Based Compensation subject to this Section 28, no Participant may be granted Full Value Awards denominated in Shares relating to more than 100,000 Shares in the aggregate during any calendar year, no Participant may be granted Full Value Awards denominated in cash in an amount in excess of $3,000,000 in the aggregate during any calendar year, and no Participant may receive a Bonus Award payment that exceeds $3,000,000 for a twelve-month Performance Period (or a corresponding multiple or fraction of that amount for a Performance Period that is greater or less than twelve months in duration, respectively). Such limits shall be subject to adjustment as provided in Section 17.

29. *Conformance with Section 409A of the Code*. To the extent that any Award or Bonus Award constitutes a deferral of compensation subject to Section 409A of the Code, the following provisions shall apply notwithstanding any other provision of the Plan:

29.1 *Separation From Service*. If any amount is payable under such Award or Bonus Award upon a termination of employment or other service, a termination of employment or other service will be deemed to have occurred only at such time as the Participant has experienced a separation from service as such term is defined for purposes of Code Section 409A.

29.2 *Specified Employees*. If any amount shall be payable with respect to any such Award or Bonus Award as a result of a Participant s separation from service at such time as the Participant is a specified employee, then no payment shall be made, except as permitted under Code Section 409A, prior to the first day of the seventh (7th) calendar month beginning after the Participant s separation from service (or the date of his or her earlier death). The Company may adopt a Specified Employee Identification Policy which specifies the identification date, the effective date of any change in the key employee group, compensation definition and other variables that are relevant in identifying specified employees, and which may include an alternative method of identifying specified employees consistent with the regulations under Code Section 409A. In the absence of any such policy, all information necessary to identify specified employees will be determined and applied in accordance with the default provisions specified in the regulations under Code Section 409A.

APPENDIX B

AMENDED AND ~~SECOND~~ RESTATED
ARTICLES OF INCORPORATION
OF
HAWKINS ~~CHEMICAL~~, INC.
~~ADOPTED ON FEBRUARY 17, 1983~~

(As ~~Amended~~amended through ~~February 27, 2001~~
~~(All such Amendments are specifically identified)~~**July** 28, 2010)

ARTICLE I

~~(As amended on February 27, 2001)~~

The name of this Corporation is ~~HAWKINS~~Hawkins, ~~INC~~Inc.

ARTICLE II

~~The duration of this Corporation shall be perpetual.~~

~~ARTICLE III~~

~~The purposes for which this Corporation is organized are as follows:~~

~~a.~~ ~~General business purposes.~~

~~b.~~ ~~To do everything necessary, proper, advisable and convenient for the accomplishment of the purposes hereinabove set forth, and to do all other things incidental thereto or connected therewith, which are not forbidden by the laws under which this Corporation is organized, by other laws, or by these Articles of Incorporation.~~

~~c.~~ ~~To carry out the purposes hereinabove set forth in any state, territory, district or possession of the United States, or in any foreign country, to the extent that such purposes are not forbidden by the laws thereof; and, in the case of any state, territory, district or possession of the United States, or any foreign country, in which one or more of such purposes are forbidden by law, to limit, in any certificate for application to do business, the purpose or purposes which the Corporation proposes to carry on therein to such as are not forbidden by the law thereof.~~

~~ARTICLE IV~~

~~This Corporation shall have all the powers granted to private corporations organized for profit by said Minnesota Business Corporation Act, and, in furtherance, and not in limitation, of the powers conferred by the laws of the State of Minnesota upon corporations organized for the foregoing purposes, the Corporation shall have the power:~~

~~a.~~ ~~To issue bonds, debentures or other obligations of the Corporation, to guaranty obligations of others and to contract indebtedness without limit as to amount for any of the objects and purposes of the Corporation, and to secure the same by mortgage or mortgages, deed or deeds of trust, or pledge, or lien, on any or all of the real or personal property, or both, of the Corporation.~~

~~b.~~ ~~To acquire, hold, mortgage, pledge or dispose of the shares, bonds, securities or other evidences of indebtedness of the United States of America, or of any domestic or foreign corporation, and while the holder of such shares, to exercise all the privileges of ownership, including the right to vote thereon, to the same extent as a natural person might or could do, by the president of this Corporation or by proxy appointed by him, unless some other person, by resolution of the Board of Directors, shall be appointed to vote such shares.~~

~~c.~~ ~~To purchase or otherwise acquire on such terms and in such manner as the By-Laws of this Corporation from time to time provide, and to own and hold, shares of the capital stock of this Corporation, and to reissue the same from time to time.~~

~~d.~~ ~~When and as authorized by the vote of the holders of not less than a majority of the shares entitled to vote, at a shareholders meeting called for that purpose or when authorized upon written consent of the holders of a majority of such shares, to sell, lease, exchange or otherwise dispose of all, or substantially all, of its property and assets, including its good will, upon such terms and for such considerations, which may be money, shares, bonds, or other instruments for the payment of money or other property, as the Board of Directors deems expedient or advisable.~~

~~e.~~ ~~To acquire, hold, lease, encumber, convey, or otherwise dispose of, either alone or in conjunction with others, real and personal property within or without the state; and to take real and personal property by will or gift.~~

~~f.~~ ~~To acquire, hold, take over as a going concern and thereafter to carry on, mortgage, sell or otherwise dispose of, either alone or in conjunction with others, the rights, property and business of any person, entity, partnership, association, or corporation heretofore or hereafter engaged in any business, the purpose of which is similar to the purposes set forth in Article III of these Articles of Incorporation.~~

~~g.~~ ~~To enter into any lawful arrangement for sharing of profits, union of interest, reciprocal association, or cooperative association with any corporation, association, partnership, individual, or other legal entity, for the carrying on of any business, the purpose of which is similar to the purposes set forth in Article III of these Articles of Incorporation, and, insofar as it is lawful, to enter into any general or limited partnership, the purpose of which is similar to such purposes.~~

~~ARTINOWRAP VALIGN="bottom">% 3.6~~

Research and development

~~45.6 10% 32.8 9% 12.8~~

BioProduction Segment:

Sales and marketing

~~$39.7 12% $28.2 14% $11.5~~

General and administrative

~~28.9 9% 17.0 8% 11.9~~

Research and development

~~6.9 2% 5.6 3% 1.3~~

Unallocated:

Sales and marketing

~~$0.2 $ — $0.2~~

General and administrative

~~0.1 — 0.2 — (0.1)~~

Research and development

~~0.6 — 0.1 — 0.5~~

Consolidated:

Sales and marketing

~~$134.3 18% $113.3 20% $21.0~~

General and administrative

~~80.8 11% 65.4 11% 15.4~~

Research and development

~~53.1 7% 38.5 7% 14.6~~

(1) 2004 presentation of 2003 general and administrative expenses by segment reflects reclassifications of general and administrative costs from the Corporate and Unallocated segment to the BioDiscovery and BioProduction segments to conform to our corporate expense allocation methodology applied in 2004.

Sales and Marketing. For the nine months ended September 30, 2004, the increase in sales and marketing expenses, when compared to the same period in 2003, is primarily due to the acquired businesses of BioReliance, Molecular Probes and PanVera, which accounted for $13.1 million of the increase and a change in foreign currency rates that increased expenses by $4.4 million. In addition, increased headcount, incentive compensation, and relocation and recruiting fees accounted for $3.5 million of the increase.

General and Administrative. For the nine months ended September 30, 2004, the increase in general and administrative expenses is due to costs associated with the acquired businesses of BioReliance, Molecular Probes and PanVera, which accounted for $15.8 million of the increase, costs associated with increased headcount, relocation and recruiting and higher incentive compensation of $3.2 million, changes in foreign currency rates that increased expenses by $1.2 million, and $0.9 million of costs related to the implementation of Sarbanes-Oxley Section 404 internal controls. These increases were partially offset by a $5.7 million decrease resulting primarily from lower legal fees.

Research and Development. The increase in research and development expenses for the nine months ended September 30, 2004, reflects research and development costs associated with the acquired businesses for BioReliance, Molecular Probes, Pan Vera and three other acquisitions not considered material to the overall consolidated financial statements, which in total accounted for $12.4 million of the increase, $3.1 million of increased costs associated with increased headcount, incentive compensation, and related relocation and recruiting costs and $0.6 million of deferred compensation amortization related to our Molecular Probes acquisition. The nine months ended September 30, 2003, included $1.5 million of accelerated amortization of purchased technology that is not recurring for the nine months ended September 30, 2004.

Purchased Intangibles Amortization. Amortization expense for purchased intangible assets acquired in our business combinations was $81.5 million for the nine months ended September 30, 2004, and $56.2 million for the same period in 2003. The increase in 2004 is due primarily to the amortization of purchased intangibles acquired in the BioReliance, Molecular Probes and PanVera acquisitions.

Purchased In-Process Research and Development. Purchased in-process research and development costs of $0.7 million for the nine months ended September 30, 2004, resulted from a 2004 acquisition that was not material to the overall consolidated financial statements and represent acquired current research and development projects in process. Purchased in-process research and development costs of $1.4 million for the nine months ended September 30, 2003, resulted from the Molecular Probes acquisition and represent acquired research and development projects.

Business Integration Costs. Business integration costs for the nine month period ended September 30, 2003, were $1.3 million and include the $0.9 million third quarter impairment loss on assets held for sale in Huntsville, Alabama, related to the closure of our facilities there, in addition to costs incurred for the integration of InforMax, acquired in December 2002.

Interest Income. For the nine months ended September 30, interest income decreased by $0.2 million from $18.0 million in 2003 to $17.8 million in 2004. The reduction in interest income is due mainly to lower interest rates.

Interest Expense. For the nine months ended September 30, interest expense increased by $4.4 million from $20.2 million in 2003 to $24.6 million in 2004. Our issuance of $450 million in principal amount of 1½% convertible senior notes in February 2004 and $350 million in principal amount of 2% convertible senior notes in August 2003 accounted for $8.7 million of the increase for the nine months ended September 30, 2004, offset by the redemption in March 2004 of our 5½% convertible notes, which reduced interest expense by $5.6 million. The remainder of the increase for the nine months ended September 30, 2004 was due mainly to interest expense of $1.3 million on our capital lease and debt obligations acquired in the BioReliance acquisition and former capital lease obligations in the Molecular Probes acquisition.

Loss on Early Retirement of Debt. A loss of $6.8 million was recognized during the three months ended March 31, 2004, on the early retirement of our $172.5 million in principal amount of 5½% convertible notes and includes $4.1 million for the call premium and $2.7 million for the write-off of unamortized deferred financing costs.

Provision for Income Taxes. The provision for income taxes as a percentage of pre-tax income was 27.8% for the nine months ended September 30, 2004 compared with 28.6% for the year ended December 31, 2003. The decrease in the effective tax rate year to date was primarily attributable to a reduction of income tax on foreign income that resulted from restructuring the ownership of certain foreign businesses to achieve better alignment with our operational and management structure, offset in part by an increase in the proportion of income earned in tax jurisdiction having higher tax rates.

In October 2004, the President signed the Working Families Tax Relief Act of 2004, which retroactively reinstated the research credit for qualifying activities arising after June 30, 2004. Under Statement of Financial Accounting Standards No. 109, the effect of the change in tax law is recognized in the period that the new legislation was enacted, which is the fourth quarter of 2004. If we had been able to include these credits in the period ended September 30, 2004, our effective tax rate would have decreased to 27% from 27.8%.

In October 2004, the President signed the American Jobs Creation Act of 2004 which, among other things, prospectively phases out the extraterritorial income deduction, provides for certain domestic manufacturing tax relief, reforms the foreign tax credit regime, and allows for tax favored repatriation of international earnings. Many of the new tax provisions, although not all, have an effective date beginning in 2005. As such, we believe the impact of this new legislation will be minimal, if any, on our overall 2004 effective tax rate.

LIQUIDITY AND CAPITAL RESOURCES

Operating Activities. Operating activities provided net cash of $168.7 million during the nine months ended September 30, 2004, primarily from our net income of $58.4 million plus net non-cash charges of $103.8 million. Changes in operating assets and liabilities provided a net $6.6 million of cash during the period, driven by an increase in accounts receivable of $23.3 million, a decrease in accounts payable, accrued expenses and other current liabilities of $6.4 million, a decrease in inventories of $11.2 million, a decrease in prepaid expenses and other current assets of $4.8 million and an increase of income taxes payable of $20.4 million. The growth of accounts receivable resulted from a higher proportion of 2004 third quarter sales recognized at the end of the quarter compared with a lower proportion of 2003 fourth quarter sales recognized at the end of the quarter. The decrease in accounts payable, accrued expenses and other current liabilities resulted from the payment of costs related to the acquisition of BioReliance. The decrease in inventories reflects the amortization of costs of $17.6 million, associated with the sale during the first nine months of 2004 of products acquired in our business combinations that were previously written-up under purchase accounting rules.

As a result of working capital improvement programs currently being developed we expect to utilize more efficiently our working capital in the future resulting in higher inventory turnover and lower days sales outstanding. Our working capital factors, such as inventory turnover and days sales outstanding, are seasonal, and, on an interim basis during the year, may require short-term working capital needs.

Investing Activities. Net cash used in investing activities during the nine months ended September 30, 2004, was $623.8 million, and reflects a net $491.4 million paid for our business acquisitions, a net $112.4 million invested in marketable securities with maturities greater than three months, and payments for capital expenditures and intangible assets (primarily intellectual properties), which totaled $19.7 million and $1.6 million, respectively. These uses of cash were partially offset by the receipt of $1.3 million in proceeds from the sale of our Huntsville, Alabama facility. For 2004, we expect spending for capital equipment and information technology to be approximately $35 million to $40 million.

On February 6, 2004, we acquired all of the common stock of BioReliance Corporation for a total cash purchase price of $433.3 million, plus the assumption of outstanding debt of approximately $70.4 million and transaction costs of $4.9 million. The purchase price was paid from existing cash and investments. In February 2004, we paid down $49.6 million of the acquired debt.

In April 2004, we completed two separate acquisitions that were not material to our overall consolidated financial statements. The aggregate cash purchase price of these acquisitions was $24.0 million. The results of operations were included from the respective dates of acquisition.

In October 2004, we completed an acquisition that was not material to the overall consolidated financial statements. We acquired all of the outstanding securities of DNA Research Innovations, Ltd., for approximately $35 million. The results of operations will be included in our future financial statements from the date of acquisition. Pursuant to the purchase agreement for this acquisition, we could be required to make additional contingent cash payments aggregating a maximum of $30 million through 2006 upon the completion of certain research and development milestones identified in the stock purchase agreement. Invitrogen will account for any such contingent payments as an addition to the purchase price.

Pursuant to the purchase agreements for one of our 2003 and one of our 2004 acquisitions, we could be required to make additional contingent cash payments based on certain operating results of the acquired companies. Payments aggregating a maximum of $88.5 million and certain other payments based upon percentages of future gross sales of the acquired companies could be required through 2008. We will account for any such contingent payments as an addition to the respective purchase price.

Financing Activities. Net cash provided by financing activities totaled $228.3 million during the nine months ended September 30, 2004, and includes $440.7 million in net proceeds from our issuance of convertible senior notes in February 2004 and $49.2 million in proceeds from stock issued under employee stock plans. This net cash provision was offset by $81.3 million used to repurchase shares of our common stock and $180.3 million of which $172.5 million was used in March 2004 to retire our 5 $^1/2$% Convertible Subordinated Notes, or 5 $^1/2$% Notes, due 2007, and $4.1 million in cash was used to pay the call premium on early retirement of debt in March 2004.

On February 19, 2004, we issued $450 million principal amount of 1 $^1/2$% Convertible Senior Notes, or 1 $^1/2$% Notes, due 2024, to certain qualified institutional buyers. A portion of the proceeds from this debt was used in March 2004 to redeem our 5 $^1/2$% Notes, due 2007, in the aggregate principal amount of $172.5 million at a premium of 102.357%, plus accrued interest, and the repayment of debt assumed in the BioReliance acquisition. Interest on the 1 $^1/2$% Notes is payable semi-annually on February 15th and August 15th. In addition to the coupon interest of 1 $^1/2$%, additional interest of 0.35% of the market value of the notes may be required to be paid beginning February 15, 2012, if the market value of the notes during specified testing periods is 120% or more of the principal value. The 1 $^1/2$% Notes were issued at 100% of principal value, and are convertible into 4.4 million shares of common stock at the option of the holder upon the occurrence of certain events at a price of $102.03 per share. The 1 $^1/2$% Notes may be redeemed, in whole or in part, at our option on or after February 15, 2012, at 100% of the principal amount plus accrued interest. In addition, the holders of the 1 $^1/2$% Notes may require Invitrogen to repurchase all or a portion of the

1 $^{1}/2$% Notes for 100% of the principal amount, plus accrued interest, on February 15, 2012, 2017 and 2022.

We have $350 million principal amount of 2% Convertible Senior Notes, or 2% Notes, due August 1, 2023. Interest on the 2% Notes is payable semi-annually on February 1st and August 1st. In addition to the coupon interest of 2%, additional interest of 0.35% of the market value of the notes may be required to be paid beginning August 1, 2010, if the market value of the notes during specified testing periods is 120% or more of the principal value. The 2% Notes were issued at 100% of principal value, and are convertible into 5.1 million shares of common stock at the option of the holder upon the occurrence of certain events at a price of $68.24 per share. The 2% Notes may be redeemed, in whole or in part, at our option on or after August 1, 2010, at 100% of the principal amount plus accrued interest. In addition, the holders of the 2% Notes may require Invitrogen to repurchase all or a portion of the 2% Notes for 100% of the principal amount, plus accrued interest, on August 1, 2010, August 1, 2013, and August 1, 2018.

We have $500 million principal amount of 2¼% Convertible Subordinated Notes, or 2¼% Notes, due December 15, 2006. Interest on the 2¼% Notes is payable semi-annually on June 15th and December 15th. The 2¼% Notes were issued at 100% of principal value, and are convertible into 5.8 million shares of common stock at the option of any holder at any time at a price of $86.10 per share. The 2¼% Notes may be redeemed, in whole or in part, at our option on or after December 20, 2005 at 100% of the principal amount plus accrued interest.

In the event of a change of control of Invitrogen, the holders of the 1½% Notes, the 2% Notes, and the 2¼% Notes each have the right to require us to repurchase all or a portion of their notes at a purchase price equal to 100% of the principal amount of the notes plus all accrued and unpaid interest.

Our board of directors has authorized the repurchase of up to $300 million of our common stock over a three-year period ending in 2005. We repurchased 3.3 million shares of common stock at a total cost, in cash and accruals, of $100.0 million during 2002. During the three months ended September 30, 2004, we repurchased 1.6 million shares of common stock at a total cost of $81.3 million. All repurchases have been reported as a reduction in stockholders equity as treasury stock. The timing and price of any repurchase will depend on market conditions and other factors. Funds for any repurchase are expected to come primarily from cash generated from operations, or funds on hand.

We are continuing to seek additional corporate and technology acquisition opportunities that support our BioDiscovery and BioProduction platforms. While we cannot predict the timing or size of any future acquisitions, or if any will occur at all, a significant amount of our cash and/or stock may be used to acquire companies, assets or technologies. We could also choose to fund any acquisitions, at least partly, with new debt or stock.

As of September 30, 2004, we had cash and cash equivalents of $363.6 million, short-term investments of $558.6 million and long-term investments of $126.3 million. Our working capital totaled $1.1 billion as of September 30, 2004, and includes restricted cash and investments of $17.6 million. Our funds are currently invested in overnight money market accounts, time deposits, corporate notes, municipal notes and bonds, U.S. treasury obligations and government agency notes. As of September 30, 2004, foreign subsidiaries in Australia, Brazil, Japan and New Zealand had available bank lines of credit denominated in local currency to meet short-term working capital requirements. The U.S. dollar equivalent of these facilities totaled $6.6 million, of which $0.3 million was outstanding at September 30, 2004.

We expect that our current cash and cash equivalents, short-term and long-term investments, funds from operations and interest income earned thereon will be sufficient to fund our current operations for at least 12 months and the foreseeable future. Our future capital requirements and the adequacy of our available funds will depend on many factors, including future business acquisitions, future stock or note repurchases, scientific progress in our research and development programs and the magnitude of those programs, our ability to establish collaborative and licensing arrangements, the cost involved in preparing, filing, prosecuting, maintaining and enforcing patent claims and competing technological and market developments.

CONTRACTUAL OBLIGATIONS

During the nine months ended September 30, 2004, additions to our contractual obligations as of December 31, 2003, included the issuance of $450 million in 1½% Notes due 2024, the assumption of $70.4 million in debt and capital lease obligations from our BioReliance acquisition, the assumption of $0.6 million in capital lease obligations from one of our 2004 acquisitions that is not material to our overall consolidated financial statements, and $6.6 million assumed in other royalty, operating lease, capital expenditure and other long-term obligations. In February 2004, we paid down $49.6 million of the acquired debt leaving $6.4 million in capital lease obligations due through 2034 and $13.3 million in debt obligations due through 2009 at September 30, 2004. As of September 30, 2004, we also had $30.9 million in operating lease obligations due through 2024 that were assumed in the BioReliance acquisition. During the three months ended September 30, 2004, we entered into a purchase and sale agreement for a campus in Eugene, Oregon, for a total purchase price of $15.5 million, with this amount included in the current portion of long-term obligations on the Consolidated Balance Sheet at September 30, 2004.

During the nine months ended September 30, 2004, our contractual obligations as of December 31, 2003, were reduced by $12.5 million in capital lease obligations that were extinguished as part of the Eugene, Oregon, former Molecular Probes campus purchase, $0.5 million used to retire long-term debt related to one of our 2003 acquisitions that is not material to our overall consolidated financial statements and by $1.4 million in other terminated operating leases and reduced commitments on interest rate swap agreements. Additionally, a portion of the proceeds from the 1 $^{1}/2$% Notes due 2024, was used in March 2004 to redeem our 5 $^{1}/2$% Notes, due 2007, in the aggregate principal amount of $172.5 million.

Pursuant to certain acquisitions, we could be required to make additional contingent cash payments based on certain operating results of the acquired companies. Payments aggregating a maximum of $88.5 million and certain other payments based upon percentages of future gross sales of the acquired companies could be required through 2008. Pursuant to the stock purchase agreement for our October 2004 acquisition, we could be required to make additional contingent cash payments of $30.0 million through 2006 based upon the completion of certain research and development milestones identified. We will account for any such contingent payments as an addition to the respective purchase price.

We have also accrued $1.5 million in contingent payments in current portion of long-term obligations on the Consolidated Balance Sheet at September 30, 2004, as these are considered to be part of the Eugene, Oregon, campus purchase price.

CRITICAL ACCOUNTING POLICIES

There were no significant changes in critical accounting policies or estimates from those at December 31, 2003, except for the addition of a new revenue recognition policy related to the BioReliance acquisition as follows:

We recognize revenue from commercial contracts, which are principally fixed-price or fixed-rate, using the proportional performance method, except for services that are generally completed within three days, which are accounted for using the completed-contract method. Proportional performance is determined using expected output milestones. The proportional performance may be affected by future events including delays caused by laboratory interruptions, client-mandated changes and the unpredictability of biological processes. Accordingly, we undertake a review process to determine that recorded revenue represents the actual proportional performance in all material respects.

Revenue recorded under proportional performance for projects in process is not intended to, and does not necessarily, represent the amount of revenue that we could recover from the client if any project failed or was cancelled. We undertake a review of unbilled accounts receivable from customers to determine that such amounts are expected to become billable and collectible in all material respects.

We recognize revenue from government contracts, which are principally cost-plus-fixed-fee, in amounts equal to reimbursable costs plus a pro-rata portion of the earned fee. We provide for losses when they become known.

FOREIGN CURRENCY TRANSLATION

We translate the financial statements of our non-U.S. operations into U.S. dollars for consolidation using end-of-period exchange rates for assets and liabilities and average exchange rates during each reporting period for results of operations. Net gains or losses resulting from the translation of foreign financial statements, the effect of exchange rate changes on intercompany receivables and payables of a long-term investment nature, and net exchange rate gains and losses on the value of financial contracts entered into that hedge the value of these long-term intercompany receivables and payables are recorded as a separate component of stockholders equity. These adjustments will affect net income only upon sale or liquidation of the underlying non-U.S. investment.

Changes in foreign currency exchange rates can affect our reported results of operations, which are reported in U.S. dollars. Based on the foreign currency rate in effect at the time of the translation of our non-U.S. results of operations into U.S. dollars, reported results could be different from prior periods even if the same amount and mix of our products were sold at the same local prices during the two periods. This will affect our reported results of operations, and also makes the comparison of our business performance in two periods more difficult. For example, our revenues for the nine months ended September 30, 2004, were $761.6 million using applicable foreign currency exchange rates for that period. However, applying the foreign currency exchange rates in effect during the nine months ended September 30, 2003, to our non-U.S. revenues for the same period in 2004 would result in $27.4 million less revenue for that period. These changes in currency exchange rates have affected, and will continue to affect, our reported results, including our revenues, revenue growth rates, gross profits, income and losses as well as assets and liabilities.

RISK FACTORS THAT MAY AFFECT FUTURE RESULTS

You should carefully consider the following risks, together with other matters described in this Form 10-Q or incorporated herein by reference in evaluating our business and prospects. If any of the following risks occurs, our business, financial condition or operating results could be harmed. In such case, the trading price of our securities could decline. The risks described below are not the only ones we face. Additional risks not presently known to us or that we currently deem immaterial may also impair our business operations. Certain statements in this Form 10-Q (including certain of the following factors) constitute forward-looking statements.

Risks Related to the Growth of Our Business

Failure to manage growth could impair our business.

Our business has grown rapidly. Our net revenues increased from $55.3 million in 1997 to $777.7 million in 2003. During that same period we significantly expanded our operations in the United States, Europe and Asia-Pacific. The number of our employees increased from 272 at December 31, 1996, to 3,765 at September 30, 2004.

It is difficult to manage this rapid growth, and our future success depends on our ability to implement:

- research and product development programs;
- sales and marketing programs;
- manufacturing operations at an appropriate capacity;
- customer support programs;
- operational and financial control systems; and
- recruiting and training programs.

Our ability to offer products and services successfully and to implement our business plan in a rapidly evolving market requires an effective planning, reporting and management process. We expect that we will need to continue to improve our financial and managerial controls, reporting systems and procedures, and to expand and train our workforce worldwide. We also need to continue to manufacture our products efficiently and to control or adjust the expenses related to research and development, marketing, sales and general and administrative activities in response to changes in revenues. If we are not successful in efficiently manufacturing our products or managing such expenses there could be an adverse impact on our earnings and the growth of our business.

Our acquisition strategy has required substantial investments in operations, product research and development, administration and sales and marketing. These are significant expenses. Our failure to manage successfully and coordinate the growth of the combined company could have an adverse impact on our revenues and profits. In addition, there is no guarantee that some of the businesses we have acquired will become profitable or remain so. Some of our acquisitions may not reach our initial expectations, which may require us to record impairment charges. These charges could result in earnings volatility.

Failure to integrate acquired businesses into our operations successfully could reduce our revenues and profits.

Since the beginning of 2000, we have made several acquisitions. Our integration of the operations of BioReliance and other acquired companies and businesses will continue to require significant efforts, including the coordination of information technologies, research and development, sales and marketing, manufacturing, and finance. We may find it difficult to integrate fully the operations of these acquired companies and businesses.

Our U.S. headquarters are located in Carlsbad, California. We also have significant operations in Frederick and Rockville, Maryland, Grand Island, New York, Madison, Wisconsin, Eugene, Oregon, and New Haven, Connecticut, as well as locations throughout Europe, Asia-Pacific and the Americas. Because our facilities are physically separated, it may be difficult for us to communicate effectively with, manage and integrate these employees and operations with the rest of Invitrogen. Such difficulties could seriously damage our operations and consequently our financial results. We may decide in the future that we can better manage our operations by combining some of our facilities. There are risks involved in combining facilities.

Management may have its attention diverted while trying to continue to integrate companies and businesses that we have acquired, including BioReliance. Such diversion of management s attention or difficulties in the transition process could have a harmful effect on our revenues and profits. If we are not able to integrate the operations of all these companies and businesses successfully, we may not be able to meet our expectations of future results of operations.

Factors that will affect the success of our acquisitions include:

- presence or absence of adequate internal controls and/or significant fraud in the financial systems of acquired companies;
- decrease in customer loyalty and product orders caused by dissatisfaction with the combined companies product lines and sales and marketing practices, including price increases;
- the ability to retain key employees;
- competitive factors, including technological advances attained by competitors and patents granted to, or contested by competitors, which would result in increased efficiency in their ability to compete against us;
- the ability of the combined company to increase sales of all such companies products;
- the ability of the combined company to operate efficiently and achieve cost savings; and
- the ability of the combined company to integrate acquired technologies to develop new products.

Even if we are able to integrate our acquired operations, we cannot assure you that we will achieve synergies. Our failure to achieve synergies could have a material adverse effect on the business, results of operations and financial condition of the combined company.

Industry consolidation may lead to increased competition and may harm our operating results.

There has been a trend toward industry consolidation in our markets for the past several quarters. We expect this trend toward industry consolidation to continue as companies attempt to strengthen or hold their market positions in an evolving industry and as companies are acquired or are unable to continue operations. We believe that industry consolidation may result in stronger competitors that are better able to compete as sole-source vendors for customers. This could lead to more variability in operating results and could have a material adverse effect on our business, operating results, and financial condition. Furthermore, particularly in the drug discovery market, consolidation could lead to fewer customers, with the effect that loss of a major customer could have a material impact on results not anticipated in a customer marketplace comprised of more numerous participants.

Risks Related to Our Sales

Competition in the life sciences research market, and/or a reduction in demand for our products, could reduce sales.

The markets for our products are very competitive and price sensitive. Other life science research product suppliers, as well as certain customers, such as large pharmaceutical companies, have significant financial, operational, sales and marketing resources, and experience in research and development. These and other companies may have developed or could in the future develop new technologies that compete with our products or even render our products obsolete. If a competitor develops superior technology or cost-effective alternatives to our kits and other products, our business, operating results, and financial condition could be seriously harmed. In addition, demand for our products may weaken due to reduction in research and development budgets, loss of distributors and other factors identified in this Form 10-Q, which would have an adverse effect on our financial condition.

The markets for certain of our products, such as electrophoresis products, custom primers, amplification products, and fetal bovine serum, are also subject to specific competitive risks. These markets are highly price competitive. Our competitors have competed in the past by lowering prices on certain products. Our competitors may lower prices on these or other products in the future and we may, in certain cases, respond by lowering our prices. This could reduce revenues and profits. Conversely, failure to anticipate and respond to price competition may hurt our market share.

We believe that customers in our markets display a significant amount of loyalty to their initial supplier of a particular product. Therefore, it may be difficult to generate sales to potential customers who have purchased products from competitors. Additionally, instead of using kits, there are numerous scientists making materials themselves. To the extent we are unable to be the first to develop and supply new products, our competitive position will suffer.

Reduction in research and development budgets and government funding may affect sales.

Our customers include researchers at pharmaceutical and biotechnology companies, academic institutions, government laboratories and private foundations. Fluctuations in the research and development budgets of these researchers and their organizations, or shifts in their research priorities into areas where we do not compete, could have a significant effect on the demand for our products. Research and development budgets fluctuate due to changes in available resources, mergers of pharmaceutical and biotechnology companies, spending priorities and institutional budgetary policies. Our business could be seriously damaged by any significant decrease in life sciences research and development expenditures by pharmaceutical and biotechnology companies, academic institutions, government laboratories or private foundations.

In recent years, the pharmaceutical industry has undergone consolidation. Additional mergers or corporate consolidations in the pharmaceutical industry could cause us to lose existing customers and potential future customers, which could have a harmful effect on our business, financial condition and results of operations.

A significant portion of our sales have been to researchers at academic institutions, government laboratories and private foundations whose funding is dependent upon grants from government agencies such as the U.S. National Institutes of Health (NIH) and similar domestic and international agencies. Although the level of research funding has increased during the past several years, we cannot assure you that this trend will continue. The NIH budget has increased on average in excess of 10% in each of the past five years through fiscal 2003. Increases for fiscal 2004 were significantly less than this amount, and proposed increases for fiscal 2005 are in line with the 2004 increase. Government funding of research and development is subject to the political process, which is inherently fluid and unpredictable. Additionally, as the U.S. government continues to address program funding requirements in the current period of global unrest, including homeland security, any shift away from the funding of life sciences research and development may cause our customers to delay or forego purchases of our products. Our revenues may be adversely affected if our customers delay or cancel purchases as a result of these and other uncertainties or delays surrounding the approval of government budget proposals. Also, government proposals to reduce or eliminate budgetary deficits have sometimes included reduced allocations to the NIH and other government agencies that fund research and development activities. A reduction in government funding for the NIH or other government research agencies could seriously damage our business.

Our customers generally receive funds from approved grants at particular times of the year, for example as determined by the U.S. federal government. In the past, such grants have been frozen for extended periods or have otherwise become unavailable to various institutions without advance notice. The timing of the receipt of grant funds affects the timing of purchase decisions by our customers and, as a result, can cause fluctuations in our sales and operating results.

Loss of customers may hurt our sales, and customers may force us to use more expensive distribution channels.

Certain of our customers have developed purchasing initiatives to reduce the number of vendors from which they purchase in order to lower their supply costs. In some cases these accounts have established agreements with large distributors, which include discounts and the distributors direct involvement with the purchasing process. These activities may force us to supply the large distributors with our products at a discount to reach those customers. For similar reasons many larger customers, including the U.S. government, have requested and may in the future request, special pricing arrangements, including blanket purchase agreements. These agreements may limit our pricing flexibility, which could have an adverse impact on our business, financial condition and results of operations. Our pricing flexibility could particularly be affected with respect to electrophoresis products, custom oligonucleotides, amplification products, and fetal bovine serum. For a limited number of customers we have made sales, at the customer s request, through third-party Internet vendors. Although Internet sales through third parties have not had a significant impact to date, it is possible that this method of distribution could have a negative impact on our gross profits, because any commission paid on Internet sales would be an additional cost not incurred through the use of non-Internet vendors.

We have launched a biodefense initiative, which depends upon the acceptance of our products by the U.S. government and its defense contractors.

We have developed products for use in detecting exposure to biological pathogens, and have begun marketing those products to the U.S. government and several defense contractors. If our products do not perform well, or the U.S. government changes its priorities with respect to defense against biological and chemical weapons, our sales growth could be affected. In addition, some third parties could object to our development of biological defense products, which could have a negative impact on our company.

Risks Related to the Development and Manufacturing of Our Products

Our market share depends on new product introductions and acceptance.

Rapid technological change and frequent new product introductions are typical for the market for certain of our products and services. For example, prepackaged kits to perform research in particular cell lines and already-isolated genetic material only recently have come into widespread use among researchers. In addition, the market for the life science informatics products of our subsidiary, InforMax, is also in the midst of rapid technological change. Our future success will depend in part on continuous, timely development and introduction of new products that address evolving market requirements and are attractive to customers. We believe successful new product introductions provide a significant competitive advantage because customers make an investment of time in selecting and learning to use a new product, and are reluctant to switch thereafter. We spend significant resources on internal research and development as well as on technology developed elsewhere to support our effort to develop and introduce new products. To the extent that we fail to introduce new and innovative products, we could fail to obtain an adequate return on these investments and could lose market share to our competitors, which would be difficult or impossible to regain. An inability, for technological or other reasons, to develop successfully and introduce new products could reduce our growth rate or otherwise damage our business.

In the past we have experienced, and we are likely to experience in the future, delays in the development and introduction of products. We cannot assure you that we will keep pace with the rapid rate of change in life sciences research and life science informatics software development, or that our new products will adequately meet the requirements of the marketplace or achieve market acceptance. Some of the factors affecting market acceptance of our products include:

- availability, quality and price as compared to competitive products;

- the functionality of new and existing products;
- the timing of introduction of our products as compared to competitive products;
- scientists and customers opinions of the product s utility and our ability to incorporate their feedback into future products;
- citation of the products in published research; and
- general trends in life sciences research and life science informatics software development.

The expenses or losses associated with unsuccessful product development activities or lack of market acceptance of our new products could seriously harm our business, financial condition and results of operations.

Failure to license new technologies could impair our new product development.

Our business model of providing products to researchers working on a variety of genetic and related projects requires us to develop a wide spectrum of products. To generate broad product lines it is sometimes advantageous to license technologies from the scientific community at large rather than depending exclusively on the inventions of our own employees. As a result, we believe our ability to in-license new technologies from third parties is and will continue to be critical to our ability to offer new products. A significant portion of our current revenues are from products manufactured or sold under licenses from third parties.

From time to time we are notified or become aware of patents held by third parties which are related to technologies we are selling or may sell in the future. After a review of these patents, we may decide to obtain a license for these technologies from such third parties. We are currently in the process of negotiating several such licenses and expect that we will also negotiate these types of licenses in the future. We cannot assure you that we will be able to negotiate such licenses on favorable terms, or at all.

Our ability to gain access to technologies that we need for new products and services depends in part on our ability to convince inventors and their agents or assignees that we can successfully commercialize their inventions. We cannot assure you that we will be able to continue to identify new technologies of interest to our customers which are developed by others. Even if we are able to identify new technologies of interest, we may not be able to negotiate a license on acceptable terms, or at all.

Loss of licenses could hurt our performance.

A small number of our licenses do not run for the length of the underlying patent. We may not be able to renew our existing licenses on favorable terms, or at all. If we lose the rights to a patented technology, we may need to stop selling these products and possibly other products, redesign our products or lose a competitive advantage. Potential competitors could in-license technologies that we fail to license and potentially erode our market share for these and other products.

Our licenses typically subject us to various economic and commercialization obligations. If we fail to comply with these obligations we could lose important rights under a license, such as the right to exclusivity in a certain market. In some cases, we could lose all rights under a license. In addition, certain rights granted under the license could be lost for reasons out of our control. For example, the licensor could lose patent protection for a number of reasons, including invalidity of the licensed patent, or a third party could obtain a patent that curtails our freedom to operate under one or more licenses. We do not receive indemnification from a licensor against third-party claims of intellectual property infringement.

Failure to obtain products and components from third-party manufacturers could affect our ability to manufacture and deliver our products.

We rely on third-party manufacturers to supply many of our raw materials, product components, and in some cases, entire products, none of which are material to our business. In addition, we have a single source for supplies of some raw materials and components to our products. Manufacturing problems may occur with these and other outside sources. If such problems occur, we cannot assure you that we will be able to manufacture our products profitably or on time.

Fluctuation in the price and supply of raw FBS could affect our business.

The supply of raw fetal bovine serum (FBS) is sometimes limited because serum collection tends to be cyclical. These factors can cause the price of raw FBS to fluctuate. The profit margins we achieve on finished FBS, one of our major products, have been unstable in the past because of the fluctuations in the price of raw FBS, and any increase in the price could adversely affect those profit margins. In addition, if we are unable to obtain an adequate supply of FBS, or if we are unable to meet demand for FBS from supplies outside the U.S., we may lose market share.

Violation of government regulations or voluntary quality programs could result in loss of sales and customers and additional expense to attain compliance.

Certain products and test services provided by our BioProduction segment and our BioReliance subsidiary are regulated by the U.S. Food and Drug Administration (FDA) as medical devices, pharmaceuticals, or biologics. Additionally, the FDA regulates test services provided by our BioReliance subsidiary. As such, we must register with the FDA as both a medical device manufacturer and a manufacturer of drug products and comply with all required regulations. Failure to comply with these regulations can lead to sanctions by the FDA such as written observations made following inspections, warning letters, product recalls, fines, product seizures and consent decrees. Test data for use in client submissions with the FDA could be disqualified. If the FDA were to take such actions, the FDA s observations, warnings, etc. would be available to the public. Such publicity could affect our ability to sell these regulated products.

Additionally, some of our customers use our products and services in the manufacturing process for their drug and medical device products, and such end products are regulated by the FDA under GMP. Although the customer is ultimately responsible for GMP compliance for their products, it is also the customer s expectation that the materials sold to them will meet GMP requirements. We could lose sales and customers, and incur products liability claims, if these products do not meet GMP requirements.

ISO is an internationally recognized voluntary quality standard that requires compliance with a variety of quality requirements somewhat similar to the GMP requirements. The operations of our BioProduction segments and Eugene, Oregon facilities are intended to comply with ISO 9001. Failure to comply with this voluntary standard can lead to observations of non-compliance or even suspension of ISO certification by the certifying unit. If we lose ISO certification, this loss could cause some customers to purchase products from other suppliers.

If we violate a government mandated or voluntary quality program, we may incur additional expense to comply with the government mandated or voluntary standards. That expense may be material, and we may not have anticipated that expense in our financial forecasts. Our financial results could suffer as a result of these increased expenses.

Risks Related to Our Intellectual Property

Inability to protect our technologies could affect our ability to compete.

Our success depends to a significant degree upon our ability to develop proprietary products and technologies. However, we cannot assure you that patents will be granted on any of our patent applications. We also cannot assure you that the scope of any of our issued patents will be sufficiently broad to offer meaningful protection. We only have patents issued in selected countries. Therefore, third parties can make, use, and sell products covered by our patents in any country in which we do not have patent protection. In addition, our issued patents or patents we license could be successfully challenged, invalidated or circumvented so that our patent rights would not create an effective competitive barrier. We provide our customers the right to use our products under label licenses that are for research purposes only. These licenses could be contested, and we cannot assure you that we would either be aware of an unauthorized use or be able to enforce the restrictions in a cost-effective manner.

If a third party claimed an intellectual property right to technology we use, we might need to discontinue an important product or product line, alter our products and processes, defend our right to use such technology in court or pay license fees. Although we might under these circumstances attempt to obtain a license to such intellectual property, we may not be able to do so on favorable terms, or at all. Additionally, if our products are found to infringe a third party s intellectual property, we may be required to pay damages for past infringement, and lose the ability to sell certain products or receive licensing revenues.

Disclosure of trade secrets could aid our competitors.

We attempt to protect our trade secrets by entering into confidentiality agreements with third parties, our employees and consultants. However, these agreements can be breached and, if they are, there may not be an adequate remedy available to us. If our trade secrets become known we may lose our competitive position.

Intellectual property litigation and other litigation could harm our business.

Litigation regarding patents and other intellectual property rights is extensive in the biotechnology industry. We are aware that patents have been applied for and, in some cases, issued to others claiming technologies that are closely related to ours. We are currently a defendant in several court actions involving our intellectual property. As a result, and in part due to the ambiguities and evolving nature of intellectual property law, we periodically receive notices of potential infringement of patents held by others. We may not be able to resolve these types of claims successfully in the future.

We are currently enforcing our intellectual property rights through patent litigation in several court actions. We have incurred substantial costs, and are currently incurring substantial costs, in enforcing our intellectual property rights, primarily relating to H minus reverse transcriptase, which is the basis for our Superscript and related product lines, and we expect to incur such costs in the future for Superscript and other technologies. In the event of additional intellectual property disputes, we may be involved in further litigation. In addition to court actions, patent litigation could involve proceedings before the U.S. Patent and Trademark Office or the International Trade Commission. Intellectual property litigation can be extremely expensive, and such expense, as well as the consequences should we not prevail, could seriously harm our business. If we do not prevail in our pending patent litigation relating to H minus reverse transcriptase, we may be unable to prevent third parties from using this technology in the commercial marketplace. This could have a seriously harmful effect on our business.

Risks Related to Our Operations

Litigation may harm our business or otherwise distract our management.

Substantial, complex or extended litigation could cause us to incur large expenditures and distract our management. For example, lawsuits by employees, stockholders, collaborators, distributors, customers, or end-users of our products or services could be very costly and substantially disrupt our business. Disputes from time to time with such companies or individuals are not uncommon, and we cannot assure you that we will always be able to resolve such disputes out of court or on terms favorable to us. Unexpected results could cause our financial exposure in these matters to exceed stated reserves and insurance, requiring us to allocate additional funds and other resources to address these liabilities.

In particular, in acquiring the Dexter Corporation and Life Technologies, Inc., we assumed certain of Dexter s and Life Technologies, Inc. s liabilities, ongoing disputes and litigation. These include environmental and warranty claims, among others.

Loss of key personnel could hurt our business.

Our products and services are highly technical in nature. In general, only highly qualified and trained scientists have the necessary skills to develop and market our products and provide our services. In addition, some of our manufacturing positions are highly technical as well. We face intense competition for these professionals from our competitors, customers, marketing partners and other companies throughout our industry. We do not generally enter into employment agreements requiring these employees to continue in our employment for any period of time. Any failure on our part to hire, train, and retain a sufficient number of qualified professionals would seriously damage our business. Additionally, some measures that we implement during the course of integrating acquired companies and businesses into our operations may be disruptive to some of our key personnel, and cause them to leave us. If we were to lose a sufficient number of our key employees, including research and development scientists, and were unable to replace them or satisfy our needs for research and development through outsourcing, it could seriously damage our business.

We have a significant amount of debt which could adversely affect our financial condition.

We have $500 million of subordinated convertible notes that are due in 2006, $350 million in senior convertible notes that are due in 2023 (first put date August 1, 2010), and $450 million of senior convertible notes due in 2024 (first put date February 15, 2012), which is in aggregate a significant amount of debt and debt service obligations. If we are unable to generate sufficient cash flow or otherwise obtain funds necessary to make required payments on the remaining notes, we will be in default under the terms of the loan agreements, or indentures, which could, in turn, cause defaults under our other existing and future debt obligations. These notes also could have a negative effect on our earnings per share, depending on the rate of interest we earn on cash balances and our stock price, and on our ability to make favorable acquisitions using the proceeds from the notes.

Even if we are able to meet our debt service obligations, the amount of debt we have could adversely affect us in a number of ways, including by:

- limiting our ability to obtain any necessary financing in the future for working capital, capital expenditures, debt service requirements, or other purposes;
- limiting our flexibility in planning for, or reacting to, changes in our business;
- placing us at a competitive disadvantage relative to our competitors who have lower levels of debt;
- making us more vulnerable to a downturn in our business or the economy generally; and
- requiring us to use a substantial portion of our cash to pay principal and interest on our debt, instead of contributing those funds to other purposes such as working capital and capital expenditures.

We could lose the tax deduction on our convertible senior notes due 2023 and the convertible senior notes due 2024 under certain circumstances.

We could lose some or all of the tax deduction for the contingent portion of the interest expense associated with our convertible senior notes due 2023 and the convertible senior notes due in 2024 if, under certain circumstances, the foregoing notes are not subject to the special Treasury Regulations governing contingent payment debt instruments. We also could lose the tax deduction for interest expense associated with the foregoing notes if we were to invest in non-taxable investments.

Absence of dividends could reduce our attractiveness to investors.

Some investors favor companies that pay dividends, particularly in market downturns. We have never declared or paid any cash dividends on our common stock, although some of the companies that we have acquired, including Life Technologies and Dexter, declared and paid dividends prior to the acquisitions. We currently intend to retain any future earnings for funding growth and, therefore, we do not currently anticipate paying cash dividends on our common stock.

Our anti-takeover defense provisions may deter potential acquirers and may depress our stock price.

Certain provisions of our certificate of incorporation, by-laws and Delaware law, as well as certain agreements we have with our executives, could be used by our incumbent management to make it substantially more difficult for a third party to acquire control of us. These provisions include the following:

- we may issue preferred stock with rights senior to those of our common stock;
- we have adopted a stock purchase rights plan;
- we have a classified Board of Directors;
- our by-laws prohibit action by written consent by stockholders;
- our Board of Directors has the exclusive right to fill vacancies and set the number of directors;
- cumulative voting is not allowed;
- we require advance notice for nomination of directors and for stockholder proposals; and
- a number of our executives have agreements with us that entitle them to payments in certain circumstances following a change in control.

These provisions may discourage certain types of transactions involving an actual or potential change in control. These provisions may also limit our stockholders ability to approve transactions that they may deem to be in their best interests and discourage transactions in which our stockholders might otherwise receive a premium for their shares over the then current market price.

Risks Related to Our International Operations

International unrest or foreign currency fluctuations could adversely affect our results.

Including subsidiaries and distributors, our products are currently marketed in approximately 70 countries throughout the world. Our international revenues, which include revenues from our non-U.S. subsidiaries and export sales from the U.S., represented 48% of our product revenues in 2003, 44% of our product revenues in 2002, and 45% of our product revenues in 2001. We expect that international revenues will continue to account for a significant percentage of our revenues for the foreseeable future.

There are a number of risks arising from our international business, including:

- foreign currencies we receive for sales outside the U.S. could be subject to unfavorable exchange rates with the U.S. dollar and reduce the amount of revenue that we recognize;
- the possibility that unfriendly nations or groups could boycott our products;
- general economic and political conditions in the markets in which we operate;
- potential increased costs associated with overlapping tax structures;
- potential trade restrictions and exchange controls;
- more limited protection for intellectual property rights in some countries;
- difficulties and costs associated with staffing and managing foreign operations;
- unexpected changes in regulatory requirements;
- the difficulties of compliance with a wide variety of foreign laws and regulations;
- longer accounts receivable cycles in certain foreign countries;
- import and export licensing requirements; and

changes to our distribution networks.

A significant portion of our business is conducted in currencies other than the U.S. dollar, which is our reporting currency. We recognize foreign currency gains or losses arising from our operations in the period incurred. As a result, fluctuations between the currencies in which we do business have caused and will continue to cause foreign currency transaction gains and losses. We cannot predict the effects of currency exchange rate fluctuations upon our future operating results because of the number of currencies involved, the variability of currency exposures, and the potential volatility of currency exchange rates.

Our foreign currency hedging program includes contracts to hedge future forecasted foreign currency cash flows. The goal of this program is to reduce the volatility of our earnings and cash flows from changes in foreign currency exchange rates, but we cannot assure you that this program will adequately protect our operating results from the full effects of exchange rate fluctuations. Failure to hedge effectively against exchange rate fluctuations may adversely affect our results of operations.

Several foreign countries in which we generate revenue have experienced somewhat unsteady economic conditions and significant devaluation in currencies. The economic situation in these regions may result in slower payments of outstanding receivable balances or even defaults. Our business could be damaged by weakness in the economies and currencies in these regions.

Risks Related to the Market for Our Securities

The market price of our stock and convertible notes could be volatile.

The market price of our common stock and convertible notes has been subject to volatility and, in the future, the market price of our common stock and convertible notes may fluctuate substantially due to a variety of factors, including:

- quarterly fluctuations in our operating income and earnings per share results;
- technological innovations or new product introductions by us or our competitors;
- economic conditions;
- disputes concerning patents or proprietary rights;
- changes in earnings estimates and market growth rate projections by market research analysts;
- sales of common stock by existing holders;
- loss of key personnel;
- securities class actions or other litigation; and
- changes to the NIH budget, and the research and development budgets of our customers.

The market price for our common stock and the convertible notes may also be affected by our ability to meet analysts expectations. Any failure to meet such expectations, even slightly, could have an adverse effect on the market price of our common stock and the convertible notes. In addition, the stock market is subject to extreme price and volume fluctuations. This volatility has had a significant effect on the market prices of securities issued by many companies for reasons unrelated to the operating performance of these companies. In the past, following periods of volatility in the market price of a company s securities, securities class action litigation has often been instituted against that company. If similar litigation were instituted against us, it could result in substantial costs and a diversion of our management s attention and resources, which could have an adverse effect on our business, results of operations and financial condition.

Our operating results may fluctuate in future periods.

The results of operations for any quarter are not necessarily indicative of results to be expected in future periods. Our operating results have in the past been, and will continue to be, subject to quarterly fluctuations as a result of a number of factors. These factors include, but are not limited to:

- the integration of people, operations and products from acquired businesses and technologies;
- our ability to introduce new products successfully;
- market acceptance of existing or new products and prices;
- competitive product introductions;
- customer working days within the reporting period;
- currency exchange rate fluctuations;
- changes in customer research budgets which are influenced by the timing of their research and commercialization efforts and their receipt of government grants;
- our ability to manufacture our products efficiently;
- our ability to control or adjust research and development, marketing, sales and general and administrative expenses in response to changes in revenues; and
- the timing of orders from distributors and mix of sales among distributors and our direct sales force.

Risks Related To Environmental Issues

Incidents related to hazardous materials could adversely affect our business.

Portions of our operations require the controlled use of hazardous and radioactive materials. Although we are diligent in designing and implementing safety procedures to comply with the standards prescribed by federal, state, and local regulations, the risk of accidental contamination of property or injury to individuals from these materials cannot be completely eliminated. In the event of such an incident, we could be liable for any damages that result, which could adversely affect our business.

Additionally, although unlikely, a catastrophic incident could partially or completely shut down our research and manufacturing facilities and operations.

We generate waste that must be transported to approved treatment, storage and disposal facilities. The transportation and disposal of such waste are required to meet applicable state and federal statutes and regulations. The storage, treatment and disposal of such waste potentially exposes us to environmental liability if, in the future, such transportation and disposal is deemed to have violated such statutes and/or regulations or if the storage, treatment and disposal facilities are inadequate and are proved to have damaged the environment.

Furthermore, in acquiring Dexter, we assumed certain of Dexter s environmental liabilities, including clean-up of several hazardous waste sites listed on the National Priority List under federal Superfund law. Unexpected results related to the investigation and clean-up of these sites could cause our financial exposure in these matters to exceed stated reserves and insurance, requiring us to allocate additional funds and other resources to address our environmental liabilities, which could cause a material adverse effect on our business.

Environmental, health and safety regulation by the government could adversely affect our operations.

Our operations are subject to complex and stringent environmental, health, safety and other governmental laws and regulations. While we believe that we have obtained the requisite approvals and permits for our existing operations, and that our business is operated in accordance with applicable laws in all material respects, we remain subject to a varied and complex body of laws and regulations that both public officials and private individuals may seek to enforce. Existing laws and regulations may be revised or reinterpreted, or new laws and regulations may become applicable to us that may have a negative effect on our business and results of operations.

Potential product liability claims could affect our earnings and financial condition.

We face a potential risk of liability claims based on our products or services. We carry product liability insurance coverage which is limited in scope and amount. We cannot assure you, however, that we will be able to maintain this insurance at a reasonable cost and on reasonable terms. We also cannot assure you that this insurance will be adequate to protect us against a product liability claim, should one arise.

BioReliance s services include the manufacture of biologic products to be tested in human clinical trials. BioReliance could be held liable for errors and omissions in connection with the services it performs. In addition, our BioReliance subsidiary formulates, tests and manufactures products intended for use by the public. These activities could expose BioReliance to risk of liability for personal injury or death to persons using such products, although neither Invitrogen nor BioReliance commercially markets or sells the products to end users. We seek to reduce our potential liability through measures such as contractual indemnification provisions with clients (the scope of which may vary from client-to-client, and the performances of which are not secured) and insurance maintained by clients. BioReliance and Invitrogen could be materially and adversely affected if BioReliance or Invitrogen were required to pay damages or incur defense costs in connection with a claim that is outside the scope of the indemnification agreements, if the indemnity, although applicable, is not performed in accordance with its terms or if our liability exceeds the amount of applicable insurance or indemnity. We currently maintain product liability and errors and omissions insurance with respect to these risks. There can be no assurance that our insurance coverage will be adequate or that insurance coverage will continue to be available on terms acceptable to us.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

We are exposed to market risk related to changes in foreign currency exchange rates, commodity prices, and interest rates, and we selectively use financial instruments to manage these risks. We do not enter into financial instruments for speculation or trading purposes. These financial exposures are monitored and managed by us as an integral part of our overall risk management program, which recognizes the unpredictability of financial markets and seeks to reduce potentially adverse effects on our results.

Foreign Currency Transactions. We have operations in Europe, Asia-Pacific and the Americas. As a result, our financial position, results of operations and cash flows can be affected by fluctuations in foreign currency exchange rates. Many of our reporting entities conduct a portion of their business in currencies other than the entity s functional currency. These transactions give rise to receivables and payables that are denominated in currencies other than the entity s functional currency. The value of these receivables and payables is subject to changes in exchange rates because they may become worth more or less than they were worth at the time we entered into the transaction due to changes in exchange rates. Both realized and unrealized gains or losses on the value of these receivables and payables are included in the determination of net income. Realized and unrealized gains or losses on the value of financial contracts entered into to hedge the exchange rate exposure of these receivables and payables are also included in the determination of net income. Net currency exchange losses recognized on business transactions, net of hedging transactions, were $(0.2) and $0.3 million for the three months and $(0.5) million and $(0.1) million for the nine months ended September 30, 2004 and 2003, respectively, and are included in other income and expense in the Consolidated Statements of Income.

Our currency exposures vary, but are primarily concentrated in the euro, British pound sterling and Japanese yen. Historically, we have used foreign currency forward contracts to mitigate foreign currency risk on foreign currency receivables and payables. At September 30, 2004, we had $53.8 million in foreign currency forward contracts outstanding to hedge currency risk on specific receivables and payables. These contracts, which all settled on various dates through October 2004, effectively fix the exchange rate at which these specific receivables and payables will be settled in, so that gains or losses on the forward contracts offset the losses or gains from changes in the value of the underlying receivables and payables.

Our foreign currency hedging program includes hedging of forecasted foreign currency cash flows. At September 30, 2004, the value of our executed forward contracts to hedge forecasted foreign currency cash flows totaled $25.8 million. Subsequent to September 30, 2004, we entered into forward contracts to hedge forecasted foreign currency cash flows of $165.0 million. The contracts mature on various dates through 2005. The contracts increase or decrease in value prior to their maturity will be accounted for as cash flow hedges and recorded in other comprehensive income in the Consolidated Balance Sheets. To the extent any portion of the forward contracts is determined to not be an effective hedge, the increase or decrease in value prior to the maturity will be recorded in other income and expense in the Consolidated Statement of Operations.

Based on the cash flow hedge contracts outstanding as of September 30, 2004, a 10% decrease in the value of the dollar relative to the currencies under contract would result in an approximate $2.6 million unrealized loss. Conversely, a 10% increase in the value of the dollar relative to the currencies under contract would result in a $2.6 million unrealized gain. Based on the cash flow hedge contracts outstanding as of October 14, 2004, a 10% decrease in the value of the dollar relative to the currencies under contract would result in an approximate $16.5 million unrealized loss. Conversely, a 10% increase in the value of the dollar relative to the currencies under contract would result in a $16.5 million unrealized gain. Consistent with the nature of the economic hedge provided by these foreign exchange contracts, such unrealized gains or losses would be offset by corresponding decreases or increases, respectively, in the dollar value of the future foreign currency cash flows.

Commodity Prices. Our exposure to commodity price changes relates to certain manufacturing operations that utilize certain commodities as raw materials. We manage our exposure to changes in those prices primarily through our procurement and sales practices.

Interest Rates. Our investment portfolio is maintained in accordance with our investment policy that defines allowable investments, specifies credit quality standards and limits the credit exposure of any single issuer. The fair value of our cash equivalents and marketable securities is subject to change as a result of changes in market interest rates and investment risk related to the issuers credit worthiness. We do not utilize financial contracts to manage our exposure in our investment portfolio to changes in interest rates. At September 30, 2004, we had $1.1 billion in cash, cash equivalents and marketable securities, all of which are stated at fair value. Changes in market interest rates would not be expected to have a material impact on the fair value of $381.1 million of our cash and cash equivalents at September 30, 2004, as these consisted of securities with maturities of less than three months. A 100 basis point increase or decrease in interest rates would, however, decrease or increase, respectively, the remaining $684.9 million of our investments by approximately $5.1 million. While changes in interest rates may affect the fair value of our investment portfolio, any gains or losses will not be recognized in our Consolidated Statements of Income until the investment is sold or if the reduction in fair value was determined to be a permanent impairment.

In February 2004, we acquired BioReliance Corporation, which did utilize derivative financial instruments to reduce interest rate risk. As of September 30, 2004, there is one outstanding interest rate swap that was entered into by BioReliance. This instrument swapped floating rate LIBOR payments to fixed rate payments. The current notional amount of this swap is $4.1 million.

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Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures. Based on our evaluation during the most recent quarter, our principal executive officer and principal financial officer have concluded that our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the Exchange Act)) are effective to ensure that information required to be disclosed by us in reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms.

Changes in Internal Controls. There have been no significant changes in our internal controls or in other factors that could significantly affect our disclosure controls and procedures subsequent to the date of the previously mentioned evaluation.

Sarbanes-Oxley 404 Compliance. We are assessing our internal controls as called for by the Sarbanes-Oxley Act of 2002. As part of the testing of these controls, we are validating potential control deficiencies and assessing whether or not they rise to the level of significant deficiencies or material weaknesses. In the meantime, we have established a series of remediation teams to investigate these potential control deficiencies, and, where appropriate, to remediate them. To ensure that we address these issues thoroughly, effectively, and timely, we have supplemented our internal project team with the services of several outside specialists. Although we have made this project a top priority, there can be no assurances that all control deficiencies identified and validated will be remediated before the end of our fiscal year or that the remaining unresolved control deficiencies will not rise to the level of significant deficiencies or material weaknesses.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings

We are engaged in various legal actions arising in the ordinary course of our business and believe that the ultimate outcome of these actions will not have a material adverse effect on our business or financial condition.

Item 2. Changes in Securities and Use of Proceeds

(a) None.

(b) None.

(c) None.

(d) None.

(e) None.

Item 3. Defaults Upon Senior Securities

None.

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

(a) None.

(b) None.

(c) None.

(d) Not applicable.

Item 5. Other Information

None.

Item 6. Exhibits and Reports on Form 8-K

(a) Exhibits: For a list of exhibits filed with this report, refer to the Index to Exhibits beginning on page 45.

(b) The following reports on Forms 8-K were filed during the quarter ended September 30, 2004:

1) A Report on Form 8-K was filed on July 21, 2004, reporting under Item 12 the announcement of Invitrogen s financial results for the quarter ended June 30, 2004 via a press release on July 21, 2004.

2) A Report on Form 8-K/A was filed on September 2, 2004, reporting under Item 9.01 the pro forma financial results of the combined businesses of the Registrant and BioReliance Corporation for prior periods.

SIGNATURES

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

INVITROGEN CORPORATION

Date: November 3, 2004

By: /s/ David F. Hoffmeister

David F. Hoffmeister
Chief Financial Officer
(Principal Financial Officer and
Authorized Signatory)

INDEX TO EXHIBITS

(In our Annual Report on Form 10-K for the Year Ended December 31, 2001, we numbered sequentially all of the material contracts that we had filed as of March 31,2002. Since that time, we have continued to number sequentially any additional material contracts that we file for ease of reference.)

EXHIBIT NUMBER	DESCRIPTION OF DOCUMENT
2.1	Agreement and Plan of Merger, by and between Invitrogen and Life Technologies, Inc., dated July 7, 2000.(1)
2.2	Agreement and Plan of Merger, by and between Invitrogen and Dexter Corporation, dated July 7, 2000.(1)
2.3	Agreement and Plan of Merger, by and between Invitrogen, Babcock, Inc. and InforMax, Inc., dated October 15, 2002.(2)
2.4	Agreement and Plan of Merger, by and among Invitrogen, INVO Merger Corporation, and NOVEX, dated June 14, 1999.(3)
2.5	Agreement and Plan of Merger, by and among Invitrogen, RG Merger Corporation, and Research Genetics, Inc., dated February 1, 2000.(4)
2.6	Asset Purchase Agreement by and among Vertex Pharmaceuticals Incorporated, PanVera LLC and Invitrogen Corporation, dated February 4, 2003.(5)
2.7	Agreement and Plan of Merger, by and among Invitrogen Corporation, Mallard Acquisition Corporation, Molecular Probes, Inc. and Richard P. Haugland, as the Shareholders Agent, dated July 2, 2003.(28)
2.8	Agreement and Plan of Merger, by and among Invitrogen, Baseball Acquisition Corporation and BioReliance Corporation dated December 24, 2003 (29)
3.1	Restated Certificate of Incorporation of Invitrogen, as amended.(6)
3.2	Amended and Restated Bylaws of Invitrogen.(7)
3.3	Certificate of Correction to the Restated Certificate of Incorporation of Invitrogen, dated February 21, 2001.(8)
3.4	Certificate of Designation, Preferences and Rights of the Terms of the Series B Preferred Stock, dated March 27, 2001.(8)
4.1	Specimen Common Stock Certificate.(9)
4.4	2 $^{1}/4$% Convertible Subordinated Notes due 2006, Registration Rights Agreement, by and among Invitrogen and Credit Suisse First Boston Corporation et al., as Initial Purchasers, dated December 11, 2001.(11)
4.5	Indenture, by and between Invitrogen and State Street Bank and Trust Company of California, N.A. and Table of Contents of Indenture, including Cross-Reference Table to the Trust Indenture Act of 1989, dated December 11, 2001.(11)
4.6	2% Convertible Senior Notes Due 2023, Registration Rights Agreement, by and among Invitrogen, and UBS Securities LLC and Credit Suisse First Boston LLC, as Initial Purchasers, dated August 1, 2003. (29)
4.7	Indenture, by and between Invitrogen and U.S. Bank National Association, dated August 1, 2003.(29)
4.8	1 $^{1}/2$% Convertible Senior Notes Due 2024, Registration Rights Agreement, by and among Invitrogen, and UBS Securities LLC and Bear Stearns & Co Inc., as Initial Purchasers, dated February 19, 2004. (30)
4.9	Indenture, by and between Invitrogen and U.S. Bank National Association, dated February 19, 2004. (30)
10.1	License Agreement, by and between Molecular Chimerics Corporation and Invitrogen, dated May 10, 1990.(9)
10.2	Purchase Agreement, by and between Cayla and Invitrogen, as amended, effective as of July 1, 1994.(9)
10.3	1995 Invitrogen Stock Option Plan.(9)
10.4	1996 Novel Experimental Technology Stock Option/Stock Issuance Plan.(12)
10.5	1997 Invitrogen Stock Option Plan, as amended, and forms of Incentive Stock Option Agreement and Nonstatutory Stock Option Agreement thereunder.(13)

EXHIBIT NUMBER	DESCRIPTION OF DOCUMENT
10.6	License Agreement, by and between Sloan-Kettering Institute for Cancer Research and Invitrogen, dated January 22, 1997.(9)
10.8	Novel Experimental Technology Employee Stock Ownership Plan and Trust Agreement, as amended, effective as of April 1, 1997.(14)
10.10	Stock Purchase Agreement, by and among Invitrogen and MorphaGen, Inc., a Delaware Corporation, dated November 3, 1998.(9)
10.11	1998 Novel Experimental Technology Stock Option/Stock Issuance Plan.(12)
10.12	1998 Invitrogen Employee Stock Purchase Plan, as amended, and form of subscription agreement thereunder.(2)
10.13	Patent License Agreement, by and among F. Hoffmann-La Roche Ltd., Roche Molecular Systems, Inc. and Invitrogen, effective as of July 1, 1998.(9)
10.14	Assignment of Intellectual Property Conditional On Payment, by and between Molecular Biology Resources and Invitrogen, dated May 31, 1999.(15)
10.16	Lease, by and between CalWest Industrial Properties, LLC, a California limited liability company, and Invitrogen, dated as of May 31, 2001.(11)
10.17	Lease, by and between Blackmore Signal Hill, a California Limited Partnership, and Invitrogen, dated October 7, 1999.(16)
10.18	Lease, by and between Blackmore Lot 99 Investment, a California Limited Partnership, and Invitrogen, dated December 20, 1999.(16)
10.21	5 $^1/2$% Convertible Subordinated Note Due 2007.(16)
10.22	5 $^1/2$% Convertible Subordinated Notes due 2007, Purchase Agreement, dated February 25, 2000.(16)
10.24	Contract of Sale, by and between Invitrogen and Human Genome Sciences, Inc., dated March 7, 2001.(8)
10.26	2 $^1/4$% Convertible Subordinated Notes due 2006.(11)
10.27	2 $^1/4$% Convertible Subordinated Notes due 2006, Purchase Agreement, dated December 11, 2001.(11)
10.34	Rights Agreement, by and between Invitrogen and Fleet National Bank Rights Agent, dated February 27, 2001.(18)
10.35	2000 Nonstatutory Stock Option Plan, as amended and restated on July 19, 2001.(19)
10.36	Letter to Mr. Raymond Dittamore, regarding Non-Employee Director Compensation, dated November 5, 2001.(19)
10.37	Invitrogen 401(k), as amended and restated, effective as of January 1, 2002.(11)
10.39	Settlement and Retention Agreement, by and between Invitrogen and Daryl J. Faulkner, dated as of May 31, 2002.(20)
10.42	Promotion and Relocation Letter, by and between Invitrogen and Daryl J. Faulkner, dated May 31, 2002.(20)
10.44	Settlement and Retention Agreement, by and between Invitrogen and John A. Cottingham, dated as of June 7, 2002.(20)
10.46	Form of Secured Promissory Note under Invitrogen s Employee Relocation Guidelines.(20)
10.47	Form of Deed of Trust with Assignment of Rents under Invitrogen s Employee Relocation Guidelines.(20)
10.48	Form of Addendum to Deed of Trust with Assignment of Rents under Invitrogen s Employee Relocation Guidelines.(20)
10.49	Form of Employee Relocation Guidelines under Invitrogen s Employee Relocation Guidelines.(20)
10.50	Settlement Agreement between Invitrogen and Daryl J. Faulkner dated September 9, 2002.(21)
10.51	Executive Employment and Severance Agreement, by and between Invitrogen and James R. Glynn, effective as of December 5, 2002.(22)
10.52	Confidential Separation Agreement and General Release of All Claims, by and between Invitrogen and Lyle C. Turner, dated December 13, 2002. (22)
10.53	Independent Contractor Services Agreement, by and between Invitrogen and Lyle C. Turner dated December 13, 2002. (22)

EXHIBIT NUMBER	DESCRIPTION OF DOCUMENT
10.54	University Research Park Ground Lease, by and between University Research Park I and PanVera Corporation, dated as of October 1, 1978. (23)
10.56	Amendment to Executive Employment and Severance Agreement by and between Invitrogen Corporation and James R. Glynn, dated as of June 27, 2003. (24)
10.57	Employment Agreement by and between Invitrogen Corporation and Gregory T. Lucier, to be effective as of May 26, 2003. (24)
10.58	Change-In-Control Agreement by and between Invitrogen Corporation and Gregory T. Lucier, dated as of May 26, 2003. (24)
10.59	Indemnification Agreement by and between Invitrogen Corporation and Gregory T. Lucier, dated as of May 26, 2003. (24)
10.60	Restricted Stock Agreement by and between Invitrogen Corporation and Claude D. Benchimol, dated as of September 4, 2003. (25)
10.61	Restricted Stock Agreement by and between Invitrogen Corporation and Gregory T. Lucier, dated as of May 30, 2003. (26)
10.62	NSO Agreement by and between Invitrogen Corporation and Gregory T. Lucier, dated as of May 30, 2003. (26)
10.63	Change-In-Control Agreement by and between Invitrogen Corporation and Claude D. Benchimol, dated as of October 16, 2003. (27)
10.64	Change-In-Control Agreement by and between Invitrogen Corporation and Benjamin E. Bulkley, dated as of October 16, 2003. (27)
10.65	Change-In-Control Agreement by and between Invitrogen Corporation and Joseph Rodriguez, dated as of October 23, 2003. (27)
10.66	Amended and Restated Change-In-Control Agreement by and between Invitrogen Corporation and John A. Cottingham, dated as of October 16, 2003. (27)
10.67	Amended and Restated Change-In-Control Agreement by and between Invitrogen Corporation and Daryl Faulkner, dated as of October 16, 2003. (27)
10.68	Amended and Restated Change-In-Control Agreement by and between Invitrogen Corporation and John D. Thompson, dated as of October 16, 2003. (27)
10.70	Restricted Stock Agreement by and between Invitrogen Corporation and Benjamin Bulkley, dated as of October 15, 2003. (27)
10.71	Restricted Stock Agreement by and between Invitrogen Corporation and Joseph Rodriguez, dated as of October 20, 2003. (27)
10.72	Change-In-Control Agreement by and between Invitrogen Corporation and Karen Gibson, dated as of January 30, 2004. (30)
10.73	Restricted Stock Agreement by and between Invitrogen Corporation and Karen Gibson, dated as of January 30, 2004. (30)
10.74	Change-In-Control Agreement by and between Invitrogen Corporation and Nicolas Barthelemy, dated as of March 10, 2004. (30)
10.75	Restricted Stock Agreement by and between Invitrogen Corporation and Nicolas Barthelemy, dated as of March 10, 2004. (30)
10.76	Executive Health Plan
10.77	Financial Planning Benefit Plan
10.78	Supplemental Long Term Disability Plan
10.79	Invitrogen Corporation Deferred Stock Unit Plan
31.1	Certification of Chief Executive Officer
31.2	Certification of Chief Financial Officer
32.1	Certification of Chief Executive Officer
32.2	Certification of Chief Financial Officer

(1) Incorporated by reference to the Registrant s Registration Statement on Form S-4 (File No. 333-43674). Original 1998 Invitrogen Employee Stock Purchase Plan (Plan) and form of subscription agreement thereunder are incorporated by reference to the Registrant s Registration Statement on Form S-1 (File No. 333-68665) and amendment to Plan is incorporated by reference to the Registrant s Registration Statement on Form S-4 (File No. 333-43674).

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(2) Incorporated by reference to the Registrant s Report on Schedule TO filed on October 25, 2002.
(3) Incorporated by reference to Registrant s Registration Statement on Form S-4 (File No. 333-82593).
(4) Incorporated by reference to Registrant s Current Report on Form 8-K, filed on March 30, 2001 (File No. 000-25317)
(5) Incorporated by reference to Registrant s Current Report on Form 8-K, filed on April 11, 2003 (File No. 000-25317)
(6) Incorporated by reference to the Registrant s Quarterly Report on Form 10-Q for the Quarterly Period Ended September 30, 2000 (File No. 000-25317).
(7) The Amended and Restated Bylaws are incorporated by reference to the Registrant s Registration Statement on Form S-1 (File No. 333-68665). A further amendment to the Bylaws adopted by a Resolution of the Board of Directors dated July 19, 2001 is incorporated by reference to the Registrant s Quarterly Report on Form 10-Q for the Quarterly Period Ended June 30, 2001 (File No. 000-25317).
(8) Incorporated by reference to the Registrant s Quarterly Report on Form 10-Q for the Quarterly Period Ended March 31, 2001 (File No. 000-25317).
(9) Incorporated by reference to Registrant s Registration Statement on Form S-1 (File No. 333-68665).
(10) Incorporated by reference to the Registrant s Registration Statement on Form S-3 (File No. 333-37964).
(11) Incorporated by reference to the Registrant s Annual Report on Form 10-K for the Year Ended December 31, 2001 (File No. 000-25317), as amended.
(12) Incorporated by reference to Registrant s Registration Statement on Form S-1 (File No. 333-87085).
(13) The 1997 Stock Option Plan, as amended and restated, is attached to Registrant s Quarterly Report on Form 10-Q for the Quarterly period ended September 30, 2002 (File No. 000-25317). The forms of Incentive Stock Option Agreement and Nonstatutory Stock Option Agreement under the 1997 Stock Option Plan incorporated by reference to the Registrant s Registration Statement on Form S-4 (File No. 333-43674).
(14) Incorporated by reference to Registrant s Registration Statement on Form S-1/A (File No. 333-87085).
(15) Incorporated by reference to the Registrant s Registration Statement on Form S-4 (File No. 333-82593).
(16) Incorporated by reference to the Registrant s Annual Report on Form 10-K for the Year Ended December 31, 2000, (File No. 000-25317).
(17) Incorporated by reference to the Registrant s Quarterly Report on Form 10-Q for the Quarterly Period Ended June 30, 2001 (File No. 000-25317).
(18) Incorporated by reference to the Registrant s Current Report on Form 8-K, filed on March 30, 2001 (File No. 000-25317).
(19) Incorporated by reference to the Registrant s Quarterly Report on Form 10-Q for the Quarterly Period Ended September 30, 2001 (File No. 000-25317).
(20) Incorporated by reference to the Registrant s Quarterly Report on Form 10-Q for the Quarterly Period Ended June 30, 2002 (File No. 000-25317).
(21) Incorporated by reference to the Registrant s Quarterly Report on Form 10-Q for the Quarterly Period ended September 30, 2002 (File No. 000-25317).

(22) Incorporated by reference to the Registrant s Annual Report on Form 10-K for the Year Ended December 31, 2002 (File No. 000-25317).
(23) Incorporated by reference to the Registrant s Quarterly Report on Form 10-Q for the Quarterly Period ended March 31, 2003 (File No. 000-25317).
(24) Incorporated by reference to the Registrant s Quarterly Report on Form 10-Q for the Quarterly Period ended June 30, 2003 (File No. 000-25317).
(25) Incorporated by reference to the Registrant s Registration Statement on Form S-8 (File No. 333-108442).
(26) Incorporated by reference to the Registrant s Registration Statement on Form S-8 (File No. 333-105730).
(27) Incorporated by reference to the Registrant s Annual Report on Form 10-K for the year ended December 31, 2003 (File No. 000-25317).
(28) Incorporated by reference to Registrant s Current Report on Form 8-K, filed on July 3, 2003 (File No. 000-25317).
(29) Incorporated by reference to Registrant s Registration Statement on Form S-3 (File No. 333-110060).
(30) Incorporated by reference to Registrant s Quarterly Report on Form 10-Q for the Quarterly Period ended March 31, 2004 (File No. 000-25317).