UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 10-Q

x **Quarterly report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

For the quarterly period ended June 30, 2006

☐ **Transition report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

Commission File Number **1-7615**

KIRBY CORPORATION

(Exact name of registrant as specified in its charter)

Nevada	**74-1884980**
(State or other jurisdiction of incorporation or organization)	(IRS Employer Identification No.)
55 Waugh Drive, Suite 1000, Houston, TX	**77007**
(Address of principal executive offices)	(Zip Code)

(713) 435-1000

(Registrant's telephone number, including area code)

No Change

(Former name, former address and former fiscal year, if changed since last report)

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

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

Large accelerated filer ☑ Accelerated filer ☐ Non-accelerated filer ☐

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

The number of shares outstanding of the registrant's Common Stock, $.10 par value per share, on August 7, 2006 was 53,000,000.

Part I Financial Information

Item 1. Financial Statements

KIRBY CORPORATION AND CONSOLIDATED SUBSIDIARIES

CONDENSED BALANCE SHEETS
(Unaudited)

ASSETS

	June 30, 2006	December 31, 2005
	($ in thousands)	
Current assets:		
Cash and cash equivalents	$ 1,278	$ 17,838
Accounts receivable:		
Trade - less allowance for doubtful accounts	151,787	118,259
Other	21,043	8,440
Inventory - finished goods	38,321	18,967
Prepaid expenses and other current assets	20,642	19,002
Deferred income taxes	3,864	3,770
Total current assets	236,935	186,276
Property and equipment	1,188,356	1,101,159
Less accumulated depreciation	484,576	458,778
	703,780	642,381
Investment in marine affiliates	2,076	11,866
Goodwill - net	221,226	160,641
Other assets	43,736	24,384
	$ 1,207,753	$ 1,025,548

See accompanying notes to condensed financial statements.

KIRBY CORPORATION AND CONSOLIDATED SUBSIDIARIES

CONDENSED BALANCE SHEETS
(Unaudited)

LIABILITIES AND STOCKHOLDERS' EQUITY

	June 30, 2006	December 31, 2005
	($ in thousands)	
Current liabilities:		
Current portion of long-term debt	$ 844	$ 4
Income taxes payable	307	2,669
Accounts payable	81,213	68,895
Accrued liabilities	66,548	61,664
Deferred revenues	7,025	6,589
Total current liabilities	155,937	139,821
Long-term debt - less current portion	284,590	200,032
Deferred income taxes	141,963	126,755
Minority interests	2,946	3,088
Other long-term liabilities	16,270	18,310
	445,769	348,185
Contingencies and commitments	—	—
Stockholders' equity:		
Preferred stock, $1.00 par value per share. Authorized 20,000,000 shares	—	—
Common stock, $.10 par value per share. Authorized as of June 30, 2006, 120,000,000 shares, issued 57,337,000 shares; Authorized as of December 31, 2005, 60,000,000 shares, issued 30,907,000 shares	5,734	3,091
Additional paid-in capital	205,235	204,453
Accumulated other comprehensive income - net	1,241	(2,028)
Unearned compensation	—	(5,060)
Retained earnings	474,813	428,900
	687,023	629,356
Less cost of 4,334,000 shares in treasury (4,936,000 at December 31, 2005)	80,976	91,814
	606,047	537,542
	$ 1,207,753	$ 1,025,548

See accompanying notes to condensed financial statements.

KIRBY CORPORATION AND CONSOLIDATED SUBSIDIARIES

CONDENSED STATEMENT OF EARNINGS
(Unaudited)

	Three months ended June 30,		Six months ended June 30,	
	2006	2005	2006	2005
	($ in thousands, except per share amounts)			
Revenues:				
Marine transportation	$ 204,088	$ 170,742	$ 393,471	$ 327,952
Diesel engine services	39,204	28,534	74,724	55,768
	243,292	199,276	468,195	383,720
Costs and expenses:				
Costs of sales and operating expenses	157,595	128,267	301,973	248,194
Selling, general and administrative	26,518	22,228	50,279	43,187
Taxes, other than on income	3,403	2,909	6,590	6,095
Depreciation and amortization	15,515	13,964	30,605	28,945
Gain on disposition of assets	(785)	(1,795)	(942)	(1,987)
	202,246	165,573	388,505	324,434
Operating income	41,046	33,703	79,690	59,286
Equity in earnings of marine affiliates	87	707	553	4
Loss on debt retirement	—	(1,144)	—	(1,144)
Other expense	(134)	(400)	(68)	(716)
Interest expense	(3,304)	(3,113)	(6,002)	(6,259)
Earnings before taxes on income	37,695	29,753	74,173	51,171
Provision for taxes on income	(14,362)	(11,306)	(28,260)	(19,445)
Net earnings	$ 23,333	$ 18,447	$ 45,913	$ 31,726
Net earnings per share of common stock:				
Basic	$ .44	$ .37	$ .88	$ .64
Diluted	$ .44	$ .36	$ .86	$ .62

See accompanying notes to condensed financial statements.

KIRBY CORPORATION AND CONSOLIDATED SUBSIDIARIES

CONDENSED STATEMENT OF CASH FLOWS
(Unaudited)

	Six months ended June 30,	
	2006	**2005**
	($ in thousands)	
Cash flows from operating activities:		
Net earnings	$ 45,913	$ 31,726
Adjustments to reconcile net earnings to net cash provided by operations:		
Depreciation and amortization	30,605	28,945
Deferred income taxes	(44)	(716)
Loss on debt retirement	—	1,144
Gain on disposition of assets	(942)	(1,987)
Equity in (earnings) loss of marine affiliates, net of distributions	(553)	1,466
Amortization of unearned compensation	3,330	740
Other	198	481
Increase (decrease) in cash flows resulting from changes in operating assets and liabilities, net	(15,973)	2,275
Net cash provided by operating activities	62,534	64,074
Cash flows from investing activities:		
Capital expenditures	(64,386)	(63,563)
Acquisitions of business and marine equipment, net of cash acquired	(116,773)	(7,000)
Proceeds from disposition of assets	2,020	5,512
Other	231	162
Net cash used in investing activities	(178,908)	(64,889)
Cash flows from financing activities:		
Proceeds from bank credit facilities, net	82,500	200
Proceeds from senior notes	—	200,000
Payments on senior notes	—	(200,000)
Payments on long-term debt	(47)	(1,302)
Proceeds from exercise of stock options	10,999	3,332
Tax benefit from equity compensation plans	5,550	—
Other	812	(259)
Net cash provided by financing activities	99,814	1,971
Increase (decrease) in cash and cash equivalents	(16,560)	1,156
Cash and cash equivalents, beginning of year	17,838	629
Cash and cash equivalents, end of period	$ 1,278	$ 1,785
Supplemental disclosures of cash flow information:		
Cash paid during the period:		
Interest	$ 6,109	$ 6,228
Income taxes	$ 26,162	$ 18,125
Non-cash investing activity:		
Accrued payable for working capital adjustment related to acquisitions	$ 81	$ —
Disposition of assets for note receivables	$ 1,310	$ 363
Cash acquired in acquisitions	$ 2,867	$ —
Debt assumed in acquisition	$ 2,625	$ —

See accompanying notes to condensed financial statements.

In the opinion of management, the accompanying unaudited condensed financial statements of Kirby Corporation and consolidated subsidiaries (the "Company") contain all adjustments (consisting of only normal recurring accruals) necessary to present fairly the financial position as of June 30, 2006 and December 31, 2005, and the results of operations for the three months and six months ended June 30, 2006 and 2005.

(1) BASIS FOR PREPARATION OF THE CONDENSED FINANCIAL STATEMENTS

The condensed financial statements included herein have been prepared by the Company, without audit, pursuant to the rules and regulations of the Securities and Exchange Commission. Although the Company believes that the disclosures are adequate to make the information presented not misleading, certain information and footnote disclosures, including significant accounting policies normally included in annual financial statements, have been condensed or omitted pursuant to such rules and regulations. It is suggested that these condensed financial statements be read in conjunction with the Company's Annual Report on Form 10-K for the year ended December 31, 2005.

On April 25, 2006, the Board of Directors declared a two-for-one stock split of the Company's common stock. Stockholders of record on May 10, 2006 received one additional share of common stock for each share of common stock held on that day, with a distribution date of May 31, 2006. All references to number of shares and per share information in the accompanying unaudited condensed financial statements have been adjusted to reflect the stock split.

(2) ACQUISITIONS

On June 7, 2006, a wholly owned subsidiary of the Company, Marine Systems, Inc., purchased the stock of Global Power Holding Company, a privately held company that owns all of the outstanding equity of Global Power Systems, L.L.C. ("Global"). The Company purchased Global for an aggregate consideration (before post-closing adjustments) of $101,678,000, consisting of $98,816,000 in cash, the assumption of $2,625,000 of debt and $237,000 of merger costs. Global is a Gulf Coast high-speed diesel engine services provider, operating factory-authorized full service marine market dealerships for Cummins, Detroit Diesel and John Deere high-speed diesel engines, and Allison transmissions, as well as an authorized marine dealer for Caterpillar in Louisiana. As a result of the acquisition, the Company recorded $55,982,000 of goodwill and $16,292,000 of intangibles. The intangibles have a weighted average amortization period of approximately 16 years. Revenues for Global were approximately $63,000,000 in 2005. Financing of the cash portion of the acquisition was through a combination of existing cash and the Company's revolving credit facility.

On April 5, 2006, the Company purchased Gulf Coast Fire & Safety Service Company ("Gulf Coast Fire & Safety") for $1,008,000 in cash. Gulf Coast Fire & Safety provides sales and rental of equipment and various technical services related to fire suppression and protection, and will be part of the Logistics Management division, the Company's shore tankering operations and in-plant operations group. Financing of the acquisition was through the Company's operating cash flows.

(2) ACQUISITIONS - (Continued)

On March 1, 2006, the Company purchased from Progress Fuels Corporation ("PFC") the remaining 65% interest in Dixie Fuels Limited ("Dixie Fuels") for $15,590,000, subject to post-closing drydocking expenditures. The Dixie Fuels partnership, formed in 1977, was 65% owned by PFC and 35% owned by the Company. As part of the transaction, the Company extended the expiration date of its marine transportation contract with PFC from 2008 to 2010. Revenues for Dixie Fuels for 2005 were approximately $26,200,000. Financing of the acquisition was through the Company's operating cash flows.

Effective January 1, 2006, the Company acquired an additional one-third interest in Osprey Line, L.L.C. ("Osprey") from Richard L. Couch, increasing the Company's ownership to a two-thirds interest. The remaining one-third interest is owned by Cooper/T. Smith Stevedoring Company, Inc. ("Cooper/T. Smith"). Osprey, formed in 2000, operates a barge feeder service for cargo containers between Houston, New Orleans and Baton Rouge, as well as several ports located above Baton Rouge on the Mississippi River. Revenues for Osprey for 2005 were approximately $28,700,000.

On December 13, 2005, the Company purchased the diesel engine services division of TECO Barge Lines, Inc. ("TECO") for $500,000 in cash. In addition, the Company entered into a contract to provide diesel engine services to TECO. Financing of the acquisition was through the Company's operating cash flows.

On June 24, 2005, the Company purchased American Commercial Lines Inc.'s ("ACL") black oil products fleet of 10 inland tank barges for $7,000,000 in cash. Five of the barges are currently in service and the other five barges are being renovated in 2006. Financing for the equipment acquisition was through the Company's revolving credit facility.

(3) STOCK AWARD PLANS

The Company has share-based compensation plans which are described below. The compensation cost that has been charged against income for the Company's stock award plans and the income tax benefit recognized in the income statement for stock awards were as follows:

	Three months ended June 30,		Six months ended June 30,	
	2006	2005	2006	2005
Compensation cost	$ 1,900	$ 452	$ 3,330	$ 740
Income tax benefit	$ 724	$ 172	$ 1,269	$ 282

Compensation cost capitalized as part of inventory is considered immaterial.

In December 2004, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards No. 123R, "Share-Based Payment" ("SFAS No. 123R") which is a revision of Statement of Financial Accounting Standards No. 123, "Accounting for Stock-Based Compensation" ("SFAS No. 123") and supersedes Accounting Principles Board Opinion No. 25, "Accounting for Stock Issued to Employees" ("APB No. 25") and its related implementation guidance. SFAS No. 123R requires the Company to expense grants made under the stock option plans. The cost will be recognized over the vesting period of the plans. SFAS No. 123R is effective for the first annual period beginning after December 15, 2005. Upon adoption of SFAS No. 123R, amounts previously disclosed under SFAS No. 123 will be recognized as expense in the consolidated statement of earnings. The Company adopted SFAS No. 123R effective January 1, 2006 using the modified prospective application. Accordingly, compensation expense will be recognized for all newly granted awards and awards modified repurchased or cancelled after January 1, 2006. Compensation expense for the unvested portion of awards that were outstanding at January 1, 2006 will be recognized ratably over the remaining vesting period based on the fair value at date of grant as calculated under the Black-Scholes option pricing model.

(3) STOCK AWARD PLANS - (Continued)

Prior to 2006, the Company accounted for stock-based compensation utilizing the intrinsic value method in accordance with the provisions of APB No. 25. Under the intrinsic value method of accounting for stock-based employee compensation, since the exercise price of the Company's stock options was at the fair market value on the date of grant, no compensation expense was recorded. The Company was required under SFAS No. 123 to disclose pro forma information relating to option grants as if the Company used the fair value method of accounting, which requires the recording of estimated compensation expenses.

The following table summarizes pro forma net earnings and earnings per share for the three months and six months ended June 30, 2005 assuming the Company had used the fair value method of accounting for its stock award plans (in thousands, except per share amounts):

	Three months ended June 30, 2005	Six months ended June 30, 2005
Net earnings, as reported	$ 18,447	$ 31,726
Add: Total stock-based employee compensation expense included in net income, net of related tax effects	280	458
Deduct: Total stock-based employee compensation expense determined under fair value based method for all awards, net of related tax effects	(703)	(1,248)
Pro forma net earnings	$ 18,024	$ 30,936
Earnings per share:		
Basic - as reported	$ .37	$ .64
Basic - pro forma	$ .36	$ .62
Diluted - as reported	$ .36	$ .62
Diluted - pro forma	$ .35	$ .60

(3) STOCK AWARD PLANS - (Continued)

The Company has six employee stock award plans for selected officers and other key employees which provide for the issuance of stock options and restricted stock. For all of the plans, the exercise price for each option equals the fair market value per share of the Company's common stock on the date of grant. The terms of the options granted prior to February 10, 2000 are ten years and the options vest ratably over four years. Options granted on and after February 10, 2000 have terms of five years and vest ratably over three years. At June 30, 2006, 1,842,212 shares were available for future grants under the employee plans and no outstanding stock options under the employee plans were issued with stock appreciation rights.

The following is a summary of the stock award activity under the employee plans described above for the six months ended June 30, 2006:

	Outstanding Non-Qualified or Nonincentive Stock Awards	Weighted Average Exercise Price
Outstanding December 31, 2005	1,798,212	$ 14.56
Granted	426,546	$ 27.17
Exercised	(996,050)	$ 12.40
Canceled or expired	(1,388)	$ 16.96
Outstanding June 30, 2006	1,227,320	$ 18.24

The following table summarizes information about the Company's outstanding and exercisable stock options under the employee plans at June 30, 2006:

	Options Outstanding				Options Exercisable		
Range of Exercise Prices	Number Outstanding	Weighted Average Remaining Contractual Life in Years	Weighted Average Exercise Price	Aggregated Intrinsic Value	Number Exercisable	Weighted Average Exercise Price	Aggregated Intrinsic Value
$8.95 - $9.94	86,000	1.9	$ 9.35		86,000	$ 9.35	
$12.78 - $14.09	268,668	1.34	$ 12.98		268,668	$ 12.98	
$15.08 - $16.96	432,844	2.57	$ 16.90		222,366	$ 16.96	
$20.89 - $22.05	216,400	3.66	$ 21.78		72,126	$ 21.78	
$25.69 - $27.60	223,408	4.62	$ 27.17		—	—	
$8.95 - $27.60	1,227,320	2.83	$ 18.24	$ 26,088,000	649,160	$ 14.84	$ 16,009,000

The Company has three director stock award plans for nonemployee directors of the Company which provide for the issuance of stock options and restricted stock. No additional options can be granted under two of the plans. The third plan, the 2000 Director Plan, provides for the automatic grants of stock options and restricted stock to nonemployee directors on the date of first election as a director and after each annual meeting of stockholders. In addition, the 2000 Director Plan provides for the issuance of stock options or restricted stock in lieu of cash for all or part of the annual director fee. The exercise prices for all options granted under the plans are equal to the fair market value per share of the Company's common stock on the date of grant. The terms of the options are 10 years. The options granted when first elected as a director vest immediately. The options granted and restricted stock issued after each annual meeting of stockholders vest six months after the date of grant. Options granted and restricted stock issued in lieu of cash director fees vest in equal quarterly increments during the year to which they relate. At June 30, 2006, 173,690 shares were available for future grants under the nonemployee director plans. The director stock award plans are intended as an incentive to attract and retain qualified and competent independent directors.

(3) STOCK AWARD PLANS - (Continued)

The following is a summary of the stock award activity under the director plans described above for the six months ended June 30, 2006:

	Outstanding Non-Qualified or Nonincentive Stock Awards	Weighted Average Exercise Price
Outstanding December 31, 2005	354,722	$ 14.02
Granted	75,496	$ 35.20
Exercised	(86,902)	$ 14.92
Outstanding June 30, 2006	343,316	$ 17.81

The following table summarizes information about the Company's outstanding and exercisable stock options under the director plans at June 30, 2006:

	Options Outstanding				Options Exercisable		
Range of Exercise Prices	Number Outstanding	Weighted Average Remaining Contractual Life in Years	Weighted Average Exercise Price	Aggregate Intrinsic Value	Number Exercisable	Weighted Average Exercise Price	Aggregate Intrinsic Value
$8.53 - $9.94	41,692	2.69	$ 9.64		41,692	$ 9.64	
$10.07 - $12.75	123,426	5.13	$ 11.33		123,426	$ 11.33	
$15.74 - $20.28	112,162	7.31	$ 17.73		112,162	$ 17.73	
$35.17 - $36.22	66,036	9.83	$ 35.20		21,008	$ 35.19	
$8.53 - $36.22	343,316	6.44	$ 17.81	$ 7,447,000	298,288	$ 15.18	$ 7,254,000

The total intrinsic value of all options exercised and restricted stock vestings under all of the Company's plans was $19,189,000 and $5,780,000 for the six months ended June 30, 2006 and 2005, respectively. The actual tax benefit realized for tax deductions from stock award plans was $7,311,000 and $2,202,000 for the six months ended June 30, 2006 and 2005, respectively.

As of June 30, 2006, there was $3,634,000 of unrecognized compensation cost related to nonvested stock options and $9,452,000 related to restricted stock. The stock options are expected to be recognized over a weighted average period of approximately 1.6 years and restricted stock over approximately 3.1 years. The total fair value of shares vested was $4,655,000 and $3,486,000 during the six months ended June 30, 2006 and 2005, respectively.

(3) STOCK AWARD PLANS - (Continued)

The weighted average fair value of options granted during the six months ended June 30, 2006 and 2005 was $10.18 and $6.89 per share, respectively. The fair value of the options granted during the six months ended June 30, 2006 and 2005 was $2,294,000 and $1,443,000, respectively. The fair value of each option was determined using the Black-Scholes option pricing model. The key input variables used in valuing the options during the six months ended June 30, 2006 and 2005 were as follows:

	Six months ended June 30,	
	2006	**2005**
Dividend yield	None	None
Average risk-free interest rate	4.9%	3.9%
Stock price volatility	25%	27%
Estimated option term	Four or nine years	Four or nine years

(4) LONG-TERM DEBT

The Company has an unsecured revolving credit facility (the “Revolving Credit Facility”) with a syndicate of banks with JP Morgan Chase Bank as the agent bank. On June 14, 2006, the Company increased the Revolving Credit Facility to $250,000,000 from a previous $150,000,000 facility, and extended the maturity date to June 14, 2011 from the previous maturity date of December 9, 2007. The Revolving Credit Facility allows for an increase in the commitments of the banks from $250,000,000 up to a maximum of $325,000,000, subject to the consent of each bank that elects to participate in the increased commitment. The unsecured Revolving Credit Facility has a variable interest rate spread based on the London Interbank Offered Rate (”LIBOR”) that varies with the Company’s senior debt rating and the level of debt outstanding. As of June 30, 2006, the Company has $82,500,000 of borrowings outstanding under the Revolving Credit Facility. The Revolving Credit Facility includes a $25,000,000 commitment which may be used for standby letters of credit of which $7,612,000 was outstanding as of June 30, 2006. The Company was in compliance with all Revolving Credit Facility covenants as of June 30, 2006.

(5) COMPREHENSIVE INCOME

The Company's total comprehensive income for the three months and six months ended June 30, 2006 and 2005 was as follows (in thousands):

	Three months ended June 30,		Six months ended June 30,	
	2006	2005	2006	2005
Net earnings	$ 23,333	$ 18,447	$ 45,913	$ 31,726
Change in fair value of derivative financial instruments, net of tax	1,418	(2,826)	3,269	(114)
Total comprehensive income	$ 24,751	$ 15,621	$ 49,182	$ 31,612

(6) SEGMENT DATA

The Company's operations are classified into two reportable business segments as follows:

Marine Transportation - Marine transportation by United States flag vessels on the United States inland waterway system and, to a lesser extent, offshore transportation of dry-bulk cargoes. The principal products transported on the United States inland waterway system include petrochemicals, black oil products, refined petroleum products and agricultural chemicals.

Diesel Engine Services - Overhaul and repair of large medium-speed and high-speed diesel engines, reduction gear repair, and sale of related parts and accessories for customers in the marine, power generation and railroad industries.

(6) SEGMENT DATA - (Continued)

The following table sets forth the Company's revenues and profit or loss by reportable segment for the three months and six months ended June 30, 2006 and 2005 and total assets as of June 30, 2006 and December 31, 2005 (in thousands):

	Three months ended June 30,		Six months ended June 30,	
	2006	2005	2006	2005
Revenues:				
Marine transportation	$ 204,088	$ 170,742	$ 393,471	$ 327,952
Diesel engine services	39,204	28,534	74,724	55,768
	$ 243,292	$ 199,276	$ 468,195	$ 383,720
Segment profit (loss):				
Marine transportation	$ 37,998	$ 30,683	$ 72,939	$ 54,604
Diesel engine services	5,875	3,443	11,640	6,910
Other	(6,178)	(4,373)	(10,406)	(10,343)
	$ 37,695	$ 29,753	$ 74,173	$ 51,171

	June 30, 2006	December 31, 2005
Total assets:		
Marine transportation	$ 993,331	$ 928,408
Diesel engine services	197,556	55,113
Other	16,866	42,027
	$ 1,207,753	$ 1,025,548

The following table presents the details of "Other" segment profit (loss) for the three months and six months ended June 30, 2006 and 2005 (in thousands):

	Three months ended June 30,		Six months ended June 30,	
	2006	2005	2006	2005
General corporate expenses	$ (3,612)	$ (2,218)	$ (5,831)	$ (4,215)
Gain on disposition of assets	785	1,795	942	1,987
Interest expense	(3,304)	(3,113)	(6,002)	(6,259)
Equity in earnings of marine affiliates	87	707	553	4
Loss on debt retirement	—	(1,144)	—	(1,144)
Other expense	(134)	(400)	(68)	(716)
	$ (6,178)	$ (4,373)	$ (10,406)	$ (10,343)

(6) SEGMENT DATA - (Continued)

The following table presents the details of "Other" total assets as of June 30, 2006 and December 31, 2005 (in thousands):

	June 30, 2006	December 31, 2005
General corporate assets	$ 14,790	$ 30,161
Investment in marine affiliates	2,076	11,866
	$ 16,866	$ 42,027

(7) TAXES ON INCOME

Earnings before taxes on income and details of the provision (credit) for taxes on income for the three months and six months ended June 30, 2006 and 2005 were as follows (in thousands):

	Three months ended June 30,		Six months ended June 30,	
	2006	2005	2006	2005
Earnings before taxes on income - United States	$ 37,695	$ 29,753	$ 74,173	$ 51,171
Provision (credit) for taxes on income:				
Federal				
Current	$ 13,070	$ 10,790	$ 25,628	$ 18,701
Deferred	(138)	(555)	(184)	(1,098)
State and local	1,430	1,071	2,816	1,842
	$ 14,362	$ 11,306	$ 28,260	$ 19,445

(8) EARNINGS PER SHARE OF COMMON STOCK

The following table presents the components of basic and diluted earnings per share of common stock for the three months and six months ended June 30, 2006 and 2005 (in thousands, except per share amounts):

	Three months ended June 30,		Six months ended June 30,	
	2006	2005	2006	2005
Net earnings	$ 23,333	$ 18,447	$ 45,913	$ 31,726
Shares outstanding:				
Weighted average common stock outstanding	52,450	49,890	52,268	49,814
Effect of dilutive securities:				
Employee and director common stock plans	961	1,394	940	1,410
	53,411	51,284	53,208	51,224
Basic earnings per share of common stock	$ .44	$ .37	$ .88	$ .64
Diluted earnings per share of common stock	$ .44	$ .36	$ .86	$ .62

Certain outstanding options to purchase approximately 22,000 and 166,000 shares of common stock were excluded in the computation of diluted earnings per share as of June 30, 2006 and 2005, respectively, as such stock options would have been antidilutive.

(9) RETIREMENT PLANS

The Company sponsors a defined benefit plan for vessel personnel. The plan benefits are based on an employee's years of service and compensation. The plan assets consists primarily of equity and fixed income securities.

The Company's pension plan funding strategy is to contribute an amount equal to the greater of the minimum required contribution under ERISA or the amount necessary to fully fund the plan on an Accumulated Benefit Obligation ("ABO") basis at the end of the fiscal year. The ABO is based on a variety of demographic and economic assumptions, and the pension plan assets' returns are subject to various risks, including market and interest rate risk, making the prediction of the pension plan contribution difficult. Based on current pension plan assets and market conditions, the Company expects to contribute between $1,000,000 to $5,000,000 to its pension plan in November 2006 to fund its 2006 pension plan obligations. As of June 30, 2006, no 2006 year contributions have been made.

The Company sponsors an unfunded defined benefit health care plan that provides limited postretirement medical benefits to employees who meet minimum age and service requirements, and to eligible dependents. The plan is contributory, with retiree contributions adjusted annually.

(9) RETIREMENT PLANS - (Continued)

The following table presents the components of net periodic benefit cost for the three months and six months ended June 30, 2006 and 2005 (in thousands):

	Pension Benefits			
	Three months ended June 30,		Six months ended June 30,	
	2006	2005	2006	2005
Net periodic benefit cost:				
Service cost	$ 1,349	$ 1,174	$ 2,695	$ 2,303
Interest cost	1,476	1,295	2,950	2,576
Expected return on assets	(1,845)	(1,554)	(3,686)	(3,197)
Amortization of prior service cost	(23)	(23)	(45)	(45)
Amortization of actuarial loss	759	596	1,515	1,153
Net periodic benefit cost	$ 1,716	$ 1,488	$ 3,429	$ 2,790

	Postretirement Benefits Other Than Pensions			
	Three months ended June 30,		Six months ended June 30,	
	2006	2005	2006	2005
Net periodic benefit cost:				
Service cost	$ 99	$ 91	$ 197	$ 177
Interest cost	135	66	269	186
Amortization of prior service cost	10	10	20	20
Amortization of actuarial loss	(6)	(46)	(12)	(72)
Net periodic benefit cost	$ 238	$ 121	$ 474	$ 311

(10) CONTINGENCIES

The Company has issued guaranties or obtained stand-by letters of credit and performance bonds supporting performance by the Company and its subsidiaries of contractual or contingent legal obligations of the Company and its subsidiaries incurred in the ordinary course of business. The aggregate notional value of these instruments is $11,650,000 at June 30, 2006, including $10,730,000 in letters of credit and debt guarantees, and $920,000 in performance bonds, of which $683,000 relates to contingent legal obligations which are covered by the Company's liability insurance program in the event the obligations are incurred. All of these instruments have an expiration date within four years. The Company does not believe demand for payment under these instruments is likely and expects no material cash outlays to occur in connection with these instruments.

In 2000, the Company and a group of approximately 45 other companies were notified that they are Potentially Responsible Parties ("PRPs") under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") with respect to a Superfund site, the Palmer Barge Line Site ("Palmer"), located in Port Arthur, Texas. In prior years, Palmer had provided tank barge cleaning services to various subsidiaries of the Company. The Company and three other PRPs have entered into an agreement with the Environmental Protection Agency ("EPA") to perform a remedial investigation and feasibility study. Based on information currently available, the Company believes its exposure is limited.

(10) CONTINGENCIES - (Continued)

In 2004, the Company and certain subsidiaries received a Request For Information ("RFI") from the EPA under CERCLA with respect to a Superfund site, the State Marine site, located in Port Arthur, Texas. An RFI is not a determination that a party is responsible or potentially responsible for contamination at a site, but is only a request seeking any information a party may have with respect to a site as part of an EPA investigation into such site. In July 2005, a subsidiary of the Company received a notification of potential responsibility from the EPA and a request for voluntary participation in funding potential remediation activities at the SBA Shipyards, Inc., ("SBA") property located in Jennings, Louisiana. In prior years, SBA had provided tank barge cleaning services to the subsidiary. Based on information currently available, the Company is unable to ascertain the extent of its exposure, if any, in these matters.

In addition, the Company is involved in various legal and other proceedings which are incidental to the conduct of its business, none of which in the opinion of management will have a material effect on the Company's financial condition, results of operations or cash flows. Management believes that it has recorded adequate reserves and believes that it has adequate insurance coverage or has meritorious defenses for these other claims and contingencies.

(11) SUBSEQUENT EVENTS

On July 21, 2006, the Company purchased the assets of Marine Engine Specialists, Inc. ("MES") for $3,600,000 in cash, subject to post-closing inventory adjustments. MES is a Gulf Coast high-speed diesel engine services provider, operating a factory-authorized full service dealership for John Deere, as well as a service provider for Detroit Diesel. Financing of the acquisition was through the Company's Revolving Credit Facility.

On July 24, 2006, the Company signed an agreement to purchase the assets of Capital Towing Company ("Capital") for approximately $15,000,000 in cash. Capital owns 11 towboats, six of which are currently on charter to the Company. One towboat is currently under charter to another company and that charter expires within 30 days. The remaining four are under charters with other companies with terms expiring within the next ten months. The six towboats currently chartered to the Company were purchased for $9,721,000 on August 4, 2006 and were financed through the Company's Revolving Credit Facility. The remaining five towboats will be purchased upon expiration of their present charters and will also be financed through the Company's Revolving Credit Facility. The Company and Capital have entered into a charter agreement whereby Capital will continue to operate the towboats. The vessel crew will remain employees of Capital.

Part I Financial Information

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

Statements contained in this Form 10-Q that are not historical facts, including, but not limited to, any projections contained herein, are forward-looking statements and involve a number of risks and uncertainties. Such statements can be identified by the use of forward-looking terminology such as "may," "will," "expect," "anticipate," "estimate," or "continue" or the negative thereof or other variations thereon or comparable terminology. The actual results of the future events described in such forward-looking statements in this Form 10-Q could differ materially from those stated in such forward-looking statements. Among the factors that could cause actual results to differ materially are: adverse economic conditions, industry competition and other competitive factors, adverse weather conditions such as high water, low water, tropical storms, hurricanes, fog and ice, marine accidents, lock delays, fuel costs, interest rates, construction of new equipment by competitors, government and environmental laws and regulations, and the timing, magnitude and number of acquisitions made by the Company. For a more detailed discussion of factors that could cause actual results to differ from those presented in forward-looking statements, see Item 1A-Risk Factors found in the Company's annual report on Form 10-K for the year ended December 31, 2005. Forward-looking statements are based on currently available information and the Company assumes no obligation to update any such statements.

On April 25, 2006, the Board of Directors declared a two-for-one stock split of the Company's common stock. Stockholders of record on May 10, 2006 received one additional share of common stock for each share of common stock held on that day, with a distribution date of May 31, 2006. All references to number of shares and per share information in the accompanying unaudited condensed financial statements have been adjusted to reflect the stock split.

For purposes of the Management's Discussion, all earnings per share are "Diluted earnings per share." The weighted average number of common shares applicable to diluted earnings for the three months and six months ended June 30, 2006 and 2005 were as follows (in thousands):

	Three months ended June 30,		Six months ended June 30,	
	2006	**2005**	**2006**	**2005**
Weighted average number of common stock-diluted	53,411	51,284	53,208	51,224

The increase in the weighted average number of common shares for both 2006 periods compared with the 2005 periods primarily reflected the issuance of restricted stock and the exercise of employee and director stock options.

Overview

The Company is the nation's largest domestic inland tank barge operator with a fleet of 897 active tank barges as of June 30, 2006 and operated an average of 241 towing vessels during the 2006 second quarter and 240 during the 2006 first six months. The Company uses the inland waterway system of the United States to transport bulk liquids including petrochemicals, black oil products, refined petroleum products and agricultural chemicals. The Company also owns and operates four ocean-going barge and tug units transporting dry-bulk commodities in United States coastwise trade. Through its diesel engine services segment, the Company provides after-market services for large medium-speed and high-speed diesel engines and reduction gears used in marine, power generation and railroad applications.

Overview - (Continued)

For the 2006 second quarter, the Company reported net earnings of $23,333,000, or $.44 per share, on revenues of $243,292,000, a significant improvement over 2005 second quarter net earnings of $18,447,000, or $.36 per share, on revenues of $199,276,000. For the first six months of 2006, the Company reported net earnings of $45,913,000, or $.86 per share, on revenues of $468,195,000, compared with 2005 first six months net earnings of $31,726,000, or $.62 per share, on revenues of $383,720,000. The 2006 second quarter and first half performance reflected continued strong petrochemical and black oil products demand in its marine transportation segment, coupled with higher contract rate renewals and higher spot market pricing. The diesel engine services segment also performed at strong levels in the 2006 second quarter and first half, the result of continued strong service and parts sales across the majority of its markets, combined with higher service rates and parts pricing.

Marine Transportation

For the 2006 second quarter and first six months, approximately 84% of the Company's revenue was generated by its marine transportation segment. The segment's customers include many of the major petrochemical and refining companies in the United States. Products transported include raw materials for many of the end products used widely by businesses and consumers every day - plastics, fiber, paints, detergents, oil additives and paper, among others. Consequently, the Company's business tends to mirror the general performance of the United States economy and the performance of the Company's customer base. The following table shows the markets serviced by the Company, the revenue distribution for the first six months of 2006, products moved and the drivers of the demand for the products the Company transports:

Markets Serviced	2006 First Six Months Revenue Distribution	Products Moved	Drivers
Petrochemicals	68%	Benzene, Styrene, Methanol, Acrylonitrile, Xylene, Caustic Soda, Butadiene, Propylene	Housing, Consumer Goods, Clothing, Automobiles
Black Oil Products	20%	Residual Fuel, No. 6 Fuel Oil, Coker Feedstocks, Vacuum Gas, Asphalt, Boiler Fuel, Crude Oil, Ship Bunkers	Road Construction, Refinery Utilization, Fuel for Power Plants and Ships
Refined Petroleum Products	9%	Gasoline Blends, No. 2 Oil, Jet Fuel, Heating Oil	Vehicle Usage, Air Travel, Weather Conditions, Refinery Utilization
Agricultural Chemicals	3%	Anhydrous Ammonia, Nitrogen Based Liquid Fertilizer, Industrial Ammonia	Agricultural Economy, Chemical Feedstock Usage

Overview - (Continued)

The Company's marine transportation segment's revenue and operating income for the 2006 second quarter increased 20% and 24%, respectively, when compared with the second quarter of 2005. For the 2006 first six months, revenue and operating income increased 20% and 34%, respectively, compared with the first six months of 2005. The petrochemical market is the Company's largest market, contributing 68% of the marine transportation revenue for the 2006 first six months. During the second quarter and first six months, the demand for the movement of petrochemicals remained strong, with term contract customers continuing to operate their plants and facilities at high utilization rates, resulting in high tank barge utilization. The black oil products market contributed 20% of 2006 first six months marine transportation revenue. This market also remained strong as refineries continued to operate at close to full capacity, generating high demand for the transportation of heavier residual oil by-products. Refined petroleum products contributed 9% of 2006 first six months marine transportation revenue, experiencing higher than normal demand for the movement of products from the Gulf Coast to the Midwest; however, the Company's refined products volumes for the majority of the first five months of 2006 were lower as tank barges were diverted to the stronger Gulf Intracoastal Waterway petrochemical market to meet term contract requirements. In addition, the Company has continued to retire its single hull tank barges which have been used primarily to transport refined products. The agricultural chemical market, which contributed 3% of 2006 first six months marine transportation revenue, was seasonally weak due primarily to high inventory levels in the Midwest.

The 2006 second quarter was negatively impacted by an estimated $.03 to $.04 per share from diesel fuel cost recovery clauses in certain marine transportation long-term contracts. The 2006 first quarter earnings were positively impacted by an estimated $.03 to $.04 per share from fuel cost recovery under the same long-term contracts. For the first six months of 2006, the estimated impact of the diesel fuel cost recovery clauses was neutral. The results for both 2006 periods were also negatively impacted by a shortage of towboats which resulted in delays and a tight labor market which resulted in wage increases for vessel personnel.

During the 2006 second quarter and first six months, approximately 70% of the marine transportation revenues were under term contracts and 30% were spot market revenues. Rates under term contracts renewed during the 2006 second quarter and first six months increased in the 4% to 7% average range, with some contracts increasing by a higher percentage and some by a lower percentage. Effective January 1, 2006, escalators for labor and the producer price index on numerous multi-year contracts resulted in rate increases for those contracts by 2.5% to 3%. Spot market rates for the 2006 second quarter and first six months for most marine transportation markets increased over 25% compared with the 2005 corresponding periods. The Company adjusts contract rates for fuel on either a monthly or quarterly basis, depending on the specific contract. Spot market contracts are at current market rates and include the cost of fuel. During the 2006 second quarter, the average cost of fuel consumed was $1.99 per gallon, 28% higher than the $1.55 per gallon average cost of fuel consumed during the 2005 second quarter. During the 2006 first six months, the average cost of fuel consumed was $1.92, 33% higher than the $1.44 per gallon for the 2005 first six months.

Navigational delays for the 2006 second quarter were 1,378, down 23% compared with 1,790 delay days recorded in the 2005 second quarter. For the 2006 first six months, navigational delays were 3,849, down 24% compared with 5,079 delay days recorded in the 2005 first half. Delay days measure the lost time incurred by a tow (towboat and one or more barges) during transit. The measure includes transit delays caused by weather, lock congestion or closure and other navigational factors. The reduction for both 2006 periods was primarily the result of favorable weather conditions and water levels during the 2006 second quarter and unusually favorable winter weather conditions and water levels during the 2006 first quarter.

Overview - (Continued)

The marine transportation operating margin for the 2006 second quarter and first six months were 18.6% and 18.5%, respectively, an improvement when compared with operating margins of 18.0% for the 2005 second quarter and 16.7% for the 2005 first six months. Continued strong demand, contract and spot market rate increases, the January 1, 2006 escalators on long-term contracts and favorable weather conditions and water levels all contributed to the higher 2006 operating margin for both comparable periods.

Diesel Engine Services

For the 2006 second quarter and first six months, approximately 16% of the Company's revenue was generated by its diesel engine services segment of which 62% and 61% was generated through service and 38% and 39% from parts sales, respectively. The results of the diesel engine services segment are largely tied to the industries it serves and, therefore, are influenced by the cycles of such industries. The following table shows the markets serviced by the Company, the revenue distribution for the first six months of 2006 and the customers for each market:

Markets Serviced	2006 First Six Months Revenue Distribution	Customers
Marine	66%	Inland River Carriers - Dry and Liquid, Offshore Towing - Dry and Liquid, Offshore Oilfield Services - Drilling Rigs & Supply Boats, Harbor Towing, Dredging, Great Lake Ore Carriers
Power Generation	20%	Standby Power Generation, Pumping Stations
Railroad	14%	Passenger (Transit Systems), Class II Shortline, Industrial

The Company's diesel engine services segment's 2006 second quarter revenue and operating income increased 37% and 71%, respectively, compared with the second quarter of 2005. For the first half of 2006, revenue and operating income increased 34% and 68%, respectively, compared with the first half of 2005. The results reflected continued strong in-house and in-field service activity and direct parts sales in the majority of its markets. In addition, the Company benefited from the June 7, 2006 acquisition of Global, as well as from higher service rates and parts pricing implemented during 2005 and during the 2006 second quarter and first half.

The diesel engine services segment's operating margin for the 2006 second quarter improved to 15.0% compared with 12.1% for the second quarter of 2005. For the first six months of 2006, the operating margin was 15.6% compared with 12.4% for the first six months of 2005. The higher margin reflected the strong markets, higher service activities, which generally earn a higher operating margin than parts sales, increased pricing for service and parts, and higher labor utilization.

Overview - (Continued)

Cash Flow and Capital Expenditures

The Company continued to generate strong operating cash flow during the 2006 first six months, with net cash provided from operations of $62,534,000. Net cash provided from operations for the 2005 first six months was $64,074,000. In addition, the Company generated cash of $10,999,000 from the exercise of stock options. The cash, and borrowings under the Company's Revolving Credit Facility, were used for capital expenditures of $64,386,000, primarily for fleet replacement, enhancement and expansion, and $116,773,000 for the acquisition of the remaining 65% interest in Dixie Fuels, the acquisition of Global and Gulf Coast Fire & Safety and the purchase of five towboats. The Company's debt-to-capitalization ratio increased from 27.1% at December 31, 2005 to 32.0% at June 30, 2006 due to borrowings under the Company's Revolving Credit Facility to finance the acquisition of Global.

Capital expenditures were $64,386,000 for the 2006 first six months and included $19,316,000 for new tank barge and towboat construction, and $45,070,000 primarily for upgrading the existing marine transportation fleet.

The Company projects that capital expenditures for 2006 will be in the $125,000,000 to $135,000,000 range, including approximately $55,000,000 for new tank barge and towboat construction, with the remainder primarily for upgrading the existing marine transportation fleet. The 2006 program includes the construction of twenty-three 30,000 barrel tank barges at a cost of $45,000,000, subject to adjustment for the price of steel, and two 10,000 barrel tank barges for use in the petrochemical market at a cost of approximately $2,300,000, subject to adjustment for the price of steel. Fifteen of the 30,000 barrel tank barges will be additional capacity and eight will be replacement barges for older barges removed from service. The two 10,000 barrel will be additional capacity. Delivery of the twenty-three 30,000 barrel barges will be throughout 2006, with the final four barges scheduled for delivery in the 2007 first quarter. One of the 10,000 barrel barges is scheduled for delivery in December 2006 and one in the 2007 first quarter. The 2006 program also includes the construction of four 2100 horsepower inland towboats at a cost of $13,000,000, $3,200,000 of which was paid in December 2005 and included in the 2005 capital expenditures. Two towboats are scheduled to be placed into service in the second half of 2006 and two in the 2007 first quarter.

In March 2006, the Company entered into a contract for the construction of twelve 30,000 barrel tank barges at a cost of approximately $28,000,000, subject to adjustment for the price of steel. In April 2006, the Company entered into a contract for the construction of eight 30,000 barrel tank barges at a cost of approximately $15,000,000, subject to adjustment for the price of steel. In June 2006, the Company entered into a contract for the construction of two 10,000 barrel inland tank barges at a cost of approximately $2,300,000, subject to adjustment for the price of steel. Of the 20 new 30,000 barrel tank barges under contract, 14 barges will be additional capacity and 6 barges will be replacement barges for older barges removed from service. Delivery of 18 of the 20 new 30,000 barrel tank barges is scheduled throughout the 2007 year with the remaining two in the 2008 first quarter. The two 10,000 barrel tank barges will be additional capacity. One is scheduled for delivery in December 2006 and one in the 2007 first quarter. In July 2006, the Company signed a letter of intent for the construction of two 1800 horsepower towboats at a cost of approximately $6,600,000, subject to finalization of a contract. The two towboats are scheduled to be placed into service in the 2007 fourth quarter.

Overview - (Continued)

The Company remains in excellent financial position to take advantage of internal and external growth opportunities in its marine transportation and diesel engine services segments. For the marine transportation segment, external growth opportunities include potential acquisitions of independent inland tank barge operators and fleet owners seeking to single source tank barge requirements. Increasing the fleet size will allow the Company to improve asset utilization through more backhaul opportunities, faster barge turnarounds, more efficient use of horsepower, barges positioned closer to cargos, lower incremental costs due to enhanced purchasing power, minimal incremental administrative staff and less cleaning due to operating more barges with compatible prior cargos. In addition to the Global and MES acquisitions, the diesel engine services segment's external growth opportunities include further consolidation of strategically located diesel service providers, and expanded service capability for other engine and marine gear related products.

For the remainder of 2006, the Company anticipates continued strong petrochemical, black oil and refined products volumes for its marine transportation segment. For its diesel engine services segment, the Company anticipates continued strong service activity and parts sales, with some seasonal summer slowdown.

Acquisitions

On July 21, 2006, the Company purchased the assets of MES for $3,600,000 in cash, subject to post-closing inventory adjustments. MES is a Gulf Coast high-speed diesel engine services provider, operating a factory-authorized full service dealership for John Deere, as well as a service provider for Detroit Diesel.

On July 24, 2006, the Company signed an agreement to purchase the assets of Capital for approximately $15,000,000 in cash. Capital owns 11 towboats, six of which are currently on charter to the Company. One towboat is currently under charter to another company and that charter expires within 30 days. The remaining four are under charters with other companies with terms expiring within the next ten months. The six towboats currently chartered to the Company were purchased for $9,721,000 on August 4, 2006. The remaining five towboats will be purchased upon expiration of their present charters. The Company and Capital have entered into a charter agreement whereby Capital will continue to operate the towboats. The vessel crews will remain employees of Capital.

On June 7, 2006, the Company purchased the stock of Global for an aggregate consideration (before post-closing adjustments) of $101,678,000, consisting of $98,816,000 in cash, the assumption of $2,625,000 of debt and $237,000 of merger costs. Global is a Gulf Coast high-speed diesel engine services provider, operating factory-authorized full service marine market dealerships for Cummins, Detroit Diesel and John Deere high-speed diesel engines, and Allison transmissions, as well as an authorized marine dealer for Caterpillar in Louisiana. Revenues for Global for 2005 were approximately $63,000,000.

On April 5, 2006, the Company purchased Gulf Coast Fire & Safety for $1,008,000 in cash. Gulf Coast Fire & Safety provides sales and rental of equipment and various technical services related to fire suppression and protection, and will be part of the Logistics Management division, the Company's shore tankering operations and in-plant operations group.

Acquisitions - (Continued)

On March 1, 2006, the Company purchased from PFC the remaining 65% interest in Dixie Fuels for $15,590,000, subject to post-closing drydocking expenditures. The Dixie Fuels partnership, formed in 1977, was 65% owned by PFC and 35% owned by the Company. As part of the transaction, the Company extended the expiration date of its marine transportation contract with PFC from 2008 to 2010. Revenues for Dixie Fuels for 2005 were approximately $26,200,000.

Effective January 1, 2006, the Company acquired an additional one-third interest in Osprey from Richard L. Couch, increasing the Company's ownership to a two-thirds interest. The remaining one-third interest is owned by Cooper/T. Smith. Osprey, formed in 2000, operates a barge feeder service for cargo containers between Houston, New Orleans and Baton Rouge, as well as several ports located above Baton Rouge on the Mississippi River. Revenues for Osprey for 2005 were approximately $28,700,000.

On December 13, 2005, the Company purchased the diesel engine services division of TECO for $500,000 in cash. In addition, the Company entered into a contract to provide diesel engine services to TECO.

On June 24, 2005, the Company purchased ACL's black oil products fleet of 10 inland tank barges for $7,000,000 in cash. Five of the barges are currently in service and the other five barges are being renovated in 2006.

Results of Operations

The Company reported second quarter 2006 net earnings of $23,333,000, or $.44 per share, on revenues of $243,292,000, compared with 2005 second quarter net earnings of $18,447,000, or $.36 per share, on revenues of $199,276,000. Net earnings for the 2006 first six months were $45,913,000, or $.86 per share, on revenues of $468,195,000, compared with net earnings of $31,726,000, or $.62 per share, on revenues of $383,720,000 for the first six months of 2005.

The following table sets forth the Company's marine transportation and diesel engine services revenues for the 2006 second quarter compared with the second quarter of 2005, the first six months of 2006 compared with the first six months of 2005 and the percentage of each to total revenues for the comparable periods (dollars in thousands):

	Three months ended June 30,				Six months ended June 30,			
	2006	%	2005	%	2006	%	2005	%
Marine transportation	$ 204,088	84%	$ 170,742	86%	$ 393,471	84%	$ 327,952	85%
Diesel engine services	39,204	16	28,534	14	74,724	16	55,768	15
	$ 243,292	100%	$ 199,276	100%	$ 468,195	100%	$ 383,720	100%

Results of Operations - (Continued)

Marine Transportation

The Company, through its marine transportation segment, is a provider of marine transportation services, operating inland tank barges and towing vessels, transporting petrochemicals, black oil products, refined petroleum products and agricultural chemicals along the United States inland waterways. As of June 30, 2006, the Company operated 897 active inland tank barges, with a total capacity of 16.7 million barrels, compared with 887 active inland tank barges at June 30, 2005, with a total capacity of 16.6 million barrels. The Company operated an average of 241 active inland towing vessels during the 2006 second quarter and 240 during the first six months compared with and average of 241 during the second quarter and first six months of 2005. The Company also owns and operates four dry-bulk barge and tug units.

The following table sets forth the Company's marine transportation segment's revenues, costs and expenses, operating income and operating margins for the three months and six months ended June 30, 2006 compared with the three months and six months ended June 30, 2005 (dollars in thousands):

	Three months ended June 30,			Six months ended June 30,		
	2006	2005	% Change	2006	2005	% Change
Marine transportation revenues	$ 204,088	$ 170,742	20%	$ 393,471	$ 327,952	20%
Costs and expenses:						
Costs of sales and operating expenses	129,507	106,795	21	248,478	206,447	20
Selling, general and administrative	18,777	17,260	9	36,939	33,572	10
Taxes, other than on income	3,133	2,757	14	6,144	5,807	6
Depreciation and amortization	14,673	13,247	11	28,971	27,522	5
	166,090	140,059	19	320,532	273,348	17
Operating income	$ 37,998	$ 30,683	24%	$ 72,939	$ 54,604	34%
Operating margins	18.6%	18.0%		18.5%	16.7%	

Marine Transportation Revenues

Marine transportation revenues for the 2006 second quarter and first six months increased 20% compared with the corresponding 2005 periods, reflecting continued strong petrochemical and black oil products demand, unusually favorable 2006 first quarter winter weather conditions and water levels, and a slight improvement in weather conditions and water levels for the 2006 second quarter. In addition, the segment benefited from 2005 year and 2006 first six months contract and spot market rate increases, and labor and producer price index escalators effective January 1, 2006 on numerous multi-year contracts. The results for the 2006 second quarter were negatively impacted by an estimated $.03 to $.04 per share from diesel fuel cost recovery clauses in certain marine transportation long-term contracts. The 2006 first quarter earnings were positively impacted by an estimated $.03 to $.04 per share from fuel cost recovery under the same long-term contracts. For the first six months of 2006, the estimated impact of the diesel fuel cost recovery clauses was neutral. The results were also negatively impacted by a shortage of towboats which resulted in delays and a tight labor market that resulted in wage increases for vessel personnel.

***Marine Transportation Revenues* - (Continued)**

Petrochemical transportation demand for the 2006 second quarter and first six months remained strong, benefiting from a continued strong United States economy. Term customers continued to operate their plants and facilities at high utilization rates, resulting in continued high barge utilization for most products and trade lanes.

Black oil products demand during the 2006 second quarter and first six months remained strong as refineries operated at close to full capacity, which generated heavy demand for waterborne transportation of heavier refinery residual oil by-products.

Refined petroleum products demand for transportation into the Midwest during the 2006 second quarter and first six months was stronger than normal; however, barge availability remained constrained due to the diversion of barges to the stronger Gulf Intracoastal Waterway petrochemical market to meet term contract requirements and the Company's continued retirement of single hull barges.

Agricultural chemical demand was weak during the 2006 second quarter and first six months, primarily due to high Midwest liquid fertilizer inventory levels which reduced demand for movements of imported liquid fertilizer into the Midwest.

As described under Acquisitions above, the Company acquired an additional one-third interest in Osprey in January 2006, increasing the Company's ownership to 67%, and purchased in March 2006 the remaining 65% of the Dixie Fuels partnership, bringing the Company's ownership to 100%. As a result of the acquisitions, the Company began consolidating the results of both entities in the marine transportation segment beginning on their acquisition dates. During the 2006 second quarter and first six months, the entities contributed a combined $10,183,000 and $15,279,000, respectively, of marine transportation revenues.

For the second quarter of 2006, the marine transportation segment incurred 1,378 delay days, a 23% improvement over the 2005 second quarter delay days of 1,790. For the 2006 first six months, 3,849 delay days occurred, 24% lower than the 5,079 delay days incurred in the 2005 first half. The lower delay days primarily reflected unusually favorable 2006 first quarter winter weather conditions and water levels and a slight improvement in 2006 second quarter weather conditions and water levels. Delay days measure the lost time incurred by a tow (towboat and one or more barges) during transit. The measure includes transit delays caused by weather, lock congestion or closure and other adverse navigating conditions.

During the 2006 second quarter and first six months, approximately 70% of marine transportation revenues were under term contracts and 30% were spot market revenues. The 70% contract and 30% spot market mix provides the Company with a stable revenue stream with less exposure to day-to-day pricing fluctuations. Rates under term contracts renewed in the 2006 second quarter and first six months increased in the 4% to 7% average range, primarily the result of continued strong industry demand and high utilization of tank barges. Spot market rates for the 2006 second quarter and first six months, including fuel, increased over 25% compared with the 2005 second quarter and first six months. Effective January 1, 2006, escalators for labor and the producer price index on numerous multi-year contracts increased rates on such contracts by 2.5% to 3%.

Marine Transportation Costs and Expenses

Costs and expenses for the 2006 second quarter and first six months increased 19% and 17%, respectively, compared with the 2005 second quarter and first six months, reflecting the higher costs and expenses associated with increased marine transportation demand noted above. The increase also reflected the consolidation of Dixie Fuels effective March 1, 2006 and Osprey effective January 1, 2006.

Costs of sales and operating expenses for the 2006 second quarter and first six months increased 21% and 20%, respectively, compared with the corresponding 2005 periods, reflecting increased salaries and related expenses, additional expenses associated with the increased demand, higher towboat and tank barge maintenance expenditures, and increased rates for chartered towboats. In addition, the higher price of diesel fuel consumed, as noted below, resulted in higher fuel costs. During the 2006 and 2005 second quarters, the Company operated an average of 241 towboats. For the first six months of 2006, the segment operated 240 towboats compared with 241 for the 2005 first half. During the 2006 second quarter, the Company consumed 13.5 million gallons of diesel fuel, slightly less than the 13.9 million consumed in the 2005 second quarter. For the 2006 first half, the segment consumed 26.8 million gallons of diesel fuel, slightly less than the 27.1 million gallons consumed during the 2005 first half.

The average price per gallon of diesel fuel consumed during the 2006 second quarter was $1.99 compared with $1.55 per gallon for the second quarter of 2005 and $1.92 per gallon for the 2006 first six months compared with $1.44 per gallon for the 2005 first six months. Term contracts contain fuel escalation clauses that allow the Company to recover increases in the cost of fuel; however, there is generally a 30 to 90 day delay before the contracts are adjusted. Spot market contracts include the cost of fuel.

Selling, general and administrative expenses for the 2006 second quarter and first six months increased 9% and 10%, respectively, compared with the corresponding 2005 periods. The increase primarily reflected January 1, 2006 salary increases and related expenses, higher incentive compensation accruals, the impact of expensing stock options effective January 1, 2006 in accordance with SFAS No. 123R and the consolidation of Dixie Fuels and Osprey in 2006.

Taxes, other than on income, for the 2006 second quarter and first six months increased 14% and 6%, respectively, compared with the corresponding periods of 2005, as the 2005 periods reflected lower taxes as a result of a favorable settlement of a multiple year property tax issue.

Depreciation and amortization for the 2006 second quarter increased 11% compared with the 2005 second quarter and increased 5% for the 2006 first six months compared with the 2005 first six months. The increase for both 2006 periods was attributable to increased capital expenditures, including new tank barges, as well as the consolidation of Dixie Fuels effective March 2006.

Marine Transportation Operating Income and Operating Margins

The marine transportation operating income for the 2006 second quarter increased 24% compared with the 2005 second quarter. For the 2006 first half, the operating income for the segment increased 34% compared with the first half of 2005. The operating margin for the 2006 second quarter increased to 18.6% compared with 18.0% for the second quarter of 2005 and 18.5% for the 2006 first six months compared with 16.7% for the 2005 first six months. Continued strong demand, favorable 2006 second quarter and first half weather conditions, higher contract and spot market pricing and the January 1, 2006 escalators on numerous multi-year contracts positively impacted the operating income and operating margin.

Diesel Engine Services

The Company, through its diesel engine services segment, sells genuine replacement parts, provides service mechanics to overhaul and repair large medium-speed and high-speed diesel engines and reduction gears, and maintains facilities to rebuild component parts or entire large medium-speed and high-speed diesel engines, and entire reduction gears. The segment services the marine, power generation and railroad markets.

The following table sets forth the Company's diesel engine services segment's revenues, costs and expenses, operating income and operating margins for the three months and six months ended June 30, 2006 compared with the three months and six months ended June 30, 2005 (dollars in thousands):

	Three months ended June 30,			Six months ended June 30,		
	2006	2005	% Change	2006	2005	% Change
Diesel engine services revenues	$ 39,204	$ 28,534	37%	$ 74,724	$ 55,768	34%
Costs and expenses:						
Costs of sales and operating expenses	28,078	21,473	31	53,485	41,742	28
Selling, general and administrative	4,640	3,240	43	8,562	6,350	35
Taxes, other than on income	136	95	43	223	205	9
Depreciation and amortization	475	283	68	814	561	45
	33,329	25,091	33	63,084	48,858	29
Operating income	$ 5,875	$ 3,443	71%	$ 11,640	$ 6,910	68%
Operating margins	15.0%	12.1%		15.6%	12.4%	

Diesel Engine Services Revenues

Diesel engine services revenues for the 2006 second quarter increased 37% compared with the 2005 second quarter and 34% for the first six months of 2006 compared with the 2005 first half. During both 2006 periods, the segment was positively impacted by increased service modification projects and parts sales in its marine, offshore oil service, power generation and railroad markets, as well as emission compliance projects for Gulf Coast and West Coast customers. The segment also benefited from increases in pricing during 2005 and in the 2006 first half, as well as the acquisition of Global, the high-speed Gulf Coast service provider purchased on June 7, 2006.

Diesel Engine Services Costs and Expenses

Costs and expenses for the 2006 second quarter and first six months increased 33% and 29%, respectively, when compared with corresponding periods of 2005, and reflected the acquisition of Global on June 7, 2006. Costs of sales and operating expenses increased 31% for the 2006 second quarter and 28% for the 2006 first six months reflecting the higher service and parts sales activity noted above, as well as increases in salaries and other related benefit expenses effective January 1, 2006. Selling, general and administrative expenses increased 43% for the 2006 second quarter and 35% for the first six months of 2006, primarily reflecting a January 1, 2006 increase in salaries and related expenses, higher incentive compensation accruals and the expensing of stock options effective January 1, 2006.

Diesel Engine Services Operating Income and Operating Margins

Operating income for the diesel engine services segment for the 2006 second quarter and first six months increased 71% and 68%, respectively, compared with the corresponding periods of 2005. The significant increase in both 2006 periods reflected the stronger markets noted above, increased service and parts pricing, as well as higher service revenue versus parts revenue mix. During the 2006 second quarter and first six months, 62% and 61%, respectively, of the segment's revenue was from service versus 58% for the corresponding periods of 2005. The segment also benefited from accretive earnings from Global, acquired by the Company on June 7, 2006. The higher operating margin, 15.0% for the 2006 second quarter and 15.6% for the 2006 first six months versus 12.1% for the 2005 second quarter and 12.4% for the 2005 first six months, was primarily a reflection of the higher margin service revenue mix, increased pricing for service and parts and higher labor utilization.

General Corporate Expenses

General corporate expenses for the 2006 second quarter were $3,612,000, or 63% higher than the second quarter of 2005. For the first six months of 2006, general corporate expenses were $5,831,000, a 38% increase compared with the 2005 first six months. The increase for both comparable periods reflected increases in salaries and related expenses effective January 1, 2006, higher employee incentive compensation accruals, legal fees and stock listing fees associated with the two-for-one stock split and the expensing of stock options effective January 1, 2006.

Gain on Disposition of Assets

The Company reported a net gain on disposition of assets of $785,000 and $942,000 for the 2006 second quarter and first six months compared with a gain on disposition of assets of $1,795,000 and $1,987,000 for the corresponding periods of 2005, respectively. The net gains for all reported periods were predominantly from the sale of marine equipment, including the sale of four towboats during the 2005 second quarter and first six months.

Other Income and Expenses

The following table sets forth equity in earnings of marine affiliates, loss on debt retirement, other expense and interest expense for the three months and six months ended June 30, 2006 compared with the three months and six months ended June 30, 2005 (dollars in thousands):

	Three months ended June 30,			Six months ended June 30,		
	2006	2005	% Change	2006	2005	% Change
Equity in earnings of marine affiliates	$ 87	$ 707	(88)%	$ 553	$ 4	N/A
Loss on debt retirement	$ —	$ (1,144)	N/A	$ —	$ (1,144)	N/A
Other expense	$ (134)	$ (400)	(67)%	$ (68)	$ (716)	(91)%
Interest expense	$ (3,304)	$ (3,113)	6%	$ (6,002)	$ (6,259)	(4)%

Equity in Earnings of Marine Affiliates

Equity in earnings of marine affiliates for the 2006 second quarter and first six months was $87,000 and $553,000, respectively, consisting primarily of the Company's portion of the January and February 2006 earnings from the 35% owned offshore marine partnership operating four offshore dry-cargo barge and tug units. On March 1, 2006, the Company purchased the remaining 65% interest in the marine partnership and the March through June 2006 results were consolidated. For the 2005 second quarter and first six months, equity in earnings of marine affiliates were $707,000 and $4,000, respectively, consisting primarily of the 35% owned offshore partnership and a 33% interest in Osprey, a barge feeder service for cargo containers. For the 2005 first quarter a loss of $703,000 was recorded, primarily attributable to a heavy maintenance shipyard schedule for the 35% owned offshore marine partnership, as well as start-up costs for Osprey's coastal service along the Gulf of Mexico, which began in late 2004 and ended in October 2005. Effective January 1, 2006, the Company acquired an additional one-third interest in Osprey and Osprey's results were consolidated for the 2006 second quarter and first six months.

Loss on Debt Retirement

On May 31, 2005, the Company issued $200,000,000 of unsecured floating rate 2005 Senior Notes, more fully described under Long-Term Financing below. The proceeds were used to repay $200,000,000 of 2003 Senior Notes due in February 2013. With the early extinguishment, the Company expensed $1,144,000 of unamortized financing costs associated with the retired 2003 Senior Notes during the 2005 second quarter.

Interest Expense

Interest expense for the 2006 second quarter increased 6% compared with the 2005 second quarter, primarily the result of additional borrowings under the Company's Revolving Credit Facility to fund the June 7, 2006 acquisition of Global. For the 2006 first six months, interest expense decreased 4% compared with the 2005 first six months, due to lower average debt, a favorable first quarter 2006 interest adjustment associated with the final settlement of the audit of the Company's 2002 through 2004 federal tax returns with the Internal Revenue Service, partially offset by the additional borrowings to fund the Global acquisition. The average debt and average interest rate for the second quarter of 2006 and 2005, including the effect of interest rate swaps, were $220,939,000 and 6.0%, and $207,643,000 and 6.0%, respectively. For the first six months of 2006 and 2005, the average debt and average interest rate, including the effect of interest rate swaps and excluding the Internal Revenue Service interest expense, were $210,776,000 and 6.0%, and $210,258,000 and 6.0%, respectively.

Financial Condition, Capital Resources and Liquidity

Balance Sheet

Total assets as of June 30, 2006 were $1,207,753,000 compared with $1,025,548,000 as of December 31, 2005. The 18% increase primarily reflected the acquisition of Global in June 2006 and the consolidation of Dixie Fuels and Osprey beginning in the 2006 first quarter. The following table sets forth the significant components of the balance sheet as of June 30, 2006 compared with December 31, 2005 (dollars in thousands):

	June 30, 2006	December 31, 2005	% Change
Assets:			
Current assets	$ 236,935	$ 186,276	27%
Property and equipment, net	703,780	642,381	10
Investment in marine affiliates	2,076	11,866	(83)
Goodwill, net	221,226	160,641	38
Other assets	43,736	24,384	79
	$ 1,207,753	$ 1,025,548	18%
Liabilities and stockholders' equity:			
Current liabilities	$ 155,937	$ 139,821	12%
Long-term debt - less current portion	284,590	200,032	42
Deferred income taxes	141,963	126,755	12
Minority interest and other long-term liabilities	19,216	21,398	(10)
Stockholders' equity	606,047	537,542	13
	$ 1,207,753	$ 1,025,548	18%

Current assets as of June 30, 2006 increased 27% compared with December 31, 2005, primarily reflecting the current assets of Global, Dixie Fuels and Osprey. The 93% decrease in cash and cash equivalents reflected the use of existing cash in the Global acquisition. In addition to the acquisitions, the increase in trade accounts receivable reflected the increase in both marine transportation and diesel engine services revenues. Other accounts receivable increased 149%, primarily reflecting $12,000,000 escrowed in the Global acquisition to secure the obligations of the sellers of Global under the purchase agreement. This escrow account receivable is offset by a $12,000,000 escrow account recorded in accrued liabilities. The increase in inventory - finished goods for the diesel engine services segment reflected the inventory acquired with the Global acquisition, as well as higher inventory levels in support of stronger service activity and parts sales during the 2006 first six months, as well as service projects to be delivered in the 2006 third quarter.

Balance Sheet - (Continued)

Property and equipment, net of accumulated depreciation, at June 30, 2006 increased 10% compared with December 31, 2005. The increase reflected $64,386,000 of capital expenditures for the 2006 first six months, more fully described under Capital Expenditures below, the fair value of the property and equipment acquired in the Global, Dixie Fuels, Gulf Coast Fire & Safety and Osprey transactions of $26,797,000, and the purchase of five towboats for $2,685,000, less $30,019,000 of depreciation expense and $2,450,000 of property disposals during the 2006 first six months.

Investment in marine affiliates as of June 30, 2006 decreased 83% compared with December 31, 2005, primarily reflecting the consolidation of the Dixie Fuels and Osprey equity investments which were previously recorded under the equity method of accounting prior to their acquisition by the Company in the 2006 first quarter.

Goodwill - net as of June 30, 2006 increased 38% compared with December 31, 2005, reflecting the goodwill recorded in the June 2006 acquisition of Global and the January 2006 acquisition of an additional 33% interest in Osprey, bringing the Company's ownership to 67%. Osprey was previously recorded under the equity method of accounting.

Other assets as of June 30, 2006 increased 79% compared with December 31, 2005. The increase was primarily attributable to an increase in intangibles related to the value assigned to non-compete agreements, dealerships and customer relationships in the Global acquisition, the value assigned to the PFC marine transportation contract in the Dixie Fuels acquisition, long term notes receivable from the sale of two towboats, an increase in the fair value of interest rate swaps and the repurchase of a diesel engine distribution agreement. The increases were partially offset by the amortization of the long-term pension asset.

Current liabilities as of June 30, 2006 increased 12% compared with December 31, 2005. Accounts payable increased 18%, attributable to higher marine transportation and diesel engine services business levels and higher shipyard maintenance accruals. Accrued liabilities increased 8% primarily due to the Global acquisition, partially offset by the payment of employee incentive compensation and property taxes accrued during 2005. The increase due to the Global acquisition was principally due to a $12,000,000 escrow account liability expected to be settled in the next twelve months. This escrow account liability is offset by a $12,000,000 escrow account recorded in other receivables as discussed above.

Deferred income taxes as of June 30, 2006 increased 12% compared with December 31, 2005, primarily reflecting the recording of $13,396,000 of state and federal deferred taxes associated with the Global acquisition. The deferred state and federal tax liability was recorded to reflect the tax effect of the difference in the financial basis of the assets over the tax basis.

Minority interest and other long-term liabilities as of June 30, 2006 decreased 10% compared with December 31, 2005, primarily due to the recording of a $3,742,000 decrease in the fair value of swap agreements, more fully described under Long-Term Financing below, partially offset by an increase in lease reserves as a result of a buildout allowance given on a new lease on the Company's corporate headquarters.

Balance Sheet - (Continued)

Stockholders' equity as of June 30, 2006 increased 13% compared with December 31, 2005. The increase was the result of $45,913,000 of net earnings for the first six months of 2006, a $10,838,000 decrease in treasury stock, an increase of $2,643,000 in common stock due to the stock split, an increase of $782,000 in additional paid-in capital, a $3,269,000 increase in accumulated other comprehensive income and an increase of $5,060,000 in unearned compensation. The decrease in treasury stock was attributable to the exercise of stock options and the issuance of restricted stock. The increase in accumulated other comprehensive income resulted from the net changes in fair value of interest rate swap agreements, net of taxes, more fully described under Long-Term Financing below. As a result of the adoption of SFAS No. 123R, the balance of $5,060,000 in unearned compensation as of January 1, 2006 was reclassified to and reduced the balance of additional paid-in capital.

Long-Term Financing

The Company has an unsecured Revolving Credit Facility with a syndicate of banks with JP Morgan Chase Bank as the agent bank. On June 14, 2006, the Company increased the Revolving Credit Facility from $150,000,000 to $250,000,000 and extended the maturity date to June 14, 2011 from the previous maturity date of December 9, 2007. The Revolving Credit Facility allows for an increase in the commitments of the banks from $250,000,000 up to a maximum of $325,000,000, subject to the consent of each bank that elects to participate in the increased commitment. The unsecured Revolving Credit Facility has a variable interest rate spread based on the London Interbank Offered Rate ("LIBOR") that varies with the Company's senior debt rating and the level of debt outstanding. As of June 30, 2006, the Company has $82,500,000 of borrowings outstanding under the Revolving Credit Facility. The Revolving Credit Facility includes a $25,000,000 commitment which may be used for standby letters of credit of which $7,612,000 was outstanding as of June 30, 2006. The Company was in compliance with all Revolving Credit Facility covenants as of June 30, 2006.

On May 31, 2005, the Company issued $200,000,000 of unsecured floating rate senior notes ("2005 Senior Notes") due February 28, 2013. The 2005 Senior Notes pay interest quarterly at a rate equal to LIBOR plus a margin of 0.5%. The 2005 Senior Notes are callable, at the Company's option, with a 2% prepayment premium during the first year, 1% during the second year and at par thereafter. No principal payments are required until maturity in February 2013. The proceeds of the 2005 Senior Notes were used to repay the outstanding balance of the Company's $200,000,000 unsecured floating rate senior notes due February 2013 with an interest rate equal to LIBOR plus a margin of 1.2%. With the early extinguishment, the Company expensed $1,144,000 of unamortized financing costs associated with the retired senior notes during the 2005 second quarter. As of June 30, 2006, $200,000,000 was outstanding under the 2005 Senior Notes and the Company was in compliance with all 2005 Senior Notes covenants.

The Company has a $5,000,000 line of credit ("Credit Line") with Bank of America, N.A. ("Bank of America") for short-term liquidity needs and letters of credit. The Credit Line was reduced from $10,000,000 to $5,000,000 in June 2006, with a maturity date of June 30, 2007. The Credit Line allows the Company to borrow at an interest rate agreed to by Bank of America and the Company at the time each borrowing is made or continued. The Company did not have any borrowings outstanding under the Credit Line as of June 30, 2006. Outstanding letters of credit under the Credit Line were $630,000 as of June 30, 2006.

Long-Term Financing - (Continued)

The Company has on file with the Securities and Exchange Commission a shelf registration for the issuance of up to $250,000,000 of debt securities, including medium term notes, providing for the issuance of fixed rate or floating rate debt with a maturity of nine months or longer. As of June 30, 2006, $121,000,000 was available under the shelf registration, subject to mutual agreement to terms, to provide financing for future business or equipment acquisitions, working capital requirements and reductions of the Company's Revolving Credit Facility and 2005 Senior Notes. As of June 30, 2006, there were no outstanding debt securities under the shelf registration.

From time to time, the Company hedges its exposure to fluctuations in short-term interest rates under its variable rate bank credit facility and floating rate senior notes by entering into interest rate swap agreements. The interest rate swap agreements are designated as cash flow hedges, therefore, the changes in fair value, to the extent that the swap agreements are effective, are recognized in other comprehensive income until the hedged interest expense is recognized in earnings. As of June 30, 2006, the Company had a total notional amount of $150,000,000 of interest rate swaps designated as cash flow hedges for its variable rate senior notes as follows (dollars in thousands):

Notional amount	Trade date	Effective date	Termination date	Fixed pay rate	Receive rate
$ 100,000	September 2003	March 2006	February 2013	5.45%	Three-month LIBOR
$ 50,000	April 2004	April 2004	May 2009	4.00%	Three-month LIBOR

These interest rate swaps hedge a majority of the Company's long-term debt and only an immaterial loss on ineffectiveness was recognized in the 2006 first half. At June 30, 2006, the fair value of the interest rate swap agreements was $2,590,000 and was recorded in other assets. The Company has recorded in interest expense, net losses (gains) related to the interest rate swap agreements of $(10,000) and $790,000 for the three months ended June 30, 2006 and 2005, respectively, and $203,000 and $1,747,000 for the six months ended June 30, 2006 and 2005, respectively. The Company anticipates $588,000 of net gains included in accumulated other comprehensive income will be transferred into earnings over the next year based on current interest rates. Gains or losses on the interest rate swap contracts offset increases or decreases in rates of the underlying debt, which results in a fixed rate for the underlying debt. Fair value amounts were determined as of June 30, 2006 and 2005 based on quoted market values of the Company's portfolio of derivative instruments.

Capital Expenditures

Capital expenditures for the 2006 first six months were $64,386,000, of which $19,316,000 was for construction of new tank barges and towboats, and $45,070,000 was primarily for upgrading of the existing marine transportation fleet.

In October 2003, the Company entered into a contract for the construction of nine 30,000 barrel inland tank barges, with five for use in the transportation of petrochemical and refined petroleum products and four for use in the transportation of black oil products. Four barges were delivered in the 2004 third quarter, four in the 2004 fourth quarter and one in the first quarter of 2005. The purchase price of the nine barges was $15,700,000, of which $14,091,000 was expended in 2004, with the balance expended in 2005. Financing of the construction of the nine barges was through operating cash flows and available credit under the Company's Revolving Credit Facility.

Capital Expenditures - (Continued)

In June 2004, the Company entered into a contract for the construction of eleven 30,000 barrel inland tank barges with four for use in the transportation of petrochemicals and refined petroleum products and seven for use in the transportation of black oil products. Three of the barges were delivered in the 2005 first quarter and the remaining eight were delivered in the 2005 second quarter. The purchase price of the 11 barges was $24,660,000, of which $24,614,000 was expended in 2005, with the balance expended in 2006. Financing of the construction of the 11 barges was through operating cash flows and available credit under the Company's Revolving Credit Facility.

In July 2004, the Company entered into a contract for the construction of six 30,000 inland tank barges for use in the transportation of petrochemicals and refined petroleum products, and one 30,000 barrel specialty petrochemical barge. One barge was delivered in the 2005 second quarter, four in the 2005 third quarter, one in the 2005 fourth quarter and one in the 2006 first quarter. The purchase price of the seven barges was $15,026,000, of which $3,874,000 was expended in 2004, $10,869,000 in 2005 and the balance expended in 2006. Financing of the construction of the seven barges was through operating cash flows and available credit under the Company's Revolving Credit Facility.

In November 2004, the Company entered into a contract for the construction of twenty 10,000 barrel inland tank barges for use in the transportation of petrochemicals and refined petroleum products. Eight of the barges were delivered in the 2005 third quarter and 12 in the 2005 fourth quarter. The purchase price of the 20 barges was $23,188,000, of which $21,857,000 was expended in 2005, with the balance expended in 2006. Financing of the construction of the 20 barges was through operating cash flows and available credit under the Company's Revolving Credit Facility.

In July 2005, the Company entered into a contract for the construction of ten 30,000 barrel inland tank barges for use in the transportation of petrochemicals and refined petroleum products. One of the barges was delivered in the 2006 second quarter and the remaining nine are scheduled for delivery from July 2006 through March 2007. The purchase price of the 10 barges is approximately $18,000,000, subject to adjustment based on steel prices, of which $3,661,000 was expended in 2005 and $5,488,000 in the 2006 first six months. Financing of the construction of the 10 barges will be through operating cash flows and available credit under the Company's Revolving Credit Facility.

In July 2005, the Company entered into a contract for the construction of thirteen 30,000 barrel inland tank barges for use in the transportation of petrochemicals and refined petroleum products. Four of the barges were delivered in the 2006 second quarter and nine are scheduled for delivery throughout the 2006 second half. The purchase price of the 13 barges is approximately $27,000,000, subject to adjustments based on steel prices, of which $8,726,000 was expended in the 2006 second quarter. Financing of the construction of the 13 barges will be through operating cash flows and available credit under the Company's Revolving Credit Facility.

In December 2005, the Company entered into a contract for the construction of four 2100 horsepower towboats for use primarily with upriver movements. Delivery of the four towboats is scheduled from September 2006 through the 2007 first quarter. The purchase price of the four towboats is approximately $13,000,000, subject to adjustments based on steel prices, of which $3,220,000 was expended in 2005 and $1,996,000 in the 2006 first six months. Financing of the construction of the four towboats will be through operating cash flows and available credit under the Company's Revolving Credit Facility.

Capital Expenditures - (Continued)

In March 2006, the Company entered into a contract for the construction of twelve 30,000 barrel inland tank barges for use in the transportation of petrochemicals and refined petroleum products. Delivery of the 12 barges is scheduled for January through April 2007. The purchase price of the 12 barges is approximately $28,000,000, subject to adjustment based on steel prices, of which no expenditures were made in the 2006 first six months. Financing of the construction of the 12 barges will be through operating cash flows and available credit under the Company's Revolving Credit Facility.

In April 2006, the Company entered into a contract for the construction of eight 30,000 barrel inland tank barges for use in the transportation of petrochemicals and refined petroleum products. Delivery of the eight barges is scheduled for April 2007 through February 2008. The purchase price of the eight barges is approximately $15,000,000, subject to adjustments based on steel prices, of which $1,446,000 was expended in the 2006 second quarter. Financing of the construction of the eight barges will be through operating cash flows and available credit under the Company's Revolving Credit Facility.

In June 2006, the Company entered into a contract for the construction of two 10,000 barrel inland tank barges for use in the transportation of petrochemical and refined petroleum products. Delivery of the first barge is scheduled for December 2006 and the second in the 2007 first quarter. The purchase price of the two barges is approximately $2,300,000, subject to adjustments based on steel prices, of which no expenditures were made in the 2006 first six months. Financing of the construction of the two barges will be through operating cash flow and available credit under the Company's Revolving Credit Facility.

In July 2006, the Company signed a letter of intent for the construction of two 1800 horsepower towboats. Delivery of the two towboats is scheduled for the 2007 fourth quarter. The purchase price is approximately $6,600,000, subject to finalization of a contract.

A number of barges in the combined black oil fleet of the Company and Coastal Towing, Inc. ("Coastal") are scheduled to be retired and replaced with new barges. Under the Company's barge management agreement with Coastal, Coastal has the right to maintain its same capacity share of the combined fleet by building replacement barges as older barges are retired.

Funding for future capital expenditures and new barge and towboat construction is expected to be provided through operating cash flows and available credit under the Company's Revolving Credit Facility.

Treasury Stock Purchases

During the 2006 second quarter and first six months, the Company did not purchase any treasury stock. As of August 7, 2006, the Company had 2,420,000 shares available under its existing repurchase authorization. Historically, treasury stock purchases have been financed through operating cash flows and borrowing under the Company's Revolving Credit Facility. The Company is authorized to purchase its common stock on the New York Stock Exchange and in privately negotiated transactions. When purchasing its common stock, the Company is subject to price, trading volume and other market considerations. Shares purchased may be used for reissuance upon the exercise of stock options or the granting of other forms of incentive compensation, in future acquisitions for stock or for other appropriate corporate purposes.

Liquidity

The Company generated net cash provided by operating activities of $62,534,000 during the six months ended June 30, 2006, 2% lower than the $64,074,000 generated during the six months ended June 30, 2005. The 2% decrease reflected negative cash flows resulting from changes in operating assets and liabilities, partially offset by stronger earnings in the 2006 first six months versus the 2005 first six months. The cash flows from changes in operating assets and liabilities were lower in the 2006 first half primarily due to a larger inventory increase to accommodate increased diesel engine services activity levels and larger incentive compensation payments in 2006 over 2005. In addition, the Company had a smaller increase in accounts payable in the 2006 first half versus the 2005 first half.

The Company accounts for its ownership in its two marine partnerships under the equity method of accounting, recognizing cash flow upon the receipt or distribution of cash from the partnerships. For the six months ended June 30, 2005, the Company received cash of $1,470,000 from partnerships.

Funds generated are available for acquisitions, capital expenditure projects, treasury stock repurchases, repayments of borrowings associated with each of the above and other operating requirements. In addition to net cash flow provided by operating activities, the Company also had available as of August 4, 2006, $147,488,000 under its Revolving Credit Facility and $121,000,000 under its shelf registration program, subject to mutual agreement and terms. As of August 4, 2006, the Company had $4,396,000 available under its Credit Line.

Neither the Company, nor any of its subsidiaries, is obligated on any debt instrument, swap agreement, or any other financial instrument or commercial contract which has a rating trigger, except for pricing grids on its Revolving Credit Facility.

The Company expects to continue to fund expenditures for acquisitions, capital construction projects, treasury stock repurchases, repayment of borrowings, and for other operating requirements from a combination of funds generated from operating activities and available financing arrangements.

The Company has issued guaranties or obtained stand-by letters of credit and performance bonds supporting performance by the Company and its subsidiaries of contractual or contingent legal obligations of the Company and its subsidiaries incurred in the ordinary course of business. The aggregate notional value of these instruments is $11,650,000 at June 30, 2006, including $10,730,000 in letters of credit and debt guarantees, and $920,000 in performance bonds, of which $683,000 relates to contingent legal obligations which are covered by the Company’s liability insurance program in the event the obligations are incurred. All of these instruments have an expiration date within four years. The Company does not believe demand for payment under these instruments is likely and expects no material cash outlays to occur in connection with these instruments.

During the last three years, inflation has had a relatively minor effect on the financial results of the Company. The marine transportation segment has long-term contracts that generally contain cost escalation clauses whereby certain costs, including fuel, can be passed through to its customers; however, there is typically a 30 to 90 day delay before contracts are adjusted for fuel prices. Spot market rates are at the current market rate, including fuel, and are subject to market volatility. The repair portion of the diesel engine services segment is based on prevailing current market rates.

Part I Financial Information

Item 3. Quantitative and Qualitative Disclosures about Market Risk

The Company is exposed to risk from changes in interest rates on certain of its outstanding debt. The outstanding loan balances under the Company's bank credit facilities bear interest at variable rates based on prevailing short-term interest rates in the United States and Europe. A 10% change in variable interest rates would impact the 2006 interest expense by approximately $487,000, based on balances outstanding at December 31, 2005, and change the fair value of the Company's debt by less than 1%.

From time to time, the Company has utilized and expects to continue to utilize derivative financial instruments with respect to a portion of its interest rate risks to achieve a more predictable cash flow by reducing its exposure to interest rate fluctuations. These transactions generally are interest rate swap agreements which are entered into with major financial institutions. Derivative financial instruments related to the Company's interest rate risks are intended to reduce the Company's exposure to increases in the benchmark interest rates underlying the Company's floating rate senior notes and variable rate bank credit facilities. The Company does not enter into derivative financial instrument transactions for speculative purposes.

From time to time, the Company hedges its exposure to fluctuations in short-term interest rates under its variable rate bank credit facility and floating rate senior notes by entering into interest rate swap agreements. The interest rate swap agreements are designated as cash flow hedges, therefore, the changes in fair value, to the extent that the swap agreements are effective, are recognized in other comprehensive income until the hedged interest expense is recognized in earnings. As of June 30, 2006, the Company had a total notional amount of $150,000,000 of interest rate swaps designated as cash flow hedges for its variable rate senior notes as follows (dollars in thousands):

Notional amount	Trade date	Effective date	Termination date	Fixed pay rate	Receive rate
$ 100,000	September 2003	March 2006	February 2013	5.45%	Three-month LIBOR
$ 50,000	April 2004	April 2004	May 2009	4.00%	Three-month LIBOR

These interest rate swaps hedge a majority of the Company's long-term debt and only an immaterial loss on ineffectiveness was recognized in the 2006 first half. At June 30, 2006, the fair value of the interest rate swap agreements was $2,590,000 and was recorded in other assets. The Company has recorded in interest expense, net losses (gains) related to the interest rate swap agreements of $(10,000) and $790,000 for the three months ended June 30, 2006 and 2005, respectively, and $203,000 and $1,747,000 for the six months ended June 30, 2006 and 2005, respectively. The Company anticipates $588,000 of net gains included in accumulated other comprehensive income will be transferred into earnings over the next year based on current interest rates. Gains or losses on the interest rate swap contracts offset increases or decreases in rates of the underlying debt, which results in a fixed rate for the underlying debt. Fair value amounts were determined as of June 30, 2006 and 2005 based on quoted market values of the Company's portfolio of derivative instruments.

Item 4. Controls and Procedures

Based on their evaluation of the Company's disclosure controls and procedures (as defined in Rule 13a-15(e) under the Securities Exchange Act of 1934 (the "Exchange Act")) as of the end of the period covered by this quarterly report, the Company's Chief Executive Officer and Chief Financial Officer have concluded that the disclosure controls and procedures are effective to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms. There were no changes in the Company's internal control over financial reporting that occurred during the Company's most recent fiscal quarter that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

Item 6. Exhibits

3.1 - Restated Articles of Incorporation filed June 18, 1976, with all amendments to date

10.1 - Stock Purchase Agreement, dated as of May 3, 2006, among Marine Systems, Inc., the Stockholders of Global Power Holding Company as the Sellers and Global Power Holding Company

10.2 - Nonemployee Director Compensation Program

31.1 - Certification of Chief Executive Officer Pursuant to Rule 13a-14(a).

31.2 - Certification of Chief Financial Officer Pursuant to Rule 13a-14(a).

32 - Certification Pursuant to 13 U.S.C. Section 1350 (As adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002).

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.

KIRBY CORPORATION
(Registrant)

By: /s/ NORMAN W. NOLEN
Norman W. Nolen
Executive Vice President, Treasurer and Chief Financial Officer

Dated: August 7, 2006

FILED
IN THE OFFICE OF THE
SECRETARY OF STATE OF THE
STATE OF NEVADA

JUN 18, 1976

WM SWACKHAMER , SECRETARY OF STATE

/s/ Wm Swackhamer

No. 246-69

RESTATED ARTICLES OF INCORPORATION

OF

KIRBY EXPLORATION COMPANY

FIRST: The name of the corporation is KIRBY EXPLORATION COMPANY.

SECOND: Its principal office in the State of Nevada is located at One East First Street, Reno, Washoe County, Nevada. The name and address of its resident agent is The Corporation Trust Company of Nevada, One East First Street, Reno, Nevada.

THIRD: The corporation may engage in any lawful activity including, by way of partial enumeration and not by way of limitation, the following:

To enter into, maintain, operate or carry on in any or all of its branches the business of exploring for, producing, developing, mining, processing, refining, treating, handling, marketing or dealing in, petroleum, oil, natural gas, asphalt, bituminous rock, sulphur and any and all other minerals, whether similar or dissimilar, and any and all products or by-products which may be derived from such substances, or any of them; and for all or any of such purposes to acquire, own, lease, operate or otherwise deal in or with oil or gas wells, tanks, storage facilities, gathering systems, pipelines, processing plants, mines, samplers, refineries, smelters, crushers, mills, wharves, watercraft, aircraft, tank cars, communication systems, machinery, equipment and any and all other kinds and types of real or personal property that may in anywise be deemed necessary, convenient or advisable in connection with the carrying on of such business or any branch thereof.

To purchase, or otherwise acquire, or invest in, own, mortgage, pledge, sell, assign, transfer or otherwise dispose of, in whole or in part, oil, gas and mineral leases and interests therein, fee lands, mineral interests in lands, mining claims, applications or options to acquire oil, gas or mineral leases, royalty interests, overriding royalty interests, net profits interests, production payments and any other interest in lands or any interest created by contract or otherwise which entitles the owner or owners thereof to participate in any way in, or obtain any advantage from, the production or sale of oil, gas or other minerals whether similar or dissimilar.

To transport oil, gas and other similar and dissimilar minerals, as well as any and all refinements and by-products thereof, and also any and all types and kinds of equipment, supplies, materials, machinery, goods, wares, and merchandise and property, and to buy, exchange, construct, contract for, lease and in any and all other ways acquire, take, hold and own any and all required easements, transportation equipment and facilities, including gathering lines and pipelines, and to manage, maintain and operate the same, and to sell, mortgage, lease or otherwise dispose of the same.

To engage in the business of drilling, boring and sinking wells for the extraction and production of petroleum, gas and any other useful or valuable substances or products either for itself or for others through any type of contracts or arrangements deemed beneficial to the corporation, and to manufacture, acquire, own, use, maintain and operate drilling rigs, derricks, drills, bits, casing, pipe, explosives and any articles, materials, machinery, equipment and property used for or in connection with the said business of the corporation.

To lay, construct, purchase or otherwise acquire, own, lease, develop, improve, maintain and operate a pipe line or pipe lines; to transport by means of such pipe line or pipe lines, natural gas, manufactured gas, combinations of natural gas and manufactured gas, petroleum, refined petroleum products, and all kinds of products and by-products of gas and oil whether purchased, produced or sold by the corporation or by others; and to sell, convey or otherwise dispose of such pipe line or pipe lines.

To conduct and engage in a scientific business, including prospecting, exploring and computing by electric, physical, mechanical and other means for the discovery and location in, upon or above the earth, and the detecting of oil, gas, rock, minerals and objects of every kind; and the conducting of research and scientific tests and experiments.

To engage in the business of managing, supervising and operating all types of oil, gas and mineral properties; to negotiate and consummate, for itself or for others, leases and contracts with respect to all such property; to enter into contracts and arrangements, either as principal or as agent, for the operation, conduct and improvement of any property managed, supervised or operated by the corporation; to furnish financial, management and other services to others; to purchase or otherwise acquire, own, use, improve, maintain, sell, lease or otherwise dispose of any articles, materials, machinery, equipment and property used for or in connection with the business of the corporation; and to engage in and conduct, or authorize, license and permit others to engage in and conduct any business or activity incident, necessary, advisable or advantageous to the ownership of oil, gas and other mineral properties managed, supervised or operated by the corporation.

To guarantee the payment of the principal of and interest upon notes, debentures, bonds, or other evidences of indebtedness, of any kind or character, of any corporation, joint stock company, syndicate, association, firm, trust or person whatsoever.

To engage in any lawful activity and to manufacture, purchase or otherwise acquire, invest in, own, mortgage, pledge, sell, assign and transfer or otherwise dispose of, trade, deal in and deal with goods, wares, and merchandise and personal property of every class and description,

To hold, purchase and convey real and personal estate and to mortgage or lease any such real and personal estate with its franchises and to take the same by devise or bequest.

To acquire, and pay for in cash, stock or bonds of this corporation or otherwise, the good will, rights, assets and property, and to undertake or assume the whole or any part of the obligations or liabilities of any person, firm, association or corporation.

To acquire, hold, use, sell, assign, lease, grant licenses in respect of, mortgage or otherwise dispose of letters patent of the United States or any foreign country patent rights, licenses and privileges, inventions, improvements and processes, copyrights, trademarks and trade names, relating to or useful in connection with any business of this corporation.

The objects and purposes specified in the foregoing clauses shall except where otherwise expressed, be in nowise limited or restricted by reference to, or inference from, the terms of any other clause in the Articles of Incorporation, but the objects and purposes specified in each of the foregoing clauses of this Article shall be regarded as independent objects and purposes.

FOURTH: The amount of the total authorized capital stock of the corporation is Four Million (4,000,000) shares of Common Stock of the par value of $1.00 per share.

No stockholder of this corporation shall by reason of his holding shares, of any class have any preemptive or preferential right to purchase or subscribe to any shares of any class of this corporation, now or hereafter to be authorized, or any notes, debentures, bond, or other securities convertible into or carrying options or warrants to purchase shares of any class, now or hereafter to be authorized, whether or not the issuance of any such shares, or such notes, debentures, bonds or other securities would adversely affect the divided or voting rights of such stockholder other than such rights, if any, as the Board of Directors in its discretion from time to time may grant, and at such price as the Board of Directors in its discretion may fix; and the Board of Directors may cause to be issued shares of any class of this corporation, or any notes, debentures, bonds or other securities convertible into or carrying options or warrants to purchase shares of any class without offering any such shares or other securities either in whole or in part to the existing stockholders of any class.

FIFTH: The members of the governing board shall be styled directors and the number thereof shall be not less than three (3) nor more than fifteen (15), the exact number to be fixed as provided by the by-laws of the corporation, provided, that the number so fixed as provided by the by-laws may be increased or decreased within the limit above specified from time to time as provided by the by-laws.

The names and post office addresses of the first Board of Directors, which shall be three (3) in number, are as follows:

NAME	POST OFFICE ADDRESS
Jeff Montgomery	1200 First City National Bank Bldg. Houston, Texas
Warren F. Johnston	1200 First City National Bank Bldg. Houston, Texas
Paul W. Pond	1200 First City National Bank Bldg. Houston, Texas

SIXTH: The capital shall not be subject to assessment to pay the debts of the corporation.

SEVENTH: The name and post office address of each of the incorporators signing the Articles of Incorporation are as follows:

NAME	POST OFFICE ADDRESS
D. R. Allen	Republic National Bank Building Dallas, Texas
H. C. Broadt	Republic National Bank Building Dallas, Texas
T. R. Bohannon	Republic National Bank Building Dallas, Texas

EIGHTH: The corporation is to have perpetual existence.

NINTH: In furtherance, and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized:

Subject to the by-laws, if any, adopted by the stockholders to make, alter or amend the by-laws of the corporation.

To fix the amount to be reserved as working capital over and above its capital stock paid in, to authorize and cause to be executed mortgages and liens upon the real and personal property of this corporation.

By resolution passed by a majority of the whole Board, to designate one or more committees, each committee to consist of two or more of the Directors of the corporation which, to the extent provided in the resolution or in the by-laws of the corporation, shall have and may exercise the powers of the Board of Directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers which may require it. Such committee or committees shall have such name or names as may be stated in the by-laws of the corporation or as may be determined from time to time by resolution adopted by the Board of Directors.

When and as authorized by the affirmative vote of stockholders holding stock entitling them to exercise a majority of the voting power given at a stockholders' meeting called for that purpose, or when authorized by the written consent of the holders of a majority of the voting stock issued and outstanding, the Board of Directors shall have power and authority at any meeting to sell, lease or exchange all of the property and assets of the corporation, including its good will, and its corporate franchises, upon such terms and conditions as its Board of Directors deems expedient and for the best interests of the corporation. No vote or consent of the stockholders, however, shall be required for a transfer of assets by way of mortgage or in trust or in pledge to secure indebtedness of the corporation.

TENTH: Meetings of stockholders and Directors may be held outside the State of Nevada in the manner provided for by the by-laws. The books of the corporation may be kept (subject to any provision contained in the statutes) outside the State of Nevada at such place or places as may be designated from time to time by the Board of Directors or in the by-laws of the corporation.

ELEVENTH: No contract or other transaction between the corporation and any other corporation and no other act of the corporation shall, in the absence of fraud, be invalidated or in any way affected by the fact that any of the Directors of the corporation are pecuniarily or otherwise interested in such contract, transaction or other act, or are directors or officers of such other corporation. Any Director of the corporation, individually, or any firm or association of which any such Director may be a member, may be a party to, or may be pecuniarily or otherwise interested in any contract or transaction of the corporation, provided that the fact that he individually or such firm or association is so interested shall be disclosed or shall have been known to the Board of Directors or a majority of such members thereof as shall be present at any meeting of the Board of Directors at which action upon any such contract or transaction shall be taken; and any Director of the corporation who is a director or officer of such other corporation or who is so interested may be counted in determining the existence of a quorum at any meeting of the Board of Directors which shall authorize any such contract or transaction, and may vote thereat to authorize any such contract or transaction with like force and effect as if he were not such director or officer of such other corporation or not so interested, every Director of the corporation being hereby relieved from any disability which might otherwise prevent him from carrying out transactions with or contracting with the corporation for the benefit of himself or any firm, corporation, association, trust or organization in which or with which he may be in anywise interested or connected.

TWELFTH: 1. The corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, except an action by or in the right of the corporation, by reason of the fact that he is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the corporation, and that, with respect to any criminal action or proceeding, he had reasonable cause to believe that his conduct was unlawful.

2. The corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses, including attorneys' fees, actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the corporation, but no indemnification shall be made in respect of any claim, issue or matter as to which such person has been adjudged to be liable for gross negligence or misconduct in the performance of his duty to the corporation unless and only to the extent that the court in which such action or suit was brought determines upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses as the court deems proper.

3. To the extent that a director, officer, employee or agent of the corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in sections 1 and 2 of this Article Twelfth, or in defense of any claim, issue or matter therein, he shall be indemnified by the corporation against expenses, including attorneys' fees, actually and reasonably incurred by him in connection with such defense.

4. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the corporation in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it is ultimately determined that he is entitled to be indemnified by the corporation as authorized in this Article Twelfth.

5. The indemnification provided by this Article Twelfth:

(a) Does not exclude any other rights to which a person seeking indemnification may be entitled under any by-law, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office; and

(b) Shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

6. The corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the corporation would have the power to indemnify him against such liability under the provisions of this Article Twelfth.

THIRTEENTH: This corporation reserves the right to amend, alter, change or repeal any provision contained in the Articles of Incorporation, in the manner now or hereafter prescribed by statute, or by the Articles of Incorporation, and all rights conferred upon stockholders herein are granted subject to this reservation.

STATE OF TEXAS)
)
COUNTY OF HARRIS)

The undersigned, Robert R. Hillery, President of Kirby Exploration Company, and Myron H. Newman, Secretary of Kirby Exploration Company, being duly sworn, depose and say that they have been authorized to execute the foregoing certificate by resolution of the Board of Directors of Kirby Exploration Company adopted on March 23,1976, and that the foregoing certificate correctly sets forth the text of the Articles of Incorporation of Kirby Exploration Company as amended to date.

/s/ Robert R. Hillery
Robert R. Hillery, President
Kirby Exploration Company

/s/Myron H. Newman,
Myron H. Newman, Secretary
Kirby Exploration Company

SUBSCRIBED AND SWORN TO before me this 23rd day of March, 1976

/s/Linda Alford
Notary Public in and for Harris County, Texas

RESTATED

ARTICLES OF INCORPORATION
OF
KIRBY EXPLORATION COMPANY

FILED AT THE REQUEST OF

Woodbum, Formon, Wedge, Blakey, Folsom & Hug
Attorneys-at-Law
One East First Street, Reno, Nevada 89501

June 18 1976
(DATE)

/s/ Wm D. Swackhamer
WM. D. SWACKHAMER, SECRETARY OF STATE

(By) DEPUTY SECRETARY OF STATE

No.	246-69
FILING FEE	$50.00

Filing Fee: $20.00
By: Woodburn, Wedge, Blakey, & J. Jeppson
One East First st.
Reno, Nevada 89501

FILED
BY THE OFFICE OF THE
SECRETARY OF STATE OF THE
STATE OF NEVADA

APR 22 1981

WM SWACKHAMER SECRETARY OF
STATE

/s/ Wm Swackhamer
No. 246-69

CERTIFICATE OF AMENDMENT
OF THE RESTATED ARTICLES OF INCORPORATION
OF KIRBY EXPLORATION COMPANY

KIRBY EXPLORATION COMPANY, a corporation organized under the laws of the State of Nevada, by its President and Secretary, does hereby certify:

SECTION ONE: The name of the Corporation is KIRBY EXPLORATION COMPANY.

SECTION TWO: That the Board of Directors of said Kirby Exploration Company by unanimous written consent, dated as of the 25th day of March, 1981, adopted a resolution declaring that it would be advisable to amend Article FOURTH of the Restated Articles of Incorporation of Kirby Exploration Company increasing the authorized shares of common capital stock of Kirby Exploration Company from 4,000,000 shares of common capital stock with the par value of One Dollar ($1.00) per share to 40,000,000 shares of common capital stock of the par value of Ten Cents ($0.10) per share, and they therefore called for submission of such resolution to the shareholders at the Annual Meeting to take action thereon.

SECTION THREE: That, pursuant to such call of the Board of Directors, and upon notice given to each shareholders entitled to vote on an amendment to the Restated Articles of Incorporation, an Annual Meeting of the Shareholders of Kirby Exploration Company was held on April 21, 1981, in Houston, Texas. The number of shares of Kirby Exploration Company outstanding and entitled to vote at the time of such meeting was 1,596,946 shares of common stock. The number of shares which voted for such amendment to the Restated Articles of Incorporation was 1,044,351 shares of common stock representing 65.4% of the shares entitled to vote and the number of shares of common stock which voted against such amendment was 1,407 shares of common stock representing .09% of the common stock entitled to vote thereon. Such amendment read as follows:

The first sentence of Article FOURTH of the Restated Articles of Incorporation of Kirby Exploration Company is amended to read as follows:

> "The amount of the total authorized capital stock of the corporation is Forty Million (40,000,000) shares of common stock of the par value of Ten Cents ($.10) per share."

SECTION FOUR: That upon the filing of such amendment each share of the presently authorized common stock of Kirby Exploration Company of the par value of One Dollar ($1.00) per share will be changed into ten (10) shares of the new common stock of said Kirby Exploration Company of the par value of Ten Cents ($0.10) per share.

IN WITNESS WHEREOF, the said Kirby Exploration Company has caused this instrument to be executed by its President and Secretary, duly authorized, and its corporate seal affixed hereto, this 22nd day of April, 1981.

/s/ George A. Peterkin, Jr.
George A. Peterkin, Jr.
President

(Corporate Seal)

/s/ Henry Gilchrist
Henry Gilchrist, Secretary

THE STATE Of TEXAS)
)
COUNTY OF HARRIS)

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared GEORGE A. PETERKIN, JR., President of Kirby Exploration Company, the corporation executing the foregoing instrument, and being first duly sworn, acknowledged that he signed the foregoing document in the capacity therein stated and declared that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 22nd day of April, 1981.

/s/ Sue Keller
Notary Public in and for Harris County, Texas

My Commission Expires

November 30, 1984

THE STATE OF TEXAS)
)
COUNTY OF HARRIS)

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared HENRY GILCHRIST, Secretary of Kirby Exploration Company, the corporation executing the foregoing instrument, and being first duly sworn, acknowledge that he signed the foregoing instrument in the capacity therein stated and declared that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 22nd day of April, 1981.

/s/ Sue Keller
Notary Public in and for Harris County, Texas

My Commission Expires:

November 30, 1984

FILING FEE: $6,600.00
BY: CT CORPORATION SYSTEM
SUITE #1600
ONE EAST FIRST STREET
RENO, NEVADA
89501

FILED
BY THE OFFICE OF THE
SECRETARY OF STATE OF THE
STATE OF NEVADA

SEP 13 1984

WM SWACKHAMER SECRETARY OF STATE

/s/ Wm Swackhamer

No. 246-69

CERTIFICATE OF AMENDMENT
OF
RESTATED ARTICLES OF INCORPORATION
OF
KIRBY EXPLORATION COMPANY

KIRBY EXPLORATION COMPANY, a Nevada corporation, by its Vice President and Assistant Secretary does hereby certify:

I. The Board of Directors of the Corporation adopted a resolution setting forth the amendments in the Restated Articles of Incorporation hereinafter set forth and declaring their advisability, and called an annual meeting of the shareholders entitled to vote for the consideration of such amendments.

II. Thereafter, on the 25th day of April, 1984, upon notice given to each stockholder of record entitled to vote on an amendment to the Restated Articles of Incorporation as provided by law, an annual meeting of the stockholders of the Corporation was held, at which meeting 16,733,420 shares of the common stock of the Corporation, being approximately 69.7% of the issued and outstanding common stock of the Corporation, voted in favor of the amendment contained in III.A below, and 13,506,753 shares of common stock of the Corporation, being approximately 56.3% of the issued and outstanding common stock of the Corporation, voted in favor of the amendment contained in III.B below.

III. The Amended Articles of Incorporation of the Corporation are hereby amended as follows:

A. Article first of the Amended Articles of Incorporation of the Corporation is hereby amended to read in its entirety as follows:

"FIRST: The name of the corporation is KIRBY EXPLORATION COMPANY, INC."

B. Article Fourth of the Amended Articles of Incorporation of the Corporation is hereby amended to read in its entirety as follows:

"FOURTH: 1. The total number of shares of all classes of stock which the corporation shall have authority to issue is 80,000,000, consisting of (1) 20,000,000 shares of Preferred Stock, par value $1.00 per share ("Preferred Stock"), and (2) 60,000,000 shares of Common Stock, par value $0.10 per share ("Common Stock").

2. The Board of Directors is hereby expressly authorized, by resolution or resolutions from time to time adopted, to provide, out of the unissued shares of Preferred Stock, for the issuance of serial Preferred Stock. Before any shares of any such series are issued, the Board of Directors shall fix and state, and hereby is expressly empowered to fix, by resolution or resolutions, the designations, preferences, and relative, participating, optional or other special rights of the shares of each such series, and the qualifications, limitations or restrictions thereon, including but not limited to, determination of any of the following:

(a) the designation of such series, the number of shares to constitute such series and the stated value thereof if different from the par value thereof;

(b) whether the shares of such series shall have voting rights, in addition to any voting rights provided by law, and, if so, the terns of such voting rights, which may be full or limited;

(c) the dividends, if any, payable on such series and at what rates, whether any such dividends shall be cumulative, and. if so, from what dates, the conditions and dates upon which such dividends shall be payable, the preference or relation which such dividends shall bear to the dividends payable on any shares of stock of any other class or any other series of this class;

(d) whether the shares of such series shall be subject to redemption by the corporation, and, if so, prices and other terms and conditions of such redemption;

(e) the amount or amounts payable upon shares of such series upon, and the rights of the holders of such series in, the voluntary or involuntary liquidation, dissolution or winding up of, or upon any distribution of the assets of, the corporation;

(f) whether the shares of such series shall be subject to the operation of a retirement or sinking fund and, if so, the extent to and manner in which any such retirement or sinking fund shall be applied to the purchase or redemption of the shares of such series for retirement or other corporate purposes and the terms and provisions relative to the operation thereof;

(g) whether the shares of such series shall be convertible into, or exchangeable for, shares of stock of any other class or any other series of this class or any other class or classes of securities and, if so, the price or prices or the rate or rates of conversion or exchange and the method, if any, of adjusting the same, and any other terms and conditions of conversion or exchange;

(h) the limitations and restrictions, if any, to be effective while any shares of such series are outstanding upon the payment of dividends or the making of other distributions on, and upon the purchase, redemption or other acquisition by the corporation of, the Common Stock or shares of stock of any other class or any other series of this class;

(i) the conditions or restrictions, if any, upon the creation of indebtedness of the corporation or upon the issue of any additional stock, including additional shares of such series or any other series of this class or of any other class; and

(j) any other powers, preferences and relative, participating, optional and other special rights, and any qualifications, limitations and restrictions thereof.

The powers, preferences and relative, participating, optional and other special rights of each series of Preferred Stock, and the qualifications, limitations or restrictions thereof, if any, may differ from those of any and all other series at any time outstanding. All shares of any one series of Preferred Stock shall be identical in all respects with all other shares of such series, except that shares of any one series issued at different times may differ as to the dates from which dividends thereof shall be cumulative. The Board of Directors may increase the number of shares of the Preferred Stock designated for any existing series by a resolution adding to such series authorized and unissued shares of the Preferred Stock not designated for any other series. The Board of Directors may decrease the number of shares of Preferred Stock designated for any existing series by a resolution, subtracting from such series unissued shares of the Preferred Stock designated for such series, and the shares so subtracted shall become authorized, unissued and undesignated shares of the Preferred Stock.

3. Each holder of Common Stock shall be entitled to one vote for each share of Common Stock held of record on all matters on which stockholders generally are entitled to vote. Subject to the provisions of law and the rights of the Preferred Stock and any other class or series of stock having a preference as to dividends over the Common Stock then outstanding, dividends may be paid on the Common Stock out of assets legally available for dividends, but only at such times and in such amounts as the Board of Directors shall determine and declare. Upon the dissolution, liquidation or winding up of the corporation, after any preferential amounts to be distributed to the holders of the Preferred Stock and any other class or series of stock having a preference over the Common Stock then outstanding have been paid or declared and set apart for payment, the holders of the Common stock shall be entitled to receive all the remaining assets of the corporation available for distribution to its stockholders ratably in proportion to the number of shares held by them, respectively.

4. No stockholder of this corporation shall by reason of his holding shares of any class have any preemptive or preferential right to purchase or subscribe to any shares of any class of this corporation, now or hereafter to be authorized, or any notes, debentures, bonds or other securities convertible into or carrying options or warrants to purchase shares of any class, now or hereafter to be authorized, whether or not the issuance of any shares or such notes, debentures, bonds or other securities, would adversely affect the dividend or voting rights of such stockholder other than such rights, if any, as the Board of Directors in its discretion from time to time may grant, and at such price as the Board of Directors in its discretion may fix; and the Board of Directors may cause to be issued shares of any class of this corporation, or any notes, debentures, bonds or other securities convertible into or carrying options or warrants to purchase shares of any class without offering any such shares or other securities either in whole or in part to the existing stockholders of any class."

IN WITNESS WHEREOF, this Certificate of Amendment has been executed by the Vice President and Assistant Secretary of the Corporation as of the 11th day of September, 1984.

Myron H. Newman
Vice President

/s/ Steve Holcomb
Assistant Secretary

STATE OF TEXAS §

COUNTY OF HARRIS §

On this 11th day of September, 1984, before me appeared Myron M. Newman, to me personally known, who, being by me duly sworn, did say that he is the Vice President of KIRBY EXPLORATION COMPANY, a Nevada corporation, and acknowledged that the statements contained in the foregoing Certificate of Amendment are true and correct.

/s/ Jenny S. Gavranovic
Notary Public

JENNY S. GAVRANOVIC
Notary Public in and for the State of Texas
My Commission Expires August 5, 1987

My Commission Expires _____

STATE OF TEXAS §

COUNTY OF HARRIS §

On this 11th day of September, 1984, before me appeared Steve Holcomb, to me personally known, who, being by me duly sworn, did say that he is the assistant Secretary of KIRBY EXPLORATION COMPANY, a Nevada corporation, and acknowledged that the statements contained in the foregoing Certificate of Amendment are true and correct.

/s/ Jenny S. Gavranovic
Notary Public

JENNY S. GAVRANOVIC
Notary Public in and for the State of Texas
My Commission Expires August 5, 1987

My Commission Expires _____

FILING FEE: $150.00
BY: PRENTICE HALL CORPORATE SERVICE ROOM E
502 EAST JOHN STREET CARSON CITY, NEVADA
89701

FILED IN THE OFFICE OF THE
SECRETARY OF STATE OF THE
STATE OF NEVADA

JUL 13 1988
[illegible] SECRETARY OF STATE
/s/ illegible

NO. 246-69

CERTIFICATE OF AMENDMENT
OF
RESTATED ARTICLES OF INCORPORATION
OF
KIRBY EXPLORATION COMPANY, INC.

KIRBY EXPLORATION COMPANY, INC., a Nevada corporation (the "Corporation"), by its President and Secretary does hereby certify:

I. The Board of Directors of the Corporation adopted resolutions setting forth the amendments below in III.A and III.B (the amendments) to the Restated Articles of Incorporation of the Corporation, as amended (the Restated Articles of Incorporation"), directed that the Amendments be submitted to a vote of the stockholders entitled to vote for the consideration of the Amendments.

II. Thereafter, on the 26th day of April, 1988, upon notice given to each stockholder of record entitled to vote on a amendment to the Restated Articles of Incorporation as provided by law, an annual meeting of the stockholders of the Corporation, being approximately 74.0% of the issued and outstanding common stock of the Corporation, voted in favor of the amendment contained in III.B below.

III. The Restated Articles of Incorporation are hereby amended as follows:

A. Article Twelfth is amended to read in its entirety as follows:

“TWELFTH: 1. The corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, except an action by or in the right of the corporation, by reason of the fact that he is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses, including attorneys' fees judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with the action, suit or proceeding if he acted in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action, or proceeding, has no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea or nolo contendere or its equivalent, does not, or itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the corporation, and that, with respect to any criminal action or proceeding, he had reasonable cause to believe that his conduct was unlawful.

2. The corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses, including amounts paid in settlement and attorneys’ fees actually and reasonable incurred by him in connection with the defense or settlement of the action or suit if he acted in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests the corporation. Indemnification shall not be made for any claim, issue or matter as to which such a person has been adjusted by a court of competent jurisdiction, after exhaustion of all appeals therefrom, to be liable to the corporation or for amounts paid in settlement to the corporation unless and only to the extent that the court in which the action or suit was brought or other court of competent jurisdiction determines upon application that in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for such expenses as the court deems proper.

3. To the extent that a director, officer, employee or agent of a corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in sections 1 and 2 of this Article Twelfth, or in defense of any claim, issue or matter therein, he must be indemnified by the corporation against expenses, including attorneys’ fees, actually and reasonably incurred by him in connection with the defense.

4. Any indemnification under sections 1 and 2 of this Article Twelfth, unless ordered by a court or advanced pursuant to section 5 of this Article Twelfth, must be made by the corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances. The determination must be made:

(a) By the stockholders;

(b) By the board of directors by majority vote of a quorum consisting of directors who were not parties to the act, suit or proceeding;

(c) If a majority vote of a quorum consisting of directors who were not parties to the act, suit or proceeding so orders, by independent legal counsel in a written opinion; or

(d) If a quorum consisting of directors who were not parties to the act, suit or proceeding cannot be obtained, by independent legal counsel in a written opinion.

5. The expenses of officers and directors incurred in defending a civil or criminal action, suit or proceeding must be paid by the corporation as they are incurred and in advance of the final disposition of the action suit or proceeding upon receipt of an undertaking by or on behalf of the director or officer to repay the amount of it is ultimately determined by a court of competent jurisdiction that he is not entitled to be indemnified by the corporation. The provisions of this section 5 of this Article Twelfth do not affect any rights to advancement of expenses to which corporate personnel other than directors or officers may be entitled under any contract or otherwise by law.

6. The indemnification and advancement of expenses provided by this Article Twelfth:

(a) Does not exclude any other rights to which a person seeking indemnification or advancement of expenses may be entitled under these articles of incorporation or any bylaws, agreement, vote of stockholders or disinterested directors or otherwise, for either an action in his official capacity or an action in his official capacity or an action in another capacity while holding his office, except that indemnification, unless ordered by a court pursuant to section 2 of this Article Twelfth or for the advancement of expenses of any director or officer, if a final adjudication establishes that his acts or omissions involved intentional misconduct, fraud or a knowing violation of the law and was material to the cause of action.

(b) Continues for a person who has ceased to be a director, officer, employee or agent and inures to the benefit of the heirs, executors and administrators of such a person.

7. The corporation may purchase and maintain insurance or make other financial arrangements on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise for any liability asserted against him and liability and expenses incurred by him in his capacity as a director, officer, employee or agent, or arising out of his status as such, whether or not the corporation has the authority to indemnify him against such liability and expenses.

8. The other financial arrangements made by the corporation pursuant to section 7 of this Article Twelfth may include the following:

(a) The creation of a trust fund.

(b) The establishment of a program of self-insurance.

(c) The securing of its obligation of indemnification by granting a security interest or other lien on any assets of the corporation.

(d) The establishment of a letter of credit, guaranty or surety.

No financial arrangement made pursuant to this section may provide protection for a person adjudged by a court of competent jurisdiction, after exhaustion of all appeals therefrom, to be liable for intentional misconduct, fraud or a knowing violation of law, except with respect to the advancement of expenses or indemnification ordered by a court.

9. Any insurance or other financial arrangement made on behalf of a person pursuant to this Article Twelfth may be provided by the corporation or any other person approved by the board of directors, even if all or part of the other person’s stock or other securities is owned by the corporation.

10. In the absence of fraud:

(a) The decision of the board of directors as to the propriety of the terms and conditions of any insurance or other financial arrangement made pursuant to this Article Twelfth and the choice of the person to provide the insurance or other financial arrangement shall be conclusive; and

(b) The insurance or other financial arrangement:

(1) Is not void or voidable; and

(2) Does not subject any director approving it to personal liability for his action, even if a director approving the insurance or other financial arrangement is a beneficiary of the insurance or other financial arrangement.”

B. Article Thirteenth is renumbered as Article Fourteenth and a new Article Thirteenth is added to read in its entirety as follows:

"THIRTEENTH: No director or officer of the corporation shall be personally liable to the corporation or any of its stockholders of damages for breach of fiduciary duty as a director or officer involving any act or omission of any of such director or officer occurring on or after April 26, 1988, and to the extent permitted under applicable law, occurring prior to April 26, 1988, except, that the foregoing provision shall not eliminate or limit the liability of a director or officer for:

(a) acts or omissions which involve intentional misconduct, fraud or a knowing violation of law; or

(b) the payments of dividends in violation of Section 78.300 of the Nevada Revised Statutes.

Neither the amendment nor repeal of this Article Thirteenth, nor the adoption of any provisions of the Restated Articles of Incorporation inconsistent with this Article Thirteenth, shall eliminate or reduce the effect of this Article Thirteen with respect to any matter occurring, or any cause of action, suit or claim that, but for this Article Thirteenth would accrue or arise, prior to such amendment, repeal or adoption of any inconsistent provision."

IN WITNESS WHEREOF, this Certificate of Amendment has been executed by the President and Secretary of the Corporation as of the 28th day of June, 1988.

/s/ George A. Peterkin

George A. Peterkin, Jr., President

/s/ Henry Gilchrist

Henry Gilchrist, Secretary

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

On this 28th day of June, 1988, before me appeared George A. Peterkin, Jr., to me personally known, who, being by me duly sworn, did say that he is the President of KIRBY EXPLORATION COMPANY, INC., a Nevada corporation, and acknowledged that the statements contained in the foregoing Certificate of Amendment are true and correct.

/s/ Sue Keller

Notary Public in and for The State of Texas
Sue Keller

My Commission Expires

/s/ Nov. 30, 1988

THE STATE OF TEXAS §
§
COUNTY OF DALLAS §

On this 28th day of June, 1988, before me appeared Henry Gilchrist, to me personally known, who, being by me duly sworn, did say that he is the Secretary of KIRBY EXPLORATION COMPANY, INC., a Nevada corporation, and acknowledged that the statements contained in the foregoing Certificate of Amendment are true and correct.

/s/ Barbara Ann Rich

Notary Public in and for The State of Texas
Barbara Ann Rich

My Commission Expires

02/28/89

FILING FEE- 75.00
R.F.C. #C46495
PRENTICE HALL
502 E. JOHN ST RM. E
CARSON CITY, NV 89701

Apr 30 1990

IN THE OFFICE OF
Dean Heller
DEAN HELLER SECRETARY OF STATE

CERTIFICATE OF AMENDMENT
OF
RESTATED ARTICLES OF INCORPORATION
OF
KIRBY EXPLORATION COMPANY, INC.

KIRBY EXPLORATION COMPANY, INC., a Nevada corporation (the "Corporation"), by its President and Secretary does hereby certify:

I. The Board of Directors of the Corporation adopted resolutions setting forth the amendment below in III (the "Amendment") to the Restated Articles of Incorporation of the Corporation, as amended (the "Restated Articles of Incorporation"), directed that the Amendment be submitted to a vote of the stockholders and called an annual meeting of the stockholders entitled to vote for the consideration of the Amendment.

II. Thereafter, on the 24th day of April, 1990, upon notice given to each stockholder of record entitled to vote on an amendment to the Restated Articles of Incorporation as provided by law, an annual meeting of the stockholders of the Corporation was held, at which meeting 18,531,750 shares of the common stock of the Corporation, being approximately 81.6% of the issued and outstanding common stock of the Corporation, voted in favor of the amendment contained in III below.

III. Article First of the Restated Articles of Incorporation is hereby amended to read in its entirety as follows:

"FIRST: The name of the corporation is KIRBY CORPORATION."

IN WITNESS WHEREOF, this Certificate of Amendment has been executed by the President and Secretary of the Corporation as of the 24th day of April, 1990.

/s/ George A. Peterkin, Jr.
George A. Peterkin, Jr., President

/s/ Henry Gilchrist
Henry Gilchrist, Secretary

RECEIVED
APR 30 1990

SECRETARY OF STATE

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

On this 24th day of April, 1990, before me appeared George A. Peterkin, Jr., to me personally known, who, being by me duly sworn, did say that he is the President of KIRBY EXPLORATION COMPANY, INC., a Nevada corporation, and acknowledged that the statements contained in the foregoing Certificate of Amendment are true and correct.

/s/ Sue Keller
Notary Public in and for The State of Texas

/s/ Sue Keller
Print Name

My Commission expires:

November 30, 1992

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

On this 24th day of April, 1990, before me appeared Henry Gilchrist, to me personally known, who, being by me duly sworn, did say that he is the Secretary of KIRBY EXPLORATION COMPANY, INC., a Nevada corporation, and acknowledged that the statements contained in the foregoing Certificate of Amendment are true and correct.

/s/ Sue Keller
Notary Public in and for The State of Texas

/s/ Sue Keller
Print Name

My Commission expires:

November 30, 1992

FILED # C 246-69

JUL 24 2000

IN THE OFFICE OF
Dean Heller
DEAN HELLER SECRETARY OF STATE

CERTIFICATE OF DESIGNATION

establishing

Series A Junior Participating Preferred Stock

of

KIRBY CORPORATION

Pursuant to Sections 78.195 and 78.1955 of the Nevada Revised Statutes

Kirby Corporation, a Nevada corporation (the "Corporation"), hereby certifies that the following resolutions were adopted by the Board of Directors of the Corporation at a meeting duly called and held on July 18, 2000.

RESOLVED, that pursuant to the authority vested in the Board of Directors of this Corporation in accordance with the provisions of the Restated Articles of Incorporation, a series of Preferred Stock, par value $1.00 per share, of the Corporation be and hereby is created, and that the designation and number of shares thereof and the voting and other powers, preferences and relative, participating, optional or other rights of the shares of such series and the qualifications, limitations and restrictions thereof are as follows:

Series A Junior participating Preferred Stock

1. *Designation and Amount.* There shall be a series of Preferred Stock that shall be designated as "Series A Junior Participating Preferred Stock," and the number of shares constituting such series shall be 1,000,000. Such number of shares may be increased or decreased by resolution of the Board of Directors; provided, however, that no decrease shall reduce the number of shares of Series A Junior Participating Preferred Stock to less than the number of shares then issued and outstanding plus the number of shares issuable upon exercise of outstanding rights, options or warrants or upon conversion of outstanding securities issued by the Corporation.

2. *Dividends and Distributions.*

(A) Subject to the prior and superior rights of the holders of any shares of any series of Preferred Stock ranking prior and superior to the shares of Series A Junior Participating Preferred Stock with respect to dividends, the holders of shares of Series A Junior Participating Preferred Stock, in preference to the holders of shares of any class or series of stock of the Corporation ranking junior to the Series A Junior Participating Preferred Stock, shall be entitled to receive, when, as and if declared by the Board of Directors out of funds legally available for the purpose, quarterly dividends payable in cash on the 15th day of February, May, August and November in each year (each such date being referred to herein as a "Quarterly Dividend Payment Date"), commencing on the first Quarterly Dividend Payment Date after the first issuance of a share or fraction of a share of Series A Junior Participating Preferred Stock, in an amount per share (rounded to the nearest cent) equal to the greater of (a) $1.00 or (b) the Adjustment Number (as defined below) times the aggregate per share amount of all cash dividends, and the Adjustment Number times the aggregate per share amount (payable in kind) of all non-cash dividends or other distributions other than a dividend payable in shares of Common Stock or a subdivision of the outstanding shares of Common Stock (by reclassification or otherwise), declared on the Common Stock, par value $.10 per share, of the Corporation (the "Common Stock") since the immediately preceding Quarterly Dividend Payment Date, or, with respect to the first Quarterly Dividend Payment Date, since the first issuance of any share or fraction of a share of Series A Junior Participating Preferred Stock. The "Adjustment Number" shall initially be 100. In the event the Corporation shall at any time after July 18, 2000 (the "Rights Declaration Date") (i) declare any dividend on Common Stock payable in shares of Common Stock, (ii) subdivide the outstanding Common Stock or (iii) combine the outstanding Common Stock into a smaller number of shares, then in each such case the Adjustment Number in effect immediately prior to such event shall be adjusted by multiplying such Adjustment Number by a fraction the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

(B) The Corporation shall declare a dividend or distribution on the Series A Junior Participating Preferred Stock as provided in paragraph (A) above immediately after it declares a dividend or distribution on the Common Stock (other than a dividend payable in shares of Common Stock); provided that, in the event no dividend or distribution shall have been declared on the Common Stock during the period between any Quarterly Dividend Payment Date and the next subsequent Quarterly Dividend Payment Date, a dividend of $ 1.00 per share on the Series A Junior Participating Preferred Stock shall nevertheless be payable on such subsequent Quarterly Dividend Payment Date.

(C) Dividends shall begin to accrue and be cumulative on outstanding shares of Series A Junior Participating Preferred Stock from the Quarterly Dividend Payment Date next preceding the date of issue of such shares of Series A Junior Participating Preferred Stock, unless the date of issue of such shares is prior to the record date for the first Quarterly Dividend Payment Date, in which case dividends on such shares shall begin to accrue from the date of issue of such shares, or unless the date of issue is a Quarterly Dividend Payment Date or is a date after the record date for the determination of holders of shares of Series A Junior Participating Preferred Stock entitled to receive a quarterly dividend and before such Quarterly Dividend Payment Date, in either of which events such dividends shall begin to accrue and be cumulative from such Quarterly Dividend Payment Date. Accrued but unpaid dividends shall not bear interest. Dividends paid on the shares of Series A Junior Participating Preferred Stock in an amount less than the total amount of such dividends at the time accrued and payable on such shares shall be allocated pro rata on a share-by-share basis among all such shares at the time outstanding. The Board of Directors may fix a record date for the determination of holders of shares of Series A Junior Participating Preferred Stock entitled to receive payment of a dividend or distribution declared thereon, which record date shall be no more than 30 days prior to the date fixed for the payment thereof.

3. *Voting Rights.* The holders of shares of Series A Junior Participating Preferred Stock shall have the Following voting rights:

(A) Each share of Series A Junior Participating Preferred Stock shall entitle the holder thereof to a number of votes equal to the Adjustment Number on all matters submitted to a vote of the stockholders of the Corporation.

(B) Except as otherwise provided herein, in the Restated Articles of Incorporation or by law, the holders of shares of Series A Junior Participating Preferred Stock, the holders of shares of any other class or series entitled to vote with the Common Stock and the holders of shares of Common Stock shall vote together as one class on all matters submitted to a vote of stockholders of the Corporation.

(C)(i) If at any time dividends on any Series A Junior Participating Preferred Stock shall be in arrears in an amount equal to six quarterly dividends thereon, the occurrence of such contingency shall mark the beginning of a period (herein called a "default period") that shall extend until such time when all accrued and unpaid dividends for all previous quarterly dividend periods and for the current quarterly dividend period on all shares of Series A Junior Participating Preferred Stock then outstanding shall have been declared and paid or set apart for payment. During each default period, (1) the number of Directors shall be increased by two, effective as of the time of election of such Directors as herein provided, and (2) the holders of Preferred Stock (including holders of the Series A Junior Participating Preferred Stock) upon which these or like voting rights have been conferred and are exercisable (the "Voting Preferred Stock") with dividends in arrears in an amount equal to six quarterly dividends thereon, voting as a class, irrespective of series, shall have the right to elect such two Directors.

(ii) During any default period, such voting right of the holders of Series A Junior Participating Preferred Stock may be exercised initially at a special meeting called pursuant to subparagraph (iii) of this Section 3(C) or at any annual meeting of stockholders, and thereafter at annual meetings of stockholders, provided that such voting right shall not be exercised unless the holders of at least one-third in number of the shares of Voting Preferred Stock outstanding shall be present in person or by proxy. The absence of a quorum of the holders of Common Stock shall not affect the exercise by the holders of Voting Preferred Stock of such voting right,

(iii) Unless the holders of Voting Preferred Stock shall, during an existing default period, have previously exercised their right to elect Directors, the Board of Directors may order, or any stockholder or stockholders owning in the aggregate not less than ten percent of the total number of shares of Voting Preferred Stock outstanding, irrespective of series, may request, the calling of a special meeting of the holders of Voting Preferred Stock, which meeting shall thereupon be called by the Chairman of the Board, the President, a Vice President or the Secretary of the Corporation. Notice of such meeting and of any annual meeting at which holders of Voting Preferred Stock are entitled to vote pursuant to this paragraph (C)(iii) shall be given to each holder of record of Voting Preferred Stock by mailing a copy of such notice to him at his last address as the same appears on the books of the Corporation. Such meeting shall be called for a time not earlier than 20 days and not later than 60 days after such order or request or, in default of the calling of such meeting within 60 days after such order or request, such meeting may be called on similar notice by any stockholder or stockholders owning in the aggregate not less than ten percent of the total number of shares of Voting Preferred Stock outstanding. Notwithstanding the provisions of this paragraph (C)(iii), no such special meeting shall be called during the period within 60 days immediately preceding the date fixed for the next annual meeting of the stockholders.

(iv) In any default period, after the holders of Voting Preferred Stock shall have exercised their right to elect Directors voting as a class, (x) the Directors so elected by the holders of Voting Preferred Stock shall continue in office until their successors shall have been elected by such holders or until the expiration of the default period, and (y) any vacancy in the Board of Directors may be filled by vote of a majority of the remaining Directors theretofore elected by the holders of the class or classes of stock which elected the Director whose office shall have become vacant. References in this paragraph (C) to Directors elected by the holders of a particular class or classes of Stock shall include Directors elected by such Directors to fill vacancies as provided in clause (y) of the foregoing sentence.

(v) Immediately upon the expiration of a default period, (x) the right of the holders of Voting Preferred Stock as a class to elect Directors shall cease, (y) the term of any Directors elected by the holders of Voting Preferred Stock as a class shall terminate and (z) the number of Directors shall be such number as may be provided for in the Restated Articles of Incorporation or By-Laws irrespective of any increase made pursuant to the provisions of paragraph (C) of this Section 3 (such number being subject, however, to change thereafter in any manner provided by law or in the Restated Articles of Incorporation or Bylaws). Any vacancies in the Board of Directors effected by the provisions of clauses (y) and (z) in the preceding sentence may be filled by a majority of the remaining Directors.

(D) Except as set forth herein, holders of Series A Junior Participating Preferred Stock shall have no special voting rights and their consent shall not be required (except to the extent they are entitled to vote with holders of Common Stock as set forth herein) for taking any corporate action.

4. *Certain Restrictions.*

(A) Whenever quarterly dividends or other dividends or distributions payable on the Series A Junior Participating Preferred Stock as provided in Section 2 are in arrears, thereafter and until all accrued and unpaid dividends and distributions, whether or not declared, on shares of Series A Junior Participating Preferred Stock outstanding shall have been paid in full, the Corporation shall not

(i) declare or pay dividends on, make any other distributions on, or redeem or purchase or otherwise acquire for consideration, any shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series A Junior Participating Preferred Stock;

(ii) declare or pay dividends on or make any other distributions on any shares of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series A Junior Participating Preferred Stock, except dividends paid ratably on the Series A Junior Participating Preferred Stock and all such parity stock on which dividends are payable or in arrears in proportion to the total amounts to which the holders of all such shares are then entitled; or

(iii) redeem or purchase or otherwise acquire for consideration any shares of Series A Junior Participating Preferred Stock, or any shares of stock ranking on a parity with the Series A Junior Participating Preferred Stock, except in accordance with a purchase offer made in writing or by publication (as determined by the Board of Directors) to all holders of Series A Junior Participating Preferred Stock, or to all such holders and the holders of any such shares ranking on a parity therewith, upon such terms as the Board of Directors, after consideration of the respective annual dividend rates and other relative rights and preferences of the respective series and classes, shall determine in good faith will result in fair and equitable treatment among the respective series or classes.

(B) The Corporation shall not permit any subsidiary of the Corporation to purchase or otherwise acquire for consideration any shares of stock of the Corporation unless the Corporation could, under paragraph (A) of this Section 4, purchase or otherwise acquire such shares at such time and in such manner.

5. *Reacquired Shares.* Any shares of Series A Junior Participating Preferred Stock purchased or otherwise acquired by the Corporation in any manner whatsoever shall be retired and canceled promptly after the acquisition thereof. All such shares shall upon their cancellation become authorized but unissued shares of Preferred Stock and may be reissued as part of a new series of Preferred Stock to be created by resolution or resolutions of the Board of Directors, subject to any conditions and restrictions on issuance set forth herein.

6. *Liquidation, Dissolution or Winding Up.* (A) Upon any liquidation (voluntary or otherwise), dissolution or winding up of the Corporation, no distribution shall be made to the holders of shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series A Junior Participating Preferred Stock unless, prior thereto, the holders of shares of Series A Junior Participating Preferred Stock shall have received $100 per share, plus an amount equal to accrued and unpaid dividends and distributions thereon, whether or not declared, to the date of such payment (the "Series A Junior Participating Preferred Stock Liquidation Preference"). Following the payment of the full amount of the Series A Junior Participating Preferred Stock Liquidation Preference, no additional distributions shall be made to the holders of shares of Series A Junior Participating Preferred Stock unless, prior thereto, the holders of shares of Common Stock shall have received an amount per share (the "Common Adjustment") equal to the quotient obtained by dividing (i) the Series A Junior Participating Preferred Stock Liquidation Preference by (ii) the Adjustment Number. Following the payment of the full amount of the Series A Junior Participating Preferred Stock Liquidation Preference and the Common Adjustment in respect of all outstanding shares of Series A Junior Participating Preferred Stock and Common Stock, respectively, holders of Series A Junior Participating Preferred Stock and holders of shares of Common Stock shall, subject to the prior rights of all other series of Preferred Stock, if any, ranking prior thereto, receive their ratable and proportionate share of the remaining assets to be distributed in the ratio of the Adjustment Number to 1 with respect to such Series A Junior Participating Preferred Stock and Common Stock, on a per share basis, respectively.

(B) In the event, however, that there are not sufficient assets available to permit payment in full of the Series A Junior Participating Preferred Stock Liquidation Preference and the liquidation preferences of all other series of Preferred Stock, if any, that rank on a parity with the Series A Junior Participating Preferred Stock, then such remaining assets shall be distributed ratably to the holders of such parity shares in proportion to their respective liquidation preferences. In the event, however, that there are not sufficient assets available to permit payment in full of the Common Adjustment, then such remaining assets shall be distributed ratably to the holders of Common Stock.

(C) Neither the merger or consolidation of the Corporation into or with another corporation nor the merger or consolidation of any other corporation into or with the Corporation shall be deemed to be a liquidation, dissolution or winding up of the Corporation within the meaning of this Section 6, but the sale, lease or conveyance of all or substantially all the Corporation's assets shall be deemed to be a liquidation, dissolution or winding up of the Corporation within the meaning of this Section 6.

7. *Consolidation, Merger, etc.* In case the Corporation shall enter into any consolidation, merger, combination, share exchange or other transaction in which the shares of Common Stock are exchanged for or changed into other stock or securities, cash and/or any other property, then in any such case each share of Series A Junior Participating Preferred Stock shall at the same time be similarly exchanged or changed in an amount per share equal to the Adjustment Number times the aggregate amount of stock, securities, cash and/or any other property (payable in kind), as the case may be, into which or for which each share of Common Stock is changed or exchanged.

8. *Redemption.* (A) The Corporation, at its option, may redeem shares of the Series A Junior Participating Preferred Stock in whole at any time and in part from time to time, at a redemption price equal to the Adjustment Number times the current per share market price (as such term is hereinafter defined) of the Common Stock on the date of the mailing of the notice of redemption, together with unpaid accumulated dividends to the date of such redemption. The "current per share market price" on any date shall be deemed to be the average of the closing price per share of such Common Stock for the ten consecutive Trading Days (as such term is hereinafter defined) immediately prior to such date; *provided*, however, that in the event that the current per share market price of the Common Stock is determined during a period following the announcement of (A) a dividend or distribution on the Common Stock other than a regular quarterly cash dividend or (B) any subdivision, combination or reclassification of such Common Stock and the ex-dividend date for such dividend or distribution, or the record date for such subdivision, combination or reclassification, shall not have occurred prior to the commencement of such ten Trading Day period, then, and in each such case, the current per share market price shall be properly adjusted to take into account ex-dividend trading. The closing price for each day shall be the last sales price, regular way, or, in case no such sale takes place on such day, the average of the closing bid and asked prices, regular way, in either case as reported in the principal transaction reporting system with respect to securities listed or admitted to trading on the New York Stock Exchange, or, if the Common Stock is not listed or admitted to trading on the New York Stock Exchange, on the principal national securities exchange on which the Common Stock is listed or admitted to trading, or, if the Common Stock is not listed or admitted to trading on any national securities exchange but sales price information is reported for such security, as reported by the National Association of Securities Dealers, Inc. Automated Quotations System ("NASDAQ") or such other self-regulatory organization or registered securities information processor (as such terms are used under the Securities Exchange Act of 1934, as amended) that then reports information concerning the Common Stock, or, if sales price information is not so reported, the average of the high bid and low asked prices in the over-the- counter market on such day, as reported by NASDAQ or such other entity, or, if on any such date the Common Stock is not quoted by any such entity, the average of the closing bid and asked prices as furnished by a professional market maker making a market in the Common Stock selected by the Board of Directors of the Corporation. If on any such date no such market maker is making a market in the Common Stock, the fair value of the Common Stock on such date as determined in good faith by the Board of Directors of the Corporation shall be used. The term "Trading Day" shall mean a day on which the principal national securities exchange on which the Common Stock is listed or admitted to trading is open for the transaction of business, or, if the Common Stock is not listed or admitted to trading on any national securities exchange but is quoted by NASDAQ, a day on which NASDAQ reports trades, or, if the Common Stock is not so quoted, a Monday, Tuesday, Wednesday, Thursday or Friday on which banking institutions in the Commonwealth of Massachusetts are not authorized or obligated by law or executive order to close.

(B) In the event that fewer than all the outstanding shares of the Series A Junior Participating Preferred Stock are to be redeemed, the number of shares to be redeemed shall be determined by the Board of Directors and the shares to be redeemed shall be determined by lot or pro rata as may be determined by the Board of Directors or by any other method that may be determined by the Board of Directors in its sole discretion to be equitable.

(C) Notice of any such redemption shall be given by mailing to the holders of the shares of Series A Junior Participating Preferred Stock to be redeemed a notice of such redemption, first class postage prepaid, not later than the fifteenth day and not earlier than the sixtieth day before the date fixed for redemption, at their last address as the same shall appear upon the books of the Corporation. Each such notice shall state: (i) the redemption date; (ii) the number of shares to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) the place or places where certificates for such shares are to be surrendered for payment of the redemption price; and (v) that dividends on the shares to be redeemed will cease to accrue on the close of business on such redemption date. Any notice that is mailed in the manner herein provided shall he conclusively presumed to have been duly given, whether or not the stockholder received such notice, and failure duly to give such notice by mail, or any defect in such notice, to any holder of Series A Junior Participating Preferred Stock shall not affect the validity of the proceedings for the redemption of any other shares of Series A Junior Participating Preferred Stock that are to be redeemed. On or after the date fixed for redemption as stated in such notice, each holder of the shares called for redemption shall surrender the certificate evidencing such shares to the Corporation at the place designated in such notice and shall thereupon be entitled to receive payment of the redemption price. If fewer than all the shares represented by any such surrendered certificate are redeemed, a new certificate shall be issued representing the unredeemed shares.

(D) The shares of Series A Junior Participating Preferred Stock shall not be subject to the operation of any purchase, retirement or sinking fund.

9. *Ranking.* The Series A Junior Participating Preferred Stock shall rank junior to all other series of the Corporation's Preferred Stock as to the payment of dividends and the distribution of assets, unless the terms of any such series shall provide otherwise, and shall rank senior to the Common Stock as to such matters.

10. *Amendment.* At any time that any shares of Series A Junior Participating Preferred Stock are outstanding, the Restated Articles of Incorporation of the Corporation shall not

9. *Ranking.* The Series A Junior Participating Preferred Stock shall rank junior to all other series of the Corporation's Preferred Stock as to the payment of dividends and the distribution of assets, unless the terms of any such series shall provide otherwise, and shall rank senior to the Common Stock as to such matters.

10. *Amendment.* At any time that any shares of Series A Junior Participating Preferred Stock are outstanding, the Restated Articles of Incorporation of the Corporation shall not be amended in any manner which would materially alter or change the powers, preferences or special rights of the Series A Junior Participating Preferred Stock so as to affect them adversely without the affirmative vote of the holders of two-thirds or more of the outstanding shares of Series A Junior Participating Preferred Stock, voting separately as a class.

11. *Fractional Shares.* Series A Junior Participating Preferred Stock may be issued in fractions of a share that shall entitle the holder, in proportion to such holder's fractional shares, to exercise voting rights, receive dividends, participate in distributions and to have the benefit of all other rights of holders of Series A Junior Participating Preferred Stock.

IN WITNESS WHEREOF, the undersigned has executed this Certificate and does affirm the foregoing as true this 18th day of July, 2000.

KIRBY CORPORATION

By: /s/ J.H. Pyne
J.H. Pyne, President

By: /s/ Thomas G. Adler
Thomas G. Adler, Secretary

THE STATE OF TEXAS)(
)(
COUNTY OF HARRIS)(

The foregoing instrument was acknowledged before me, on the 18th day of July, 2000, by J. H. Pyne, President, and Thomas G. Adler, Secretary, of Kirby Corporation, a Nevada Corporation, on behalf of the corporation.

Given under my hand and official seal this 18th day of July 2000.

By: /s/ Sheryll D. Martinez
Notary Public in and for the
State of Texas

SHERYLL D. MARTINEZ
Notary Public, State of Texas
Commission Expires 12-15-2003

My commission expires:

12-15-2003

DEAN HELLER
Secretary of State
204 North Carson Street, Suite 1
Carson City, Nevada 89701-4299
(775) 684-5708
Website: secretaryofstate.biz

Entity # C246-1969
Document Number: 20060296100-06

Date Filed: 5/9/2006 1:00:54 PM

Dean Heller

Dean Heller
SecretaryofState

Certificate of Change Pursuant to NRS 78.209

Important: Read *attached instructions before completing form.* ABOVE SPACE FOR OFFICE USE ONLY

Certificate of Change filed Pursuant to NRS 78.209
For Nevada Profit Corporations

1.Name of corporation: Kirby Corporation.

2. The board of directors have adopted a resolution pursuant to NRS 78.207 and have obtained any required approval of the stockholders.

3. The current number of authorized shares and the par value, if any, of each class or series, if any, of shares before the change: 60, 000,000 shares of Common Stock, par value $.10 per share, and 20,000,000 shares of Preferred Stock, par value $1.00 per share.

4. The number of authorized shares and the par value, if any, of each class or series, if any, of shares after the change: 120,000,000 shares of Common Stock, par value $.10 per share, and 20,000,000 shares of Preferred Stock, par value $1.00 per share.

5. The number of shares of each affected class or series, if any, to be issued after the change in exchange for each issued share of the same class or series:One additional share of Common Stock will be issued with respect to each currently outstanding share of Common Stock.

6. The provisions, if any, for the issuance of fractional shares, or for the payment of money or the issuance of scrip to stockholders otherwise entitled to a fraction of a share and the percentage of outstanding shares affected thereby: N/A

7. Effective date of Filing (optional): 5:00 p.m, (CDT) on May 10, 2006
(must not be later than 90 days after the certificate is filed)

8. Office Signature: /s/ G. Stephen Holcomb — Vice President-Investor Relations
Signature — Title

IMPORTANT: Failure to include any of the above information and submit the proper fees may cause this filing to be rejected.

This form must be accompanied by appropriate fees

Nevada Secretary of State
AM 78.209 2003

Revised on: 10/24/03

Exhibit 10.1

STOCK PURCHASE AGREEMENT

by and among

Marine Systems, Inc.
as the Buyer,

The Stockholders of Global Power Holding Company
as the Sellers

and

Global Power Holding Company

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STOCK PURCHASE AGREEMENT

This Stock Purchase Agreement (the "Agreement") is made and entered into as of May 3, 2006, by and among Marine Systems, Inc., a Louisiana corporation (the "Buyer") and the stockholders of Global Power Holding Company, a Delaware corporation (the "Company"), set forth on Exhibit A hereto (each a "Seller" and, collectively, the "Sellers"), and the Company.

Recitals

WHEREAS, the Sellers are the record and beneficial owners of all of the issued and outstanding shares (collectively, the "Shares") of the common stock, par value $0.01 per share, of the Company (the "Common Stock");

WHEREAS, the Company is the record and beneficial owner of all of the outstanding membership interests (the "Subsidiary Equity") in Global Power Systems L.L.C., a Louisiana limited liability company (the "Subsidiary");

WHEREAS, the Subsidiary is engaged in the business of high-speed diesel engine and parts sales and service in marine applications (the "Business");

WHEREAS, an index of defined terms used in this Agreement appears in Section 8.10; and

WHEREAS, the Sellers desire to sell the Shares to Buyer, and the Buyer desires to purchase the Shares from Sellers, for the consideration and on the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants and agreements contained herein, the parties hereto agree as follows:

Agreement

ARTICLE I
The Purchase

1.1 Sale and Delivery of the Shares. Pursuant to the terms and subject to the conditions set forth herein, the Buyer hereby agrees to purchase from the Sellers, and the Sellers hereby agree to sell to the Buyer, the Shares, which constitute all of the issued and outstanding equity interests of the Company, for the consideration set forth in Section 1.3.

1.2 Closing Date. The closing of the sale and purchase of the Shares (the "Closing") will take place at the offices of Fulbright & Jaworski L.L.P., Fulbright Tower, 1301 McKinney, Suite 5100, Houston, Texas, at 10:00 a.m. local time on the second business day following the satisfaction or waiver of each of the conditions set forth in Article V (other than those conditions to be satisfied at the Closing) or on such other date or at such other place as the parties mutually agree in writing (such date of closing being herein called the "Closing Date").

1.3 Consideration; Escrow Payments. As consideration in full for the sale and purchase of the Shares, the cancellation and surrender of the Options (as defined in this Section below), the cancellation and surrender of the Warrant (as defined in this Section below) and the noncompetition agreements in Article VII, the Buyer will pay an amount equal to $100,000,000, subject to adjustment as provided in Section 1.4 below (the "Purchase Price"), such Purchase Price to be paid to the Persons and in the amounts further provided in this Article I below:

(a) At the Closing, the Buyer shall pay an amount equal to $7,000,000 (the "Escrow Amount") to U.S. Bank National Association (the "Escrow Agent") to hold in an escrow account (the "Escrow Account") in accordance with the escrow agreement attached hereto as Exhibit B (the "Escrow Agreement");

(b) At the Closing, the Buyer shall pay an amount equal to the unpaid Transaction Costs (as defined in Section 1.4(a) below) to the Persons entitled thereto in accordance with the instructions to be delivered by the Company to the Buyer prior to the Closing Date pursuant to Section 1.5(c).

(c) At the Closing, upon the terms of this Agreement, the Buyer shall pay to the Company, as disbursing agent for each person then holding an option to purchase shares of Common Stock (each an "Option" and each holder thereof an "Optionholder"), an amount equal to the positive difference between (i) the Purchase Price (as adjusted pursuant to Section 1.4) plus the aggregate exercise price of the Warrant and all Options outstanding immediately prior to the Closing Date and minus the Escrow Amount and the unpaid Transaction Costs, all multiplied by a fraction, (A) the numerator of which is the aggregate number of shares of Common Stock subject to the Options outstanding immediately prior to the Closing, and (B) the denominator of which is the number of Fully Diluted Shares (as defined in this Section below), and (ii) the aggregate exercise price for all Options outstanding immediately prior to the Closing (such difference being the "Option Amount"). The Option Amount shall be paid by the Company to the Optionholders in accordance with Schedule 1.3(c) (which Schedule may be updated at Closing), in each case, without interest, and also subject to Section 1.3(g).

(d) At the Closing, upon the terms of this Agreement, the Buyer shall pay to LEG Partners Debenture SBIC, L.P. (the "Warrantholder"), in exchange for the surrender and cancellation of the warrant to purchase Common Stock held by the Warrantholder (the "Warrant"), an amount equal to the positive difference between (i) the Purchase Price (as adjusted pursuant to Section 1.4) plus the aggregate exercise price of the Warrant and all Options outstanding immediately prior to the Closing Date and minus the Escrow Amount and the unpaid Transaction Costs, all multiplied by a fraction, (A) the numerator of which is the aggregate number of shares of Common Stock subject to the Warrant, and (B) the denominator of which is the number of Fully Diluted Shares (as defined in this Section below), and (ii) the aggregate exercise price of the Warrant (such difference being the "Warrant Amount").

(e) At the Closing, upon the terms of this Agreement, the Buyer shall pay to the Seller Representative (as defined in Section 8.11 below), as disbursing agent for each Seller, an amount equal to the Purchase Price (as adjusted pursuant to Section 1.4) minus (i) the Escrow Amount, (ii) the Option Amount, (iii) the Warrant Amount and (iv) the unpaid Transaction Costs (the "Aggregate Share Amount"). The Aggregate Share Amount shall be paid by the Seller Representative to the Sellers in accordance with Schedule 1.3(e).

(f) "Fully Diluted Shares" means the total number of Shares outstanding immediately prior to the Closing plus the total number of shares of Common Stock subject to Options and the Warrant immediately prior to the Closing.

(g) The Company shall withhold and deduct from any amount payable to an Optionholder under this Agreement such amounts as it is required to withhold and deduct under applicable Law, and any amount so withheld and deducted shall be treated for all purposes as having been paid to such Optionholder.

1.4 Purchase Price Adjustment.

(a) "Working Capital" means (i) the aggregate book value of the current assets of the Company and its subsidiaries (excluding cash and cash equivalents, net of outstanding checks) minus (ii) the aggregate book value of the current liabilities of the Company and its subsidiaries (net of outstanding checks related to current liabilities and excluding the current portion of any indebtedness, accrued Income Taxes, book overdrafts, accrued but unpaid interest and prepayment penalties), in each case calculated in accordance with generally accepted accounting principles, consistently applied ("GAAP"). The computation of Working Capital expressly excludes Transaction Costs and amounts owed under the Company Debt Agreements. An example of the determination of Working Capital is set forth on Schedule 1.4(a). "Transaction Costs" means all out-of-pocket costs, fees and expenses of the Company and its subsidiaries related to the transactions contemplated by this Agreement including, without limitation, legal and professional fees and expenses and broker fees and expenses incurred in connection with the negotiation and consummation of the transactions contemplated hereby.

(b) "Net Debt" means (i) the amount of indebtedness for borrowed money of the Company and its subsidiaries (including the current portion of any such indebtedness, book overdrafts and including capital lease obligations) plus (ii) the amount of accrued but unpaid interest for borrowed money and prepayment penalties, minus the amount of cash and cash equivalents on hand or in bank accounts (net of outstanding checks). An example of the determination of Net Debt is set forth on Schedule 1.4(b).

(c) "Stated Working Capital" means the amount of $34,250,000.

(d) Not later than five (5) calendar days prior to the Closing Date, the Seller Representative will, in good faith, estimate the amount of the Working Capital (the "Estimated Working Capital") and Net Debt (the "Estimated Net Debt") as of the close of business on the day immediately preceding the Closing Date. The Estimated Working Capital and the Estimated Net Debt will be computed in a manner consistent with the computation of Working Capital and Net Debt as set forth on Schedules 1.4(a) and 1.4(b), respectively. At the Closing, the Purchase Price will be:

(i) increased by an amount equal to the amount by which the Estimated Working Capital is greater than Stated Working Capital;

(ii) decreased by an amount equal to the amount by which the Estimated Working Capital is less than Stated Working Capital; and

(iii) decreased or increased, as applicable, in an amount equal to the amount of Estimated Net Debt.

(e) Within sixty (60) calendar days after the Closing, the Buyer will calculate the actual Working Capital and actual Net Debt as of the close of business on the day immediately preceding the Closing Date in the same manner as the Estimated Working Capital and the Estimated Net Debt were calculated, and will notify the Seller Representative in writing of such calculation. If the Seller Representative disputes the accuracy of the Buyer's calculation and notifies the Buyer of such dispute in writing within thirty (30) calendar days after receipt thereof, and the parties are unable in good faith to settle such dispute within an additional fifteen (15) calendar days, then the Seller Representative will provide its own calculation of actual Working Capital or actual Net Debt, as applicable, in writing and the dispute shall be submitted promptly to the Houston, Texas office of Ernst & Young LLP or, if such accounting firm is unable or unwilling to act in such capacity, such other nationally known certified public accounting firm selected by agreement of the Buyer and the Seller Representative (the "Accountant"). In resolving such dispute, the Accountant shall consider only those items that are in dispute and not modify any element of Working Capital or Net Debt that is not disputed by the parties. The fees and expenses of the Accountant will be allocated one-half to the Buyer and one-half to the Sellers. If the Seller Representative does not dispute the accuracy of the Buyer's calculation within the time period set forth above, then the Seller Representative and the Sellers will be deemed to have agreed with the Buyer's calculation. The actual Working Capital and the actual Net Debt as of the close of business on the day immediately preceding the Closing Date determined by the Buyer, by agreement between the parties or by the Accountant (as provided in this paragraph), are referred to as the "Actual Working Capital" and the "Actual Net Debt," respectively.

(f) If the Actual Working Capital exceeds the Estimated Working Capital (the "Working Capital Excess"), then within three (3) business days of such determination, the Buyer will pay

(i) to the Seller Representative, as disbursing agent on behalf of the Sellers, an amount in cash equal to (A) the Working Capital Excess, multiplied by (B) a fraction, the numerator of which is the number of Shares outstanding immediately prior to the Closing, and the denominator of which is the Fully Diluted Shares;

(ii) to the Company, for the benefit of the Optionholders, an amount in cash equal to (A) the Working Capital Excess, multiplied by (B) a fraction, the numerator of which is the aggregate number of shares of Common Stock into which the Options are convertible, and the denominator of which is the Fully Diluted Shares; and

(iii) to the Warrantholder, an amount in cash equal to (A) the Working Capital Excess, multiplied by (B) a fraction, the numerator of which is the aggregate number of shares of Common Stock into which the Warrant is convertible, and the denominator of which is the Fully Diluted Shares.

The Seller Representative shall hold such funds that it receives pursuant to this Section 1.4(f) in trust for the benefit of the Sellers and shall promptly disburse the allocable portion of such funds, without interest, to the Sellers as soon as practicable after receipt from the Buyer. The Company shall pay to each Optionholder, in each case, without interest and subject to Section 1.3(g), an amount equal to (A) the Working Capital Excess, multiplied by (B) a fraction, the numerator of which is the number of shares of Common Stock into which such Option is convertible, and the denominator of which is the Fully Diluted Shares.

(g) If the Actual Working Capital is less than the Estimated Working Capital (such shortfall being the "Working Capital Shortfall"), then the Buyer and the Seller Representative will issue joint written instructions to the Escrow Agent to release to the Buyer an amount in cash equal to the Working Capital Shortfall, such amount to be released in accordance with the Escrow Agreement, by wire transfer of immediately available funds (to an account specified in writing by the Buyer) within three (3) business days after determination of the Actual Working Capital. To the extent there are insufficient funds in the Escrow Account at such time to pay the full amount of such shortfall to Buyer, then the Sellers shall pay the remaining shortfall (to an account specified in writing by Buyer) within fifteen (15) calendar days after determination of the Actual Working Capital;

(h) If the Actual Net Debt exceeds the Estimated Net Debt (such excess being the "Net Debt Excess"), then the Buyer and the Seller Representative will issue joint written instructions to the Escrow Agent to release to the Buyer the amount of the Net Debt Excess, in accordance with the Escrow Agreement, by wire transfer of immediately available funds (to an account specified in writing by the Buyer) within three (3) business days after determination of the Actual Net Debt. To the extent there are insufficient funds in the Escrow Account at such time to pay the full amount of such Net Debt Excess to Buyer, then Sellers shall pay the remaining excess to Buyer (to an account specified in writing by Buyer) within fifteen (15) calendar days after determination of the Actual Net Debt;

(i) If the Actual Net Debt is less than the Estimated Net Debt (such shortfall being the "Net Debt Shortfall"), then, within three (3) business days of such determination, the Buyer will pay

(i) to the Seller Representative, as disbursing agent on behalf of the Sellers, an amount in cash equal to (A) the Net Debt Shortfall multiplied by (B) a fraction, the numerator of which is the number of Shares outstanding immediately prior to the Closing, and the denominator of which is the Fully Diluted Shares;

(ii) to the Company, for the benefit of the Optionholders, an amount in cash equal to (A) the Net Debt Shortfall, multiplied by (B) a fraction, the numerator of which is the aggregate number of shares of Common Stock into which the Options are convertible, and the denominator of which is the Fully Diluted Shares; and

(iii) to the Warrantholder, an amount in cash equal to (A) the Net Debt Shortfall, multiplied by (B) a fraction, the numerator of which is the aggregate number of shares of Common Stock into which the Warrant is convertible, and the denominator of which is the Fully Diluted Shares.

The Seller Representative shall hold such funds that it receives pursuant to this Section 1.4(i) in trust for the benefit of the Sellers and shall promptly disburse the allocable portion of such funds, without interest, to the Sellers as soon as practicable after receipt from the Buyer. The Company shall pay to each Optionholder, in each case, without interest and subject to Section 1.3(g), an amount equal to (A) the Net Debt Shortfall multiplied by (B) a fraction, the numerator of which is the number of shares of Common Stock into which such Option is convertible, and the denominator of which is the Fully Diluted Shares.

(j) For purposes of complying with the terms set forth in this Section 1.4, each party shall cooperate with and make available to the other parties and their respective representatives all information, records, data and working papers, and shall permit reasonable access to its facilities and personnel, as may be reasonably required in connection with the preparation and analysis of the Estimated Working Capital, Estimated Net Debt, Actual Working Capital and Actual Net Debt and the resolution of any disputes related thereto.

1.5 Closing Deliveries. At the Closing:

(a) the Buyer will pay to the Company, the Escrow Agent, the Seller Representative and the Warrantholder the amounts specified to be paid to such Persons in Section 1.3 (as adjusted pursuant to Section 1.4) by wire transfer of immediately available funds to the account specified by each such Person in writing;

(b) the Sellers will deliver to the Buyer payoff letters in form and substance reasonably satisfactory to the Buyer evidencing payoff of all indebtedness under the Company Debt Agreements other than the Subordinated Note (the "Payoff Letters");

(c) the Buyer will pay the unpaid Transaction Costs to the Persons and in the amounts indicated in written instructions such instructions to be delivered by the Company to the Buyer at least three (3) business days prior to the Closing Date;

(d) the Buyer will pay the amounts indicated in the Payoff Letters to the Persons entitled thereto as indicated in such Payoff Letters;

(e) the Sellers will deliver certificates representing the Shares, accompanied by stock powers duly executed in blank;

(f) the Sellers will deliver to the Buyer certificates representing the Subsidiary Equity;

(g) the Sellers will deliver to the Buyer the originals or copies of all of the Company's and its subsidiaries' books, records, ledgers, disks, proprietary information and all other written or electronic depositories of information;

(h) the Sellers will deliver to the Buyer a copy of the Certificate of Incorporation of the Company certified as of the most recent practicable date by the Delaware Secretary of State;

(i) the Sellers will deliver to the Buyer copies of the Articles of Organization of each of the subsidiaries of the Company certified as of the most recent practicable date by the Louisiana Secretary of State;

(j) the Sellers will deliver to the Buyer true and correct copies of the limited liability company agreements (or other governing agreements) for each subsidiary of the Company;

(k) the Sellers will deliver to the Buyer a certificate of the Delaware Secretary of State certifying as to the good standing of the Company as of the most recent practicable date;

(l) the Sellers will deliver to the Buyer a certificate of the Louisiana Secretary of State certifying as to the good standing of each subsidiary of the Company as of the most recent practicable date;

(m) the Sellers will deliver to the Buyer duly executed counterparts of an agreement in the form of Exhibit C to this Agreement, terminating the Management Agreement dated as of February 9, 2005 between IGP Industries, LLC and the Subsidiary;

(n) the Sellers will deliver to the Buyer written agreements in the form of Exhibit D to this Agreement, and executed by the Company and each Optionholder, evidencing the cancellation of each Option, which agreement may be conditioned upon the Closing;

(o) the Sellers will deliver to the Buyer a written agreement in the form of Exhibit E to this Agreement, and executed by the Company and the Warrantholder, evidencing the cancellation of the Warrant, which agreement may be conditioned upon the Closing;

(p) the Sellers and the Buyer will deliver counterparts of the Escrow Agreement duly executed by the Seller Representative and the Buyer, respectively;

(q) the Buyer will deliver to the Seller Representative a closing certificate in the form of Exhibit F to this Agreement; and

(r) the Sellers will deliver to the Buyer a closing certificate substantially in the form of Exhibit G to this Agreement;

(s) the Sellers will deliver to the Buyer UCC Termination Statements and other releases reasonably satisfactory to the Buyer that, when filed, will evidence the release of any Liens placed on the assets of the Company or its subsidiaries in connection with indebtedness for borrowed money, including, without limitation, Liens placed on the assets of the Company pursuant to the Company Debt Agreements;

(t) the Sellers will deliver to the Buyer written resignations of each director, officer and manager, as applicable, of the Company and its subsidiaries from their position, as a director, officer or manager, but not as an employee, with the Company and the applicable subsidiary of the Company substantially in the form of Exhibit H to this Agreement;

(u) each Seller will deliver to the Buyer a non-foreign affidavit dated as of the Closing Date, executed under penalty of perjury and in form and substance required under Treasury Regulation issued pursuant to Section 1445 of the Code stating that each such Seller is not a foreign person as defined in Section 1445 of the Code;

(v) the Buyer will deliver to the Seller Representative the articles of incorporation of the Buyer certified as of the most recent practicable date by the Secretary of State of Louisiana;

(w) the Buyer will deliver to the Seller Representative a certificate of the Louisiana Secretary of State as to the good standing of the Buyer in such jurisdiction as of the most recent practicable date;

(x) the Sellers will deliver to the Buyer written agreements in the form of Exhibit I to this Agreement terminating the consulting agreements between the Subsidiary and each of Wilfred DeHart, Wendell Hohensee and John Tieken, Jr. duly executed by the Subsidiary and each such Person; and

(y) the Buyer and Bart Hohensee will deliver to the Seller Representative executed counterparts of the letter agreement attached hereto as Exhibit J to this Agreement.

1.6 Further Assurances. At or after the Closing, and without further consideration, each party hereto will execute and deliver to the other parties hereto such further instruments of conveyance and transfer as such other party may reasonably request in order to more effectively convey and transfer the Shares to the Buyer, or for aiding, assisting, collecting and reducing to possession any of the Shares and the assets of the Company and its subsidiaries and exercising rights with respect thereto.

ARTICLE II
Representations and Warranties of the Company and the Sellers

The Company hereby represents and warrants to the Buyer as follows, *provided, however*, that with regard to the representations and warranties made in Sections 2.1(a) and 2.4(a), each Seller makes such representations and warranties severally to the Buyer, but solely with regard to such Seller:

2.1 Authority.

(a) Each Seller has all requisite capacity, power and authority, to execute, deliver and perform under this Agreement and the other agreements, certificates and instruments to be executed by each such Seller pursuant to this Agreement (collectively, the "Seller Ancillary Documents") to which such Seller is a party. The execution, delivery and performance by each Seller of this Agreement and each Seller Ancillary Document to which such Seller is a party has been duly authorized by all necessary action on such Seller's part. This Agreement has been, and at the Closing the Seller Ancillary Documents will be, duly executed and delivered by each Seller (to the extent each is a party thereto). This Agreement is, and, upon execution and delivery by each Seller at the Closing, each of the Seller Ancillary Documents will be, a legal, valid and binding agreement of each Seller (to the extent each is a party thereto), enforceable against each Seller in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, fraudulent conveyance or similar laws affecting the enforcement of creditors' rights generally and subject to general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity).

(b) The Company has all requisite capacity, power and authority, to execute, deliver and perform under this Agreement and the other agreements, certificates and instruments to be executed by the Company or its officers pursuant to this Agreement (collectively, the "Company Ancillary Documents" and together with the Seller Ancillary Documents, the "Ancillary Documents"). The execution, delivery and performance by the Company of this Agreement and each Ancillary Document to which the Company is a party has been duly authorized by all necessary action on Company's part. This Agreement has been, and at the Closing the Company Ancillary Documents will be, duly executed and delivered by the Company. This Agreement is, and, upon execution and delivery by the Company at the Closing, each of the Company Ancillary Documents will be, a legal, valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, fraudulent conveyance or similar laws affecting the enforcement of creditors' rights generally and subject to general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity).

2.2 Organization.

(a) The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has full power to own its properties and to conduct its business as presently conducted. The Company is duly authorized, qualified or licensed to do business and is in good standing in each state or other jurisdiction in which its business or operations as presently conducted make such qualification necessary except where the failure to be so qualified or to be in good standing would not have a Material Adverse Effect on the Company. The Company is required to be qualified to do business as a foreign entity in the jurisdictions set forth on Schedule 2.2(a). The Company does not operate under any assumed names.

(b) Each subsidiary of the Company is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Louisiana and has full power to own its properties and to conduct its business as presently conducted. Each subsidiary of the Company is duly authorized, qualified or licensed to do business and is in good standing in each state or other jurisdiction in which its business or operations as presently conducted make such qualification necessary except where the failure to be so qualified or to be in good standing would not have a Material Adverse Effect on the Company. The subsidiaries of the Company are required to be qualified to do business as a foreign entity in the jurisdictions set forth on Schedule 2.2(b). The subsidiaries of the Company do not operate under any assumed names.

2.3 Organizational Documents. The Company has delivered to the Buyer:

(a) true, correct and complete copies of the Company's certificate of incorporation, bylaws, minute books and stock record books; and

(b) for each subsidiary of the Company, true, correct and complete copies of such subsidiary's certificate of formation, operating agreement, minute books and equity record books.

2.4 Title to Securities.

(a) Such Seller owns the Shares set forth next to such Seller's name on Schedule 2.5(a), of record and beneficially, free and clear of any lien, legal restriction, claim, pledge, security interest, charge, spousal interest (community or otherwise), contingency or other encumbrance of any nature (each, a "Lien"). Upon sale of the Shares and delivery of certificates therefor to the Buyer hereunder, the Buyer will acquire the entire legal and beneficial interests in the Shares, free and clear of any Lien except for liens created by the Buyer.

(b) The Company owns the Subsidiary Equity, of record and beneficially, free and clear of any Lien.

2.5 Capitalization.

(a) The authorized capital stock of the Company consists of 40,000 shares of Common Stock and 10,000 shares of Preferred Stock, par value $0.01 per share. There are (i) 26,505.75 shares of Common Stock issued and outstanding and (ii) 335.00949 shares of Common Stock reserved for issuance upon exercise of the Warrant. As of the date of this Agreement, there are 2,579.09 shares of Common Stock reserved for issuance pursuant to outstanding Options. As of the Closing Date, there will be no more than 3,216.091139 shares of Common Stock reserved for issuance pursuant to outstanding Options. The Shares and other interests set forth in the preceding three sentences of this Section constitute all of the issued outstanding equity interests of the Company. The Shares have been duly authorized and validly issued in compliance with all applicable Laws (as defined in Section 2.16), and are fully paid and nonassessable and, except as set forth in Schedule 2.5(a), free of preemptive rights. The Company does not hold any of its capital stock in treasury, nor are any shares of capital stock reserved for issuance, except as set forth in this Section 2.5(a). Set forth on Schedule 2.5(a) is the name of each holder of Shares and the number of Shares that each such holder holds as of the date hereof.

(b) The Subsidiary Equity constitutes all of the issued outstanding equity interests of the Subsidiary. The Subsidiary Equity has been duly authorized and validly issued in compliance with all applicable Laws, and is fully paid and nonassessable and free of preemptive rights. The Subsidiary does not hold any of its equity interests in treasury, nor are any equity interests reserved for issuance. Each subsidiary of the Company other than the Subsidiary is wholly-owned by the Subsidiary and there are no outstanding equity interests in each such subsidiary other than those owned by the Subsidiary.

(c) Other than as set forth in Schedule 2.5(a) (which schedule may be updated with respect to Options at Closing), there are no outstanding options, warrants, convertible or exchangeable securities or other rights, agreements, arrangements or commitments obligating the Company, any subsidiary of the Company or any Seller, directly or indirectly, to issue, sell, purchase, acquire or otherwise transfer or deliver any equity interest in the Company or any of its subsidiaries, or any agreement, document, instrument or obligation convertible or exchangeable therefor. Except as set forth on Schedule 2.5(a), there are no agreements, arrangements or commitments of any character (contingent or otherwise) pursuant to which any Person (as defined in Section 2.15) is or may be entitled to receive any payment based on the revenues or earnings, or calculated in accordance therewith, of the Company or any of its subsidiaries. There are no voting trusts, proxies or other agreements or understandings to which the Company or any Seller is a party or by which the Company or any Seller is bound with respect to the voting of any equity interests in the Company or any of its subsidiaries. None of the Shares was issued in violation of the Securities Act of 1933, as amended (the "Act"), or any state securities Laws.

2.6 Subsidiaries and Other Interests; Non-Operating Entity.

(a) Other than as set forth on Schedule 2.6, the Company has no subsidiaries and owns no assets or equity or debt interest or any form of proprietary interest in any Person, or any obligation, right or option to acquire any such interest. Other than the Subsidiary Equity, the Company owns no assets of any kind.

(b) Other than as set forth on Schedule 2.6, the Subsidiary has no subsidiaries and owns no equity or debt interest or any form of proprietary interest in any Person, or any obligation, right or option to acquire any such interest.

(c) During the last five (5) years, the Company has not conducted any operations or engaged in any activities of any nature whatsoever other than the ownership and management of the Subsidiary.

2.7 Title to Assets.

(a) Set forth on Schedule 2.7(a) is a complete list (including the street address, where applicable) of: (i) all real property owned by the Company and its subsidiaries; and (ii) all real property leased by the Company and its subsidiaries or otherwise used in connection with the Business (the "Real Property"). Except as set forth on Schedule 2.7(a), no tangible or intangible asset used in connection with the Business is owned or leased by any Seller or any Affiliate (as defined in Section 8.10(a)) of any Seller (other than the Company or its subsidiaries).

(b) Except as set forth on Schedule 2.7(b), each of the Company and its subsidiaries has good and marketable title to all of the assets each purports to own, and each owns all of such assets free and clear of any Liens, other than statutory Liens securing current Taxes (as defined in Section 2.14) and other obligations that are not yet due and payable and, with regard to the Real Property, other than (a) easements, restrictions and encroachments, (b) any matters revealed by an accurate survey and (c) zoning ordinances, building codes and similar restrictions, all of the foregoing which do not materially affect the use or value of such Real Property. Except as set forth on Schedule 2.7(b), the Company or one of its subsidiaries holds a valid leasehold interest in or otherwise has a valid and enforceable right to use, all of the tangible assets used in connection with the Business that they do not own, subject to applicable bankruptcy, insolvency, fraudulent conveyance or similar laws affecting the enforcement of creditors' rights generally and subject to general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity). Neither the Company, any of its subsidiaries, the Sellers nor, to the Knowledge of the Company, any other Person, has granted any rights, options, rights of first refusal, or any other agreement of any kind to purchase or to otherwise acquire any interest in the Real Property (as defined in Section 2.7(c)), or any part thereof.

(c) There are no actions pending or, to the Knowledge of the Company, threatened that would alter the current zoning classification of the Real Property or alter any applicable Laws, covenants, conditions or restrictions that would adversely affect the use of the Real Property in the Business. Neither the Company, any of its subsidiaries nor any Seller has received written notice from any insurance company or Governmental Body (as defined in Section 2.10) of any defects or inadequacies in the Real Property or the improvements thereon that would adversely affect the insurability or usability of the Real Property or such improvements or prevent the issuance of new insurance policies thereon at rates not materially higher than present rates. None of the Sellers is a "foreign person" as that term is defined in § 1445 of the Internal Revenue Code of 1986, as amended (the "Code"), and applicable regulations.

2.8 Condition and Sufficiency of Assets. The assets of the Company and its subsidiaries, including any assets held under leases or licenses, except for cash and cash equivalents, constitute all assets (other than intellectual property) used by the Company and its subsidiaries in the conduct of the Business.

2.9 No Violation. Except as set forth on Schedule 2.9, neither the execution nor delivery of this Agreement or any of the Ancillary Documents nor the consummation of the transactions contemplated hereby and thereby, including without limitation the sale of the Shares to the Buyer, will conflict with or result in the material breach of any term or provision of, require consent or violate or constitute a default under (or an event that with notice or the lapse of time or both would constitute a material breach or default), or result in the creation of any Lien on the Shares, the Subsidiary Equity or the assets of the Company or its subsidiaries pursuant to, or relieve any third party of any obligation to the Company or any of its subsidiaries or give any third party the right to terminate or accelerate any obligation under, any (i) charter provision, (ii) bylaw, (iii) Material Contract (as defined in Section 2.21(a)), (iv) Permit (as defined in Section 2.17) or (v) Law to which the Company, its subsidiaries or any Seller is a party or by which any asset owned by the Company or any of its subsidiaries or otherwise used in connection with the Business is in any way bound or obligated except, in the case of (iii), such as would not have a Material Adverse Effect on the Company.

2.10 Governmental Consents. Except as required in connection with the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"), no consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any governmental or quasi-governmental agency, authority, commission, board or other body (each, a "Governmental Body") is required on the part of the Company, any subsidiary of the Company or any Seller in connection with the sale and purchase of the Shares or any of the other transactions contemplated by this Agreement or the Ancillary Documents.

2.11 Financial Statements.

(a) Attached as Schedule 2.11(a) are true and complete copies of: (i) (A) the unaudited consolidated balance sheet of the Company and its subsidiaries as of December 31, 2005 and the related unaudited consolidated statements of income, stockholder's equity and cash flows of the Company and its subsidiaries for the fiscal year then ended and (B) the unaudited consolidated balance sheet of the Company and its subsidiaries (the "Latest Balance Sheet") as of March 31, 2006 (the "Latest Balance Sheet Date") and the related unaudited consolidated statements of income, stockholder's equity and cash flows of the Company and its subsidiaries for the three month period then ended (collectively, the "Interim Financial Statements"); and (ii) the audited consolidated balance sheet of the Company and its subsidiaries as of December 31, 2004, and the related audited consolidated statements of income, stockholder's equity and cash flows for the year then ended (collectively, the "Financial Statements"). The Financial Statements present fairly, in all material respects, the consolidated financial condition of the Company and its subsidiaries at the dates specified and the results of their operations for the periods specified and have been prepared, in all material respects, in accordance with GAAP. The Financial Statements and the Interim Financial Statements have been prepared from the books and records of the Company and its subsidiaries. The Interim Financial Statements present fairly, in all material respects, the consolidated financial condition of the Company and its subsidiaries at the dates specified and the results of their operations for the periods specified and have been prepared, in all material respects, in accordance with GAAP, except for the absence of footnote disclosure and customary year-end adjustments.

(b) All accounts receivable reflected in the Latest Balance Sheet or included in the assets of the Company or its subsidiaries arose in the ordinary course of business.

2.12 Absence of Undisclosed Liabilities. Neither the Company nor any of its subsidiaries has any direct or indirect debts, obligations or liabilities of any nature, whether absolute, accrued, contingent, liquidated or otherwise, and whether due or to become due, asserted or unasserted (collectively, "Liabilities") except for: (i) Liabilities reflected in the Latest Balance Sheet; (ii) current Liabilities incurred in the ordinary course of business and consistent with past practice after the Latest Balance Sheet Date; (iii) Liabilities incurred in the ordinary course of business and consistent with past practice under the Material Contracts (as defined in Section 2.21(a)) and under other agreements entered into by the Company or its subsidiaries in the ordinary course of business that are not included within the definition of Material Contracts set forth in Section 2.21(a), which Liabilities are not required by GAAP to be reflected in the Latest Balance Sheet and (iv) Liabilities that would not have a Material Adverse Effect on the Company and its subsidiaries.

2.13 Absence of Certain Changes. Since the Latest Balance Sheet Date, except as set forth in Schedule 2.13, there has not been:

(a) any change, event or occurrence regarding the Company and its subsidiaries that constitutes a Material Adverse Effect with regard to the Company;

(b) any declaration, setting aside or payment of any dividends or distributions in respect of any equity capital of the Company or its subsidiaries, or any redemption, purchase or other acquisition by the Company or its subsidiaries of any of their respective equity interests;

(c) any payment or transfer of assets (including without limitation any distribution or any repayment of indebtedness) to or for the benefit of any Seller, other than compensation and expense reimbursements paid in the ordinary course of business, consistent with past practice;

(d) any revaluation by the Company or its subsidiaries of any of its assets, including the writing down or writing off of notes or accounts receivable and the writing down of the value of inventory, other than in the ordinary course of business and consistent with past practice;

(e) any incurrence by the Company or its subsidiaries of capital expenditures in excess of $100,000, individually or in the aggregate;

(f) any increase in indebtedness for borrowed money of the Company or its subsidiaries, or any issuance or sale by the Company or its subsidiaries of any debt securities, or any assumption, guarantee or endorsement by the Company or its subsidiaries of any Liability of any other Person, or any loan or advance by the Company or its subsidiaries to any other Person;

(g) any breach or default (or event that with notice or lapse of time would constitute a breach or default) of the Company or its subsidiaries, termination or to the Knowledge of the Company threatened termination under any Material Contract;

(h) any material change by the Company or its subsidiaries in its accounting methods, principles or practices;

(i) any material increase in the benefits under, or the establishment or amendment of, any bonus, insurance, severance, deferred compensation, pension, retirement, profit sharing or other employee benefit plan, or any increase in the compensation payable or to become payable to managers, officers or employees of the Company or its subsidiaries, except for annual merit increases in salaries or wages in the ordinary course of business and consistent with past practice;

(j) except as required hereby, any termination of employment (whether voluntary or involuntary) of any officer or key employee of the Company or its subsidiaries or any termination of employment (whether voluntary of involuntary) of employees of the Company or its subsidiaries in excess of historical attrition in personnel;

(k) any theft, condemnation or eminent domain proceeding or any damage, destruction or casualty loss affecting any asset used in connection with the Business that, in any event, would have a Material Adverse Effect on the Company, whether or not covered by insurance;

(l) any sale, assignment or transfer of any asset used in connection with the Business, except sales of inventory in the ordinary course of business and consistent with past practice;

(m) any waiver by the Company, any of its subsidiaries or any Seller of any material rights related to the Business;

(n) any action by the Company or its subsidiaries other than in the ordinary course of business and consistent with past practice, to pay, discharge, settle or satisfy any claim or Liability;

(o) any settlement or compromise by the Company or its subsidiaries of any pending or threatened suit or legal action;

(p) any issuance, sale or disposition of, or agreement to issue, sell or dispose of, any equity interest in the Company or its subsidiaries, or any instrument or other agreement convertible or exchangeable for any equity interest in the Company or its subsidiaries;

(q) any authorization, recommendation, proposal or announcement of an intention to adopt a plan of complete or partial liquidation or dissolution of the Company or any of its subsidiaries;

(r) any acquisition of, or investment by the Company or any of its subsidiaries in the equity or debt securities of any Person (including in any joint venture or similar arrangement);

(s) any other transaction, agreement or commitment entered into by the Company or its subsidiaries or affecting the Business, the Company or its subsidiaries, except in the ordinary course of business and consistent with past practice; or

(t) any agreement or understanding to do or resulting in any of the foregoing.

2.14 Taxes.

(a) The Company and each of its subsidiaries have filed all Tax Returns that they were required to file under applicable laws and regulations. All such Tax Returns were correct and complete in all respects. All Taxes due and owing by the Company and subsidiaries (whether shown on any Tax Return) have been paid.

(b) Except as described in Schedule 2.14(b), neither the Company nor any of its subsidiaries is the beneficiary of any extension of time within which to file any Tax Return.

(c) Neither the Company nor any of its subsidiaries has received notice of a claim by a Taxing Authority in a jurisdiction where such entity does not file Tax Returns that it is or may be subject to Tax by that jurisdiction that has not been settled or otherwise resolved.

(d) Neither the Company nor any of its subsidiaries has given any currently effective waiver of any statute of limitations in respect of Taxes or agreed to any currently effective extension of time with respect to a Tax assessment or deficiency.

(e) There are no security interests on any of the assets of the Company nor any of its subsidiaries that arose in connection with any failure (or alleged failure) to pay any Tax, other than Taxes not yet due and payable.

(f) No audits or administrative or judicial proceedings are pending or being conducted, or to the Knowledge of the Company, are threatened with respect to the Taxes of the Company or any of its subsidiaries.

(g) Except as described in Schedule 2.14(g), neither the Company nor any of its subsidiaries is liable for the Taxes of another Person (other than the Company or one of its subsidiaries) (i) under Section 1.1502-6 of the Treasury Regulations (or comparable provisions of state, local, or foreign Law), (ii) as a transferee or successor, or (iii) by Contract or indemnity. Neither the Company nor any of its subsidiaries is a party to any tax sharing agreement.

(h) Except as set forth on Schedule 2.14(h), neither the Company nor any of its subsidiaries is a party to any agreement, contract, arrangement or plan that, as a result of the transactions contemplated by this Agreement, could result, separately or in the aggregate, in the payment of any “excess parachute payment” within the meaning of Section 280G of the Code or any corresponding provision of state, local or foreign Tax Law.

(i) The Company and each of its subsidiaries have withheld and paid all Taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, stockholder or other third party.

(j) The unpaid Taxes of the Company and its subsidiaries (i) did not, as of the date of the Latest Balance Sheet, exceed the reserve for Tax liability (as distinguished from any reserve for deferred Taxes established to reflect timing differences between book and Tax income) included in the Latest Balance Sheet (without reference to any notes thereto) in accordance with GAAP, and (ii) do not exceed that reserve as adjusted for the passage of time through the Closing Date in accordance with the past custom and practice of the Company and its subsidiaries in filing their Tax Returns. Since the date of the Latest Balance Sheet, neither the Company nor its subsidiaries has incurred any liability for Taxes arising from extraordinary gains or losses, as that term is used in GAAP, outside the ordinary course of business.

(k) Neither the Company nor any of its subsidiaries has undertaken or participated in any listed transaction (or transaction substantially similar thereto) or other reportable transaction described in Treasury Regulation Section 1.6011-4, or any comparable provision of applicable foreign, state or local Tax laws.

(l) Neither the Company nor any of its subsidiaries has distributed stock of another entity or had its stock distributed by another entity in a transaction that was intended to be governed in whole or in part by Section 355 of the Code or Section 361 of the Code.

(m) Except as set forth on Schedule 2.14(m), neither the Company nor any of its subsidiaries has been a member of an affiliated group (as defined in Section 1504(a) of the Code) filing a consolidated federal Income Tax Return.

(n) Except as set forth on Schedule 2.14(n), neither the Company nor any of its subsidiaries is required to include any item of income in, or exclude any item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Closing Date as a result of any:

(i) change in method of accounting for a taxable period ending on or before the Closing Date; or

(ii) closing agreement as described in Section 7121 of the Code (or any corresponding or similar provision of state, local or foreign income Tax law) executed on or prior to the Closing Date.

For purposes of this Agreement:

"Income Tax" means federal, state, local or foreign tax measured solely by or imposed solely on net income.

"Income Tax Returns" means all Tax Returns pertaining to Income Taxes.

"Tax" or "Taxes" means any tax (including any income, capital gains, value-added, sales, property, withholding, social security (or similar), unemployment, profits, secondary, capital duties, franchise, use, employment, payroll, transfer, occupation, severance, production, excise, gross receipts, stamp, premium, customs, duties, capital stock, windfall profit, environmental, disability, registration, alternative or add on minimum, estimated or other taxes), levy, assessment, tariff, duty (including any customs duty), deficiency or other fee, and any related charge or amount (including any fine, penalty, interest or addition to tax, together with any interest in respect of such penalties, additions or additional amounts) imposed, assessed or collected by or under the authority of any Taxing Authority.

"Tax Return" means any return (including any information return), report, statement, schedule, notice, form or other document or information filed with or submitted to, or required to be filed with or submitted to, any Taxing Authority in connection with the determination, assessment, collection or payment of any Tax or in connection with the administration, implementation or enforcement of or compliance with any law, regulation or other legal requirement relating to any Tax.

"Taxing Authority" means any:

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

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

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

(d) multi-national organization or body; or

(e) body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power of any nature.

2.15 Litigation. Except as set forth on Schedule 2.15, there is currently no pending or, to the Knowledge of the Company, threatened material lawsuit, administrative proceeding or review or complaint or investigation (collectively, "Litigation") by any individual, corporation, partnership, Governmental Body or other entity (each, a "Person") against the Company or its subsidiaries or, to the Knowledge of the Company, any member, manager, director, officer, employee or agent (in their capacities as such) of the Company or its subsidiaries or to which any of the assets of the Company or its subsidiaries is subject, or to which any of the Shares or the Subsidiary Equity is subject, or relating to the transactions contemplated by this Agreement or the consummation thereof. Neither the Company nor any of its subsidiaries is subject to or bound by any currently existing judgment, order, writ, injunction or decree.

2.16 Compliance with Laws. The Company and each of its subsidiaries are currently in compliance with each applicable statute, law, ordinance, decree, order, rule or regulation of any Governmental Body, including without limitation all federal, state and local laws relating to zoning and land use, occupational health and safety, and employment and labor matters (collectively, "Laws").

2.17 Permits. The Company and each of its subsidiaries owns or possesses from each appropriate Governmental Body all right, title and interest in and to all material permits, licenses, authorizations, approvals, quality certifications, franchises or rights (collectively, "Permits") issued by any Governmental Body necessary for the Company and its subsidiaries to conduct the Business as they are currently conducting the Business. Each of such Permits is listed on Schedule 2.17. No loss or expiration of any such Permit is pending or, to the Knowledge of the Company, threatened, other than expiration in accordance with the terms thereof of Permits that may be renewed in the ordinary course of business without lapsing.

2.18 Environmental Matters. Except as set forth on Schedule 2.18:

(a) The operations of the Company and its subsidiaries are and for the past five years have been in material compliance with Environmental Laws (as defined below).

(b) The Company and its subsidiaries have obtained and are in material compliance with all permits, licenses, authorizations, registrations and other governmental consents required by applicable Environmental Laws for the Company's and its subsidiaries' activities and operations at the Real Property as currently conducted.

(c) There have been no releases by the Company or its subsidiaries of Hazardous Materials (as defined below) at, on, under, from or affecting any Real Property in such quantities that would give rise to an obligation to report or remediate such Hazardous Materials and neither the Company nor any of its subsidiaries has disposed of any Hazardous Materials on any Real Property in material violation of any Environmental Law.

(d) There are no pending or to the Company's Knowledge, threatened actions, suits, claims or other legal proceedings based on (i) the presence of any Hazardous Materials on, at, an underlying any Real Property, (ii) any release or threatened release into the environment of Hazardous Materials from any Real Property, (iii) the off-site disposal, transport or arrangement for disposal of Hazardous Materials originating on or from any Real Property or the Business or assets of the Company or any of its subsidiaries or (iv) any violation or alleged violation of Environmental Laws by the Company or any of its subsidiaries.

(e) No underground storage tanks or underground piping associated with any such tanks ("UST Systems") are present at or under any Real Property and to the Knowledge of the Company, no UST Systems have been located on any Real Property.

(f) Sellers and the Company have provided Buyer all environmental assessment reports, audits and correspondence with any Governmental Body in their possession and control relating to the release of any Hazardous Materials or non-compliance with Environmental Laws at any Real Property that are set forth on Schedule 2.18(f).

As used herein, "Environmental Laws" means all applicable laws, regulations, orders, decrees, judgments, or injunctions issued, promulgated or entered into by any Governmental Body pertaining to the protection of human health with respect to exposure to Hazardous Materials or the environment, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act, 42 U.S.C. § 9601 et seq., the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., the Federal Water Pollution Control Act, as amended by the Clean Water Act, 33 U.S.C. § 1251 et seq., the Clean Air Act, 42 U.S.C. §7401 et seq., the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., and any similar state or local statutes. As used herein, "Hazardous Materials" means any pollutants, contaminants, asbestos, PCBs, urea formaldehyde, oils, petroleum and petroleum substances or byproducts, or fractions thereof, or other toxic or hazardous wastes, materials or substances, as those or any similar terms are defined in any Environment Laws, or any other substance or waste regulated pursuant to any Environmental Law. The representations and warranties in this Section 2.18 are the sole representations and warranties of the Sellers relating to compliance with the Liabilities arising under Environmental Laws.

2.19 Employee Matters. Set forth on Schedule 2.19 is a complete list of all current employees of the Subsidiary and its subsidiaries, including first date of employment, current title and compensation, and date and amount of last increase in compensation. Neither the Company nor any of its subsidiaries has any collective bargaining, union or labor agreements, contracts or other arrangements with any group of employees, labor union or employee representative and, to the Knowledge of the Company, there is no organization effort currently being made or threatened by or on behalf of any labor union with respect to employees of the Subsidiary or its subsidiaries. Neither the Subsidiary nor any of its subsidiaries has experienced any strike, material labor trouble, work stoppage, slow down or other interference with or impairment of the Business. The Company does not now have, and has not in the past had, any employees of any kind.

2.20 Employee Benefit Plans.

(a) Set forth in Schedule 2.20(a) is a complete and correct list of all "Employee Benefit Plans." The term "Employee Benefit Plans" means (a) any "employee benefit plan" or "plan" within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), and (b) all plans or policies providing for "fringe benefits" (including but not limited to vacation, paid holidays, personal leave, employee discounts, educational benefits or similar programs), and all other bonus, incentive compensation, deferred compensation, profit sharing, stock, severance, retirement, health, life, disability, group insurance, employment, stock option, stock purchase, stock award stock appreciation right, performance share, supplemental unemployment, layoff, consulting golden parachute agreements, change of control agreements, severance pay plans, dependent care plans, cafeteria plans, employee assistance programs, scholarship programs, employment contracts or any other similar plans, agreements, policies or understandings (whether written or oral, qualified or nonqualified), and any trust, escrow or other agreement related thereto, which (i) is or has been established, maintained or contributed to by the Company or any of its subsidiaries with respect to the Business, or with respect to which the Company or any of its subsidiaries has or may have any Liability, or (ii) provides benefits to any present or former director, officer or employee (or their dependent or beneficiary) of the Company or any of its subsidiaries, regardless of whether funded, with respect to which the Company or any of its subsidiaries has or may have any Liability.

(b) The Sellers have provided to the Buyer a true and complete copy of each Employee Benefit Plan listed in Schedule 2.20(a) (and, if applicable, related trust agreements, group annuity contracts or other documents that provide the funding for the plan, agreement or arrangement) and all amendments thereto and written interpretations thereof, together with (i) the most recent favorable determination letter, if any, with respect to each Employee Benefit Plan and all rulings or determinations requested from the Internal Revenue Service ("IRS") after the date of that determination letter, (ii) the three most recent annual reports prepared in connection with any such Employee Benefit Plan (Form 5500, 990, and 1041 reports including, all applicable schedules), (iii) the most recent actuarial report or valuation statement prepared in connection with any such Employee Benefit Plan, (iv) the most recently disseminated summary plan description, or other descriptive written materials, and each summary of material modifications prepared after the last summary plan description, (v) the most recent statement filed with the Department of Labor pursuant to 29 U.S.C. § 2520.104-23, (vi) a written summary of the legal basis for an exemption from the obligations to file annual Form 5500 reports, and (vii) all other correspondence from the IRS or the Department of Labor received that relate to one or more of the plans, agreements or arrangements with respect to any matter, audit or inquiry that is still pending..

(c) None of the Sellers, the Company or any of the Company's subsidiaries has any formal plan or commitment, whether legally binding or not, to create any additional Employee Benefit Plan or modify or change any existing Employee Benefit Plan that would affect any present or former director, officer or employee of Company or any of its subsidiaries, or such present or former director's, officer's or employee's dependents or beneficiaries, other than as required by Law.

(d) Neither the Company or any of its subsidiaries sponsors, has an obligation to contribute to, or has any liability with respect to a "defined benefit plan" as defined in Section 3(35) of ERISA, a pension plan subject to the funding standards of Section 302 of ERISA or Section 412 of the Code, a "multiemployer plan" as defined in Section 3(37) of ERISA or Section 414(f) of the Code or a "multiple employer plan" within the meaning of Section 210(a) of ERISA or Section 413(c) of the Code.

(e) Each Employee Benefit Plan is in compliance with ERISA, applicable tax qualification requirements and all other applicable laws in all material respects, including but not limited to all reporting and disclosure requirements of Part I of Subtitle B of Title I of ERISA and with respect to each Employee Benefit Plan; the appropriate Form 5500 has been timely filed, for each year of its existence; there has been no transaction described in Section 406 or 407 of ERISA or section 4975 of the Code relating to the plan that could result in any material liability or excise tax under ERISA or the Code being imposed on the Company or any of its subsidiaries unless exempt under section 408 of ERISA or Section 4975 of the Code, as applicable; the bonding requirements of section 412 of ERISA have been satisfied; and all contributions required to have been made with respect to the plan have been timely made. Except as set forth in Schedule 2.20(e), there is no material litigation, action, proceeding, investigation or claim asserted or, to the Knowledge of the Company, threatened or contemplated, with respect to any Employee Benefit Plan (other than the payment of benefits in the normal course) nor any issue if resolved adversely to the Company or an ERISA Affiliate that may subject the Company or the any of its subsidiaries to the payment of a material penalty, interest, tax or other amount.

(f) All Employee Benefit Plans that are intended to qualify under section 401 (a) of the Code either (i) have been determined by the IRS to be qualified under section 401 (a) of the Code or (ii) have applicable remedial amendment periods that will not have ended before the Closing. To the Knowledge of the Company, no facts have occurred that if known by the IRS could cause disqualification of any of those plans.

(g) Except as disclosed on Schedule 2.20(g), neither the Company nor any of its subsidiaries provides, nor is either of them obligated to provide, benefits, including without limitation death, health, medical, or hospitalization benefits (whether or not insured), with respect to current or former directors, officers or employees of the Business, their dependents or beneficiaries beyond their retirement or other termination of employment other than (i) coverage mandated by applicable Law, (ii) death benefits or retirement benefits under any "employee pension benefit plan", as that term is defined in Section 3(2) of ERISA, or (iii) deferred compensation benefits accrued as liabilities on the books of the Company or its subsidiaries and disclosed on its financial statements.

(h) Except as set forth in Schedule 2.20(h), the consummation of the transactions contemplated by this Agreement, either alone or in conjunction with another event (such as a termination of employment), will not (i) entitle any current or former employee or officer of the Company or any of its subsidiaries, to severance pay from the Company or any of its subsidiaries, or any other payment under an agreement, plan, arrangement or other contract, (ii) accelerate the time of payment or vesting of benefits under an agreement, plan, arrangement or other Contract, or (iii) increase the amount of compensation due any such employee or officer by the Company or any of its subsidiaries.

2.21 Material Contracts.

(a) Schedule 2.21(a) lists each of the following contracts, leases, licenses and other agreements, whether written or oral and including all amendments thereto ("Contracts") to which the Company or one of its subsidiaries is a party or a beneficiary or by which the Company, any of its subsidiaries or any of their respective assets is bound that is in effect on the date of this Agreement or the Closing Date (each a "Material Contract" and collectively, the "Material Contracts"):

(i) each partnership or joint venture Contract;

(ii) each Contract containing covenants or agreements that in any way purport to restrict the business activity of any of the Company or any of its subsidiaries or any employee, director, officer, member or manager of the Company or any of its subsidiaries;

(iii) each Contract that requires the Company or any of its subsidiaries to make payments of more than $50,000 per annum;

(iv) each Contract by which the Company or any of its subsidiaries will receive payments of more than $50,000 per annum (other than oral Contracts with customers of the Business regarding pricing);

(v) each lease, rental or occupancy agreement, license, installment sale agreement or other applicable Contract affecting the ownership of, leasing of, title to, use or any leasehold or other interest in real property or personal property (other than personal property leases and installment sales agreements having a value per item or aggregate payments of less than $50,000);

(vi) each employment Contract and each collective bargaining Contract and other Contract to or with any labor union or other employee representative of a group of employees;

(vii) each licensing agreement or other applicable Contract with respect to copyrights, patents, trademarks or other intellectual property, other than licenses for generally commercially available software;

(viii) each Contract relating to indebtedness for borrowed money or creating a security interest in the assets of the Company or any of its subsidiaries;

(ix) each guarantee of the indebtedness of any other Person;

(x) each power of attorney;

(xi) each sales agency, sales representative or distributor agreement or similar Contract;

(xii) each written product warranty Contract and each Contract providing for the indemnification by the Company or any of its subsidiaries of any other Person;

(xiii) each agreement with or for the benefit of any shareholder, member, manager, director, officer or employee of the Company or any of its subsidiaries, or any immediate family member thereof; and

(xiv) each other Contract that is in the reasonable belief of the Company material to the Business or operation of the Company or any of its subsidiaries.

Schedule 2.21(a) also lists each material oral Contract with customers of the Business regarding pricing.

(b) The Sellers have delivered to the Buyer a copy of each written Material Contract and a written summary of each oral Material Contract. Except as described on Schedule 2.21(b): (i) each Material Contract is valid and binding on the Company or its applicable subsidiary, and, to the Knowledge of the Company, any other party thereto, and is in full force and effect and enforceable in accordance with its terms against the Company or its applicable subsidiary, and, to the Knowledge of the Company, any other party thereto, except as such enforceability may be limited by applicable bankruptcy, insolvency, fraudulent conveyance or similar laws affecting the enforcement of creditors' rights generally and subject to general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity); (ii) the Company or its applicable subsidiary, has performed all of its obligations under every Material Contract to which it is a party, and there exists no breach or default (or event that with notice or lapse of time would constitute a breach or default) on the part of the Company or its applicable subsidiary or, to the Knowledge of the Company, on the part of any other Person under any Material Contract; (iii) there has been no termination or written notice of default or, to the Knowledge of the Company, any threatened termination under any Material Contract; and (iv) to the Knowledge of the Company, no party to a Material Contract intends to terminate its relationship with the Company or any of its subsidiaries, as applicable, as a result of or in connection with the transactions contemplated by this Agreement.

2.22 Customers; Suppliers.

(a) Set forth on Schedule 2.22(a) is a complete list of each customer of the Company or its subsidiaries that accounted for more than $500,000 of revenues for the year ended December 31, 2005 (the "Material Customers"), which list indicates the amount of revenues attributable to each such Material Customer during the years ended December 31, 2004 and 2005. None of the Material Customers has, to the Knowledge of the Company, threatened, or notified the Company or any of the Company's subsidiaries in writing of any intention, to terminate its relationship with the Company or its subsidiaries. Since the Latest Balance Sheet Date, there has been no materially adverse change in the relationship of the Company or its subsidiaries with any Material Customer and there has been no material reduction in the level of purchases with any Material Customer outside the ordinary course of business.

(b) Set forth on Schedule 2.22(b) is a complete list of all suppliers, manufacturers and distributors with which the Company or any of its subsidiaries has any distributor, dealer or authorized service center Contract ("Suppliers"). None of the Suppliers has, to the Knowledge of the Company, threatened, or notified the Company or any of its subsidiaries in writing of any intention, to terminate or materially adversely alter its relationships with the Company or its subsidiaries. Since the Latest Balance Sheet Date, there has been no materially adverse change in the relationship of the Company or its subsidiaries with any Suppliers.

2.23 Intellectual Property Rights. Schedule 2.23 identifies each material registered form of intellectual property that is owned by the Company or its subsidiaries. The Subsidiary or its subsidiaries has the right to use all intellectual property used by the Subsidiary and its subsidiaries in connection with the operation of the Business without infringing on or otherwise acting adversely to the rights or claimed rights of any Person, and, to the Knowledge of the Company, neither the Company nor any of its subsidiaries is obligated to pay any royalty or other consideration to any Person in connection with the use of any such intellectual property except as set forth in the Material Contracts or licenses for generally commercially available software. To the Knowledge of the Company, no other Person is infringing the intellectual property rights of the Company or its subsidiaries.

2.24 Illegal Payments. To the Knowledge of the Company, neither the Company nor any of its subsidiaries has: (i) used any funds of the Company or its subsidiaries for unlawful contributions, gifts, entertainment or other unlawful expenses, in each case, relating to political activity; or (ii) made any payment in violation of applicable Law to any foreign or domestic government official or employee or to any foreign or domestic political party or campaign or violated any provision of the Foreign Corrupt Practices Act of 1977, as amended.

2.25 Insurance. Set forth on Schedule 2.25 is a complete and accurate list of all primary, excess and umbrella policies, bonds and other forms of insurance currently owned or held by or on behalf, or providing insurance coverage to, the Company, its subsidiaries, the Business or the Company's or its subsidiaries' assets, managers, officers, employees or agents. All such policies are in full force and effect. Neither the Company nor its subsidiaries has received any written notice of default under any such policy or received written notice of any pending or threatened termination or cancellation, coverage limitation or reduction, or material premium increase with respect to any such policy. Schedule 2.25 also sets forth a complete and accurate summary of all of the self-insurance coverage provided by or for the benefit of the Company or its subsidiaries. No letters of credit have been posted and no cash has been restricted to support any reserves for insurance.

2.26 Bank Accounts and Powers of Attorney. Set forth on Schedule 2.26 is a list of (a) each bank, trust company and stock or other broker with which the Company or any of its subsidiaries has an account, credit line or safe deposit box of vault (collectively, "Bank Accounts"), (b) all Persons authorized to draw on, or to have access to, each of the Bank Accounts, and (c) all Persons authorized by proxies, powers of attorney or other like instruments to act on behalf of the Company or any of its subsidiaries.

2.27 Brokers. Except for Morgan Keegan & Company Inc., whose fees and expenses will be borne entirely by the Sellers, none of the Sellers, the Company or any subsidiary of the Company has incurred or will incur any liability for brokers' or finders' fees or agents' commissions in connection with this Agreement or the transactions contemplated hereby.

ARTICLE III
Representations and Warranties of the Buyer

The Buyer represents and warrants to the Sellers and the Company as follows:

3.1 Organization. The Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Louisiana and has full power to own its properties and to conduct its business as presently conducted. The Buyer is duly authorized, qualified or licensed to do business and is in good standing in each state or jurisdiction in which its business or operations as presently conducted make such qualification necessary, except where the failure to be so qualified or to be in good standing would not have a Material Adverse Effect on the Buyer.

3.2 Authority. The Buyer has all requisite power and authority, to execute, deliver and perform under this Agreement and the other agreements, certificates and instruments to be executed by the Buyer in connection with or pursuant to this Agreement (collectively, the "Buyer Documents"). The execution, delivery and performance by the Buyer of this Agreement and each Buyer Document has been duly authorized by all necessary action on the part of the Buyer. This Agreement has been, and at the Closing the other Buyer Documents will be, duly executed and delivered by the Buyer. This Agreement is, and, upon execution and delivery by the Buyer at the Closing, each of the other Buyer Documents will be, a legal, valid and binding agreement of the Buyer, enforceable against the Buyer in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, fraudulent conveyance or similar laws affecting the enforcement of creditors' rights generally and subject to general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity).

3.3 No Violation. The execution, delivery and performance of this Agreement and the Buyer Documents by the Buyer will not (a) conflict with or result in the breach of any term or provision of, (b) require consent, or (c) violate or constitute a default under any charter provision or bylaw or under any material agreement, order or Law to which the Buyer is a party or by which the Buyer is in any way bound or obligated, in each case that would prevent the Buyer from consummating the transactions contemplated by this Agreement.

3.4 Governmental Consents. Except as required in connection with the HSR Act, no consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any Governmental Body is required on the part of the Buyer in connection with the sale and purchase of the Shares or any other transactions contemplated by this Agreement or the Buyer Documents.

3.5 Securities Matters. The Buyer is acquiring the Shares for its own account and not with a view to their distribution within the meaning of Section 2(11) of the Act. The Buyer has sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risks of its investment in the Shares, and the Buyer is capable of bearing the economic risk of such investment, including a complete loss thereof.

3.6 Restricted Securities. The Buyer understands that the Shares constitute "restricted securities" within the meaning of Rule 144 under the Act and may not be sold, pledged or otherwise disposed of unless they are subsequently registered under the Act and applicable state securities laws or unless an exemption from registration is available.

3.7 Brokers. The Buyer has not incurred any liability for brokers' or finders' fees or agents' commissions in connection with this Agreement or the transactions contemplated hereby.

3.8 No Reliance. The Buyer or its representatives have inspected and conducted such reasonable review and analysis (financial and otherwise) of the Company and its subsidiaries as desired by the Buyer. The purchase of the Shares by the Buyer and the consummation of the transactions contemplated hereunder by the Buyer are not done in reliance upon any warranty or representation by, or information from, any Seller, the Company or any subsidiary of the Company of any sort, oral or written, except the representations and warranties specifically set forth in this Agreement (including the Schedules and Exhibits hereto) and in any certificates required to be delivered to the Buyer by the Sellers or the Company hereunder and thereunder. Such purchase and consummation are instead done entirely on the basis of the Buyer's own investigation, analysis, judgment and assessment of the present and potential value and earning power of the Company as well as those representations and warranties by the Sellers or the Company specifically set forth in this Agreement (including the Schedules and Exhibits hereto) and in any certificates required to be delivered to the Buyer by the Sellers or the Company hereunder and thereunder.

3.9 Legal Proceedings. There are no material lawsuits, legal proceedings, administrative enforcement proceedings or arbitration proceedings before any Governmental Body pending or, to the Buyer's Knowledge, threatened against the Buyer that would adversely affect the Buyer's performance under this Agreement or the consummation of the transactions contemplated hereby.

3.10 Financing. The Buyer has sufficient funds available to pay all amounts required to be paid pursuant to Article I and to consummate the transactions contemplated by this Agreement.

ARTICLE IV
Covenants and Agreements

4.1 Conduct of Business. Except as set forth on Schedule 4.1, prior to the Closing, unless the Buyer otherwise consents in writing, the Company will and will cause its subsidiaries to:

(a) operate in the ordinary course of business and consistent with past practice and use their respective commercially reasonable efforts to preserve the goodwill of the Company, its subsidiaries and of each of their respective officers, employees, customers, suppliers, manufacturers, distributors and others having business dealings with the Company or its subsidiaries;

(b) use their commercially reasonable efforts to preserve intact the business organization of the Company and its subsidiaries, keep available the services of their respective present officers and key employees, consultants, advisors and managers and maintain satisfactory relationships with customers, agents, insurers, manufacturers, suppliers and other Persons having business relationships with the Company or its subsidiaries;

(c) not make any material expenditure, investment or commitment outside the ordinary course of business, consistent with past practice or enter into any material agreement or arrangement that would be a Material Contract if entered into prior to the date of this Agreement;

(d) maintain, on the same terms that exist as of the date hereof, all insurance policies and all Permits that are currently held by the Company and its subsidiaries to carry on the Business;

(e) maintain books of account and records consistent with past practice;

(f) not acquire any Person by merger, consolidation or acquisition of stock or assets or make any investment in any Person either by purchase of stock or securities, contributions to capital, property transfer or purchase of any material amount of property or assets (other than inventory, raw materials and supplies in the ordinary course of business and consistent with past practice);

(g) not amend the organizational documents of the Company or any of its subsidiaries, split, combine, subdivide or reclassify the Company's or any of its subsidiaries' membership or equity interests, or, except for the issuance of options under the Company's Stock Option Plan to Persons who are Sellers, alter through merger, liquidation, reorganization, restructuring or in any other fashion the corporate structure or ownership of the Company or any of its subsidiaries;

(h) not make or change any election, change an annual accounting period, adopt or change any accounting method, file any amended Tax Return, enter into any closing agreement, settle any Tax claim or assessment relating to the Company or any of its subsidiaries, surrender any right to claim a refund of Taxes, consent to any extension or waiver of the limitation period applicable to any Tax claim or assessment relating to the Company or its subsidiaries or take any similar action relating to the filing of any Tax Return or the payment of any Tax, if such election, adoption, change, amendment, agreement, settlement, surrender, consent or other action would have the effect of materially increasing the Tax liability of the Company or any of its subsidiaries for any period beginning after the Closing Date ("Post Closing Period");

(i) not enter into any Material Contract with suppliers, distributors or manufacturers, unless such Contract is terminable by the Company or any of its subsidiaries, as applicable, on thirty (30) days' notice or otherwise entered into in the ordinary course of business consistent with past practice;

(j) not enter into any noncompetition, exclusivity or most favored nation agreement that binds the Company or any of its subsidiaries;

(k) not enter into or amend any collective bargaining agreement; and

(l) not agree to bear, pay or repay the tax liability of any Person receiving or holding Options after the date hereof.

4.2 Access and Information. From and after the date hereof until the Closing Date or the earlier termination of this Agreement pursuant to Section 8.1, the Company will permit the Buyer and its representatives, upon reasonable notice, to have reasonable access to the Company's and its subsidiaries' members, managers, officers, employees, agents, assets, properties, books, records and documents of or relating to the Business and the Company's and its subsidiaries' assets during normal business hours and will furnish to the Buyer such information, financial records and other documents as the Buyer may reasonably request. From and after the date hereof until the Closing Date or the earlier termination of this Agreement pursuant to Section 8.1, the Company will permit the Buyer and its representatives reasonable access to the Company's and its subsidiaries' accountants and auditors for consultation or verification of any information obtained by the Buyer and will use its commercially reasonable efforts, and will cause its subsidiaries to use its commercially reasonable efforts, to cause such Persons to cooperate with the Buyer and its representatives in such consultations and in verifying such information. From and after the date hereof until the Closing Date or the earlier termination of this Agreement pursuant to Section 8.1, the Buyer shall not contact suppliers and customers of the Company and its subsidiaries without the prior consent of the Seller Representative, *provided*, *however*, that (i) the Buyer or its representatives may respond to unsolicited questions from customers and suppliers of the Company and its subsidiaries as long as such responses are consistent with an agreed upon communications plan approved by both the Seller Representative and the Buyer, and (ii) nothing in this Agreement shall be interpreted as limiting in any way the Buyer and its Affiliates from communicating freely with their customers and suppliers regarding matters other than the transactions contemplated by this Agreement.

4.3 Environmental Investigations. After the date hereof, the Buyer may not conduct any environmental testing or analysis of the soil, groundwater, surface water, or structures of the Real Property, without the prior written consent of the Seller Representative; provided, however, the Seller Representative agrees that the Buyer may conduct environmental testing or analysis after the date hereof, with the prior written consent of the Seller Representative, which consent shall not be unreasonably withheld, if, after the date hereof, (a) an event occurs or (b) information becomes known to the Buyer that was not disclosed in the Schedules to this Agreement or otherwise known to the Buyer on the date hereof, in any case with respect to the soil, groundwater, surface water or structures of the Real Property that the Buyer reasonably believes could (i) result in a Material Adverse Effect on the Company or (ii) cause a representation or warranty of the Company to not be true and correct in all material respects (such testing hereinafter referred to as "Permitted Testing"). The cost and expenses of any Permitted Testing shall be borne by the Buyer. The Sellers will assist the Buyer with securing approval for any Permitted Testing to be performed on those Real Properties that are leased. Should the landlord under any such leased property refuse to permit Permitted Testing on the same, the Buyer will not be allowed to conduct Permitted Testing on such Real Property. At least three (3) business days prior to conducting Permitted Testing, the Buyer will provide to the Seller Representative for review and approval a written scope of work from its consultant, along with a plot plan or map depicting the proposed boring or sample locations. Upon written request, the Buyer shall furnish the Seller Representative with copies of all Permitted Testing reports prepared in connection with any of the Permitted Testing.

4.4 Supplemental Disclosure. The Sellers will promptly supplement or amend each of the Schedules hereto with respect to any matter that arises or is discovered after the date hereof that, if existing or known at the date hereof, would have been required to be set forth or listed in the Schedules hereto; *provided, however,* that for purposes of determining whether the condition in Section 5.1(a) has been satisfied or is capable of being satisfied, any such supplemental or amended disclosure will not be deemed to have been disclosed to the Buyer unless the Buyer otherwise expressly consents in writing. If the Closing occurs, Buyer will not have any right to indemnification for any event or occurrence to the extent such event or occurrence was disclosed in an updated Schedule provided by the Sellers or the Company pursuant to this Section 4.4; *provided, however*, that this sentence does not affect the rights of the Buyer, the Company or any of the Company's Affiliates, successors or assigns under the Prior Purchase Agreement.

4.5 Assistance with Permits and Filings. Subject to such confidentiality restrictions as may be reasonably requested, the Sellers will furnish, and will cause the Company and its subsidiaries to furnish, the Buyer with all information concerning the Sellers, the Company or its subsidiaries that is required for inclusion in any application or filing made by the Buyer to any Governmental Body in connection with the transactions contemplated by this Agreement.

4.6 Fulfillment of Conditions by the Sellers. The Sellers agree not to take any action that would cause the conditions on the obligations of the parties to effect the transactions contemplated hereby not to be fulfilled, including without limitation by taking or causing to be taken any action that would cause the representations and warranties made by the Sellers herein not to be true and correct as of the Closing.

4.7 Fulfillment of Conditions by the Buyer. The Buyer agrees not to take any action that would cause the conditions on the obligations of the parties to effect the transactions contemplated hereby not to be fulfilled, including without limitation by taking or causing to be taken any action that would cause the representations and warranties made by the Buyer herein not to be true and correct as of the Closing.

4.8 Publicity. Except as may be required to comply with the requirements of any applicable Law or listing standard, neither the Buyer, on the one hand, nor the Company or any Seller, on the other hand, will issue any press release or other public announcement relating to the subject matter of this Agreement or the transactions contemplated hereby without the prior approval (which approval will not be unreasonably withheld or delayed) of the Seller Representative or the Buyer, respectively.

4.9 Transaction Costs. The Sellers will pay all transaction costs and expenses (including legal, accounting and other professional fees) incurred by the Company or any Seller in connection with the negotiation, execution and performance of this Agreement and the transactions contemplated hereby. The Buyer will pay all transaction costs and expenses (including legal, accounting and other professional fees) that it incurs in connection with the negotiation, execution and performance of this Agreement and the transactions contemplated hereby.

4.10 No-Shop Provisions. Each Seller hereby covenants and agrees that, unless this Agreement is terminated pursuant to Section 8.1: (i) it will not, and will not permit any of its Affiliates (including the Company or any of its subsidiaries) to, directly or indirectly (through agents or otherwise), initiate, encourage or solicit (including by way of furnishing information or assistance), or take any other action to facilitate, any inquiries or the making of any proposal relating to, or that may reasonably be expected to lead to, any Competing Transaction (as defined below), or enter into or engage in any discussions or negotiations with any Person in furtherance of such inquiries or to obtain a Competing Transaction, or endorse or agree to endorse any Competing Transaction, or authorize or permit any manager, director, officer or employee of the Company, any subsidiary of the Company or any Seller, or any investment banker, financial advisor, attorney, accountant or other representative retained by any Seller or any of their Affiliates (including the Company or any of its subsidiaries) to take any such action; and (ii) it will promptly notify the Buyer of all relevant terms of any such inquiries and proposals received by it or any of its Affiliates (including the Company or any of its subsidiaries) or by any such manager, director, officer, employee, investment banker, financial advisor, attorney, accountant or other representative relating to any such matters, and if such inquiry or proposal is in writing, it will promptly deliver or cause to be delivered to the Buyer a copy of such inquiry or proposal. For purposes of this Agreement, "Competing Transaction" means any of the following (other than the transactions contemplated by this Agreement) involving the Company or any of its subsidiaries: (i) any merger, consolidation, share exchange, business combination or similar transaction; (ii) any sale, lease, exchange, mortgage, pledge, transfer or other disposition of all or substantially all of the assets of the Company or any of its subsidiaries (other than sales of inventory in the ordinary course of business and consistent with past practice); or (iii) any offer, sale or other transfer of any equity interests in the Company or any of its subsidiaries.

4.11 Nondisclosure. Each Seller acknowledges and agrees that all customer, prospect and marketing lists, sales data, intellectual property and other confidential information of the Company and its subsidiaries (collectively, "Confidential Information") are valuable assets constituting part of the assets of the Company and, following the Closing, will be owned exclusively by the Buyer, the Company or its subsidiaries. Each Seller agrees to, and agrees to use reasonable efforts to cause its representatives to, treat the Confidential Information, together with any other confidential information furnished to it by the Buyer, as confidential and not to make use of such information for its own purposes or for the benefit of any other Person (other than the Company or its subsidiaries prior to the Closing or the Buyer after the Closing). The parties agree that the terms of the confidentiality agreement between the Seller Representative and Kirby Corporation, dated December 27, 2005, will remain in force until the Closing.

4.12 Release by the Sellers. Effective upon the Closing, each Seller, for itself and its successors and assigns, hereby fully and unconditionally releases and forever discharges and holds harmless the Company and its subsidiaries and their respective directors, officers, managers, employees, agents, Affiliates, successors and assigns from any and all claims, demands, losses, costs, expenses (including reasonable attorneys' fees and expenses), obligations, Liabilities and/or damages of every kind and nature whatsoever, whether now existing, known or unknown, that such Seller may now have or may hereafter claim to have against the Company or any of its subsidiaries or any of such directors, officers, managers, employees, agents, Affiliates, successors or assigns, relating to events or circumstances existing or occurring on or prior to the Closing Date and that relate in any way, directly or indirectly, to the Company or any of its subsidiaries, this Agreement or the transactions contemplated hereby; *provided*, *however*, that the foregoing release will not affect any obligations of the Buyer to the Sellers under this Agreement, the Ancillary Documents or the Buyer Documents; *provided further*, that the foregoing release does not apply to the rights any Seller or any of its Affiliates may have (a) in its capacity as a lender under the Credit Agreement, dated as of February 9, 2005, by and among the Subsidiary, Antares Capital Corporation, Keybank National Association and the other financial institutions party thereto, including all amendments, extensions, renewals and modifications thereto (the "Credit Agreement"), and the documents, instruments and agreements entered into in connection with such Credit Agreement, or (b) under the Note and Warrant Purchase Agreement, dated February 9, 2005, by and among the Company, the Subsidiary, the Warrantholder and Golub Capital Incorporated, including all amendments, extensions, renewals and modifications thereto (the "Note and Warrant Purchase Agreement"), and the documents, instruments and agreements entered into in connection with such Note and Warrant Purchase Agreement.

4.13 Certain Tax Matters. The following provisions shall govern the allocation of responsibility as between the Buyer on the one hand and the Sellers on the other hand for certain Tax matters following the Closing:

(a) Tax Returns. The following provisions shall govern the filing of Tax Returns.

(i) The Sellers and the Buyer will, to the extent permitted by applicable Law, elect with the appropriate Taxing Authority to close the periods of the Company and subsidiaries as of and including the Closing Date. In any case in which applicable Law does not require or permit such a Tax period of the Company and its subsidiaries to be closed as of and including the Closing Date, any Tax pertaining to a period that begins on or before the Closing Date and ends after the Closing Date (a "Straddle Period") shall be determined in accordance with the provisions of this Section 4.13(a).

(ii) For purposes of this Agreement, all Income Taxes of the Company and any of its subsidiaries that relate to a Straddle Period will be allocated between the Pre-Closing Tax Period portion of the Straddle Period (the "Pre-Closing Straddle Period") and the post-Closing portion of the Straddle Period. The Income Taxes allocated to the Pre-Closing Straddle Period will be deemed equal to the amount of Income Taxes which would be payable if the relevant Tax period ended at the end of the day on the Closing Date and shall be determined by an interim closing of the books as of the close of business on the Closing Date. The portion of Tax related to the portion of the Straddle Period that extends after the Closing Date to the end of the Straddle Period (the "Post-Closing Straddle Period") shall be calculated in a corresponding manner. For purposes of this clause (ii), any exemption, deduction, credit or other item that is calculated on an annual basis will be allocated between the Pre-Closing Straddle Period and the Post-Closing Straddle Period on a pro rata basis by multiplying the total amount of such item for the Straddle Period by a fraction, the numerator of which is the number of calendar days in the Pre-Closing Straddle Period and the denominator of which is the number of calendar days in the Straddle Period. If a net operating loss results for a Pre-Closing Straddle Period upon an interim closing of the books as of the end of the day on the Closing Date, then the Buyer shall pay or cause to be paid to the Sellers the net actual reduction in Income Taxes for the Post-Closing Straddle Period attributable to such net operating loss upon the filing of the relevant Straddle Period Tax Return (without regard to extensions).

(iii) The Sellers shall cause the Company and its subsidiaries to properly and correctly prepare and timely file any and all Tax Returns, the due date of which (including extensions) is on or before the Closing Date, which are required to be filed for, by, on behalf of or with respect to the Company and its subsidiaries with the appropriate Taxing Authority and to pay to the appropriate Taxing Authority the amount of Taxes shown to be due on such Tax Returns. Sellers shall deliver a copy of any Tax Return required to be filed by it under this Section 4.13(a)(iii) to the Buyer within ten (10) calendar days after filing such Tax Return.

(iv) (A) The Seller Representative, on behalf of the Company and its subsidiaries, shall properly and correctly prepare or cause to be properly and correctly prepared (which may include direction to the Company or any of its subsidiaries that it undertake such preparation under the direction of the Seller Representative) the Income Tax Returns for the Company and its subsidiaries for the period (I) ending on December 31, 2005 (the "2005 Income Tax Returns") and (II) commencing on January 1, 2005, and ending on and including the Closing Date (the "Stub Period Returns"). The Buyer and the Seller Representative acknowledge and agree that the Stub Period Returns will include deductions from the Company's and its subsidiaries' income for the items set forth on Schedule 4.13(a)(iv) (collectively, the "Deductions"). The Sellers will be entitled to any refunds or overpayments of Income Taxes with respect to such Income Tax Returns when received. The Sellers will pay to the Buyer any increased Income Taxes payable by the Company as the result of any Deductions that are disallowed. The Buyer shall pay or cause to be paid all Income Taxes imposed on the Company and its subsidiaries shown as due and owing on such Income Tax Returns. The Sellers shall reimburse the Buyer for any such Income Taxes (or in the case of a Straddle Period (as defined above), Income Taxes attributable to the Pre-Closing Straddle Period (as described above)) paid, or caused to be paid, by the Buyer pursuant to the preceding sentence.

(B) The Seller Representative may file the 2005 Income Tax Returns and Stub Period Returns at anytime prior to the due date for filing thereof, including extensions; *provided* that the Seller Representative complies with the provisions of this Section 4.13(a)(iv)(B). The Seller Representative shall provide final drafts of each 2005 Income Tax Return and Stub Period Return to the Buyer for its review and approval (which approval will not be unreasonably withheld) not less than thirty (30) days prior to the date on which such 2005 Income Tax Return or Stub Period Return is due to be filed with the appropriate Governmental Body, including extensions. It will be unreasonable for the Buyer to withhold its approval of such Income Tax Return if the filing of such Tax Return (or the reporting of any item thereon) would not subject the Buyer, the Company or any of the Company's subsidiaries, or any of their respective employees, officers, directors, managers, members or shareholders to any fine or penalty, and the reporting of such item is consistent with this Section 4.13(a). If the Buyer does not respond within twenty (20) days after delivery of such 2005 Income Tax Returns or Stub Period Returns, the Buyer will be deemed to have approved such Income Tax Returns, and the Buyer shall timely file or cause to be timely filed such Income Tax Returns on behalf of the Company and its subsidiaries. If the Buyer, within twenty (20) days after delivery of such 2005 Income Tax Returns or Stub Period Returns, notifies the Seller Representative in writing that it objects to any item in any 2005 Income Tax Return or Stub Period Return, the Buyer and the Seller Representative shall negotiate in good faith to attempt to resolve any issue arising as a result of such review. If the Seller Representative and the Buyer are unable to resolve such dispute by the earlier of (i) fifteen (15) days after Seller Representative's receipt of the written notice of objection, or (ii) five (5) days before the due date for filing the Stub Period Returns or 2005 Income Tax Returns, then the Buyer shall timely file, or cause to be timely filed, such Income Tax Returns; *provided* that (I) the Sellers' obligations to reimburse the Buyer for Income Taxes shown as due and owing on such Income Tax Returns will be determined by taking into account the resolution of such item and ignoring the reporting of such item on the Income Tax Return as filed and (II) the Buyer shall pay to the Sellers the excess (if any) of the (x) amount of Seller Refunds (as defined below) calculated by taking into account the resolution of such item and ignoring the reporting of such item on the Income Tax Returns as filed, over (y) amount of Seller Refunds calculated based on the Income Tax Returns as filed. Furthermore, the Seller Representative and the Buyer shall jointly engage the Accountant to make its final independent determination with respect to the items in dispute and the amounts related to those items, such determination to be consistent with Section 4.13(a). Any expenses relating to the engagement of the Accountant shall be shared equally by the Buyer, on the one hand, and the Sellers, on the other hand. The determination of the Accountant shall be final and binding on the Buyer and the Sellers.

(C) Notwithstanding anything to the contrary herein, the Sellers will not be liable to any Buyer Party for any Income Taxes of the Company or any of its subsidiaries resulting from: (I) actions taken or caused to be taken by the Buyer or any of its Affiliates (including the Company or any of its subsidiaries) after the Closing on the Closing Date, (II) actions initiated by the Buyer at the Closing that are not contemplated by this Agreement or (III) the manner in which the Buyer or any of its Affiliates finances the transactions contemplated by this Agreement.

(v) The Buyer, the Company and the Company's subsidiaries shall carry back any item of loss, deduction, or credit (including any such items resulting from any Deductions) on the Stub Period Returns to the fullest extent permitted by Law (a "Carryback"), and the Seller Representative, on behalf of the Company and its subsidiaries shall prepare or cause to be prepared (which may include direction to the Company that it undertake such preparation under the direction of the Seller Representative) and the Buyer shall file or cause to be filed as soon as reasonably possible, any claim for refund (including by filing IRS Form 1139, IRS Form 4466 or any successor form, and any comparable foreign, state, or local forms) or amended Income Tax Returns to effect such Carryback as part of, and at the same time as, the preparation and filing of the Stub Period Returns (and the Buyer shall have the same review and approval rights described in Section 4.13(a)(iv)(A)).

(vi) Any refund or credit of Income Taxes paid by the Company or any of its subsidiaries for any period ending on or before the Closing Date (a "Pre-Closing Tax Period"), including refunds of Income Taxes that are received by the Buyer, the Company, or any of their respective Affiliates resulting from a Carryback (collectively, "Seller Refunds") will be for the account of the Sellers. The Buyer shall, or shall cause its Affiliates to, forward to the Seller Representative, on behalf of the Sellers, any Seller Refunds within five days after such refund is received or in the case of a credit within five days after the credit is allowed or applied against other Income Tax liabilities. The parties shall treat any payments under the preceding sentence as an adjustment to the proceeds received by the Sellers pursuant to Article II, unless otherwise required by Law. Other than as provided in Section 4.13(a)(iv), at the Seller Representative's request, the Buyer shall cooperate with the Seller Representative in obtaining such refunds or credit, including through the filing of amended Income Tax Returns or refund claims as prepared by the Seller Representative, at the Sellers' expense.

(vii) The Buyer shall cause to be properly and correctly prepared and timely filed each Income Tax Return for the Company and its subsidiaries for the Straddle Period with the appropriate Taxing Authority and to pay to the appropriate Taxing Authority the amount of Income Taxes shown to be due on such Income Tax Returns. With respect to an Income Tax Return covering a Straddle Period, the Buyer shall determine the portion of the Income Taxes shown as due on such Income Tax Return that is allocable to a Pre-Closing Straddle Period in accordance with Section 4.12(a)(ii), and set forth its calculation in a statement ("Statement") prepared by the Buyer. The Buyer shall deliver a copy of any such Income Tax Return required to be filed by it pursuant to this Section 4.13(a)(vii) and any related Statement to the Seller Representative at least thirty (30) calendar days before filing such Income Tax Return.

(viii) All Income Tax Returns referred to in Section 4.13(a) shall, subject to Section 4.13(a)(iv), be prepared (x) on a basis consistent with past custom and practices of the Company and its subsidiaries to the extent permitted under applicable Law, and (y) to the extent any items are not covered by past practices, in accordance with reasonable Tax accounting practices. Without limiting the foregoing, the Income Tax Returns shall be prepared without making or changing any election, changing an annual accounting period (other than an annual accounting period that is terminated at the end of the day on the Closing Date as a result of the transactions contemplated by this Agreement under applicable Law or pursuant to Section 4.13(a)(i)), or adopting or changing any accounting method.

(ix) The amount of Income Taxes shown to be due on any Income Tax Return and any Statement described in Section 4.13(a)(vii) shall be final and binding on the Sellers, unless Seller Representative shall have delivered to the Buyer (within twenty (20) days after the date of Seller Representative's receipt of the Tax Return and any related Statement) a written report (the "Written Report") containing all changes that Seller Representative proposes to make to the Tax Return and any related Statement. The Buyer and Seller Representative shall undertake in good faith to resolve any issues raised in any such Written Report before the due date (including any extension thereof) for filing the Tax Return and mutually consent to the filing of such Tax Return and, if applicable, to agree on the determination set forth in the Statement. If Seller Representative and the Buyer are unable to resolve any dispute by the earlier of (i) fifteen (15) days after Buyer's receipt of Seller Representative's Written Report, or (ii) five (5) days before the due date for filing of the Tax Return in question (including any extension thereof), Seller Representative and the Buyer shall jointly engage the Accountant to make its independent determination with respect to the items in dispute and the amounts related to those items, such determination to be consistent with Section 4.13(a)(vii). Any expenses relating to engagement of the Accountant shall be shared equally by the Buyer and the Sellers. The determination by the Accountant shall be final and binding on Buyer and Sellers. Notwithstanding the foregoing, nothing in this Section 4.13(a)(ix) shall prohibit the Buyer from causing the timely filing of any Income Tax Returns required to be filed under Section 4.13(a)(vii), but the Buyer shall file, or cause to be filed, amended Income Tax Returns to the extent necessary to reflect the Parties' resolution pursuant to the procedures set forth in this Section 4.13(a)(ix). In the case of any Income Tax Return required to be filed by Buyer under Section 4.13(a)(vii), the Buyer shall pay or cause to be paid all Income Taxes imposed on the Company and its subsidiaries shown as due and owing on such Income Tax Returns. The Sellers shall reimburse the Buyer for any Income Taxes attributable to the Pre-Closing Straddle Period as determined pursuant to the procedures described herein.

(x) In connection with the preparation of Tax Returns, audit examinations and any administrative or judicial proceedings relating to the Tax liabilities imposed on the Company and its subsidiaries for all Pre-Closing Tax Periods or Straddle Periods, the Buyer, the Company and its subsidiaries, on the one hand, and Seller Representative, on the other hand, shall reasonably cooperate with each other, including the furnishing or making available during normal business hours of records, personnel (as reasonably required), books of accounts and other materials reasonably necessary or helpful for the preparation of such Tax Returns, the conduct of audit examinations or the defense of claims by Taxing Authorities as to the imposition of Taxes; *provided*, *however*, the party requesting assistance shall pay the reasonable out-of-pocket expenses incurred by the party providing such assistance; *provided*, *further*, no party will be required to provide assistance at times or in amounts that would unreasonably interfere with the business and operations of such party.

(xi) Neither the Buyer nor any of its Affiliates shall amend, refile, revoke or otherwise modify any Tax Return or Tax election of the Company or any of its subsidiaries relating or otherwise covering any period ending on or before the Closing Date that would, or would reasonably be expected to, increase Taxes for which the Sellers are responsible under this Agreement without the prior written consent of Seller Representative, which consent will not be unreasonably withheld or delayed.

(b) Tax Sharing Agreements. All tax sharing or similar agreements between the Company or any of its subsidiaries, on the one hand, and another of the Company's subsidiaries, on the other hand, shall be cancelled on or before the Closing Date and neither the Company nor any of its subsidiaries shall have any liability thereunder.

(c) Nature of Payments. Any payment pursuant to Section 6.1 or this Section 4.13 shall be treated for Tax purposes as an adjustment to the Purchase Price unless otherwise required by applicable law.

(d) Transfer Taxes. All transfer, documentary, sales, use, stamp, registration and other such Taxes and fees (including any penalties and interest) incurred in connection with this Agreement (the "Transfer Taxes") shall be paid by Sellers when due, and Seller Representative will, at its own expense, file all necessary Tax Returns and other documentation with respect to all such Transfer Taxes, and, if required by applicable law, Seller Representative will join in the execution of any such Tax Returns and other documentation.

(e) Statute of Limitations. Notwithstanding anything in this Agreement to the contrary, the provisions of this Section 4.13 shall survive for the full period of all applicable statutes of limitations (giving effect to any waiver, mitigation or extension thereof); *provided* that claims are made by the indemnified party prior to the expiration of the applicable statute of limitations (giving effect to any waiver, mitigation or extension thereof).

4.14 Records. With respect to the financial books and records and minute books of the Company and its subsidiaries relating to matters on or prior to the Closing Date: (a) for a period of five (5) years after the Closing Date, the Buyer shall not cause or permit their destruction or disposal without first offering to surrender them to the Seller Representative, and (b) where there is legitimate, non-competitive purpose, including, without limitation, an audit of any Seller by the IRS or any other Taxing Authority, the Buyer shall allow such Seller and its representatives access to such books and records during regular business hours upon reasonable prior request from such Seller.

4.15 Indemnification.

(a) For six (6) years following the Closing Date, the Buyer agrees to indemnify each of the present and former directors, officers and employees of the Company or any of its subsidiaries to the same extent as is currently provided for such Persons under the certificates of incorporation, articles of organization, bylaws or similar organizational documents of the Company or any of its subsidiaries or under indemnification agreements, if any, in existence and effect on the date hereof, for acts or omissions occurring on or prior to the Closing in such capacities.

(b) The provisions of this Section 4.15 are intended to be for the benefit of, and will be enforceable by, each indemnified party or insured Person, his or her heirs and his or her representatives and are in addition to, and not in substitution for, any other right to indemnification or contribution that any such Person may have by contract or otherwise.

4.16 HSR.

(a) The Company and the Buyer shall, as promptly as practicable, but in no event later than three (3) business days following the execution and delivery of this Agreement, submit all requisite documents and notifications required by Title II of the HSR Act, and the rules and regulations promulgated thereunder (the "HSR Filing") and thereafter provide any supplemental information reasonably requested in connection therewith pursuant to the HSR Act and make any similar filing with any other Governmental Body for which such filing is required. Any such filing or supplemental information will be in substantial compliance with the requirements of the HSR Act or other applicable antitrust regulation. Subject to such confidentiality restrictions as may be reasonably requested, the Company and the Buyer shall furnish to the other such necessary information and reasonable assistance as the other may request in connection with its preparation of any filing or submission that is necessary under the HSR Act or other applicable antitrust regulation. The Company and the Buyer shall request early termination of the applicable waiting period under the HSR Act and any other applicable antitrust regulation. Each of the Company and the Buyer, will promptly inform the other party of any material communication received by such party from any Governmental Body in respect of the HSR Filing. The Buyer shall pay all filing fees under the HSR Act.

(b) Subject to the terms and conditions of this Agreement, each of the parties hereto agrees to use its reasonable best efforts, to take, or cause to be taken, all reasonable action and to do, or cause to be done, all things reasonably necessary and appropriate to consummate and make effective the transactions contemplated by this Agreement. Notwithstanding anything to the contrary contained in this Agreement, neither the Company, any subsidiary of the Company, or any of their respective Affiliates, on the one hand, nor the Buyer or any of its Affiliates, on the other hand, shall be required to divest themselves of any assets or properties or agree to limit the ownership or operation of the Company, any subsidiary of the Company or any of their respective Affiliates, on the one hand, nor the Buyer or any of its Affiliates, on the other hand, of any assets or properties, including, without limitation, the Shares or any of the assets owned by the Company or any of its subsidiaries.

4.17 Employee Benefit Arrangements. The Buyer agrees that the individuals who are employed by the Company or any of its subsidiaries as of the Closing Date (the "Company Employees") shall, for so long as they continue to be full-time employees of the Company or any of its subsidiaries, be eligible to receive employee benefits that are substantially comparable to those benefits provided to the Company Employees under the Employee Benefit Plans in effect immediately prior to the Closing Date. The Buyer will ensure that any employee benefit plans or programs it adopts with respect to the Company Employees treat employment with the Company or any of its subsidiaries prior to the Closing Date the same as employment with the Buyer, the Company or any of its subsidiaries from and after the Closing Date for purposes of eligibility and vesting (including, without limitation, the satisfaction of any waiting periods under any welfare benefit plans maintained by the Buyer (the "Buyer Welfare Plans")) and, for purposes of any vacation plan or policy it adopts with respect to the Company Employees, benefit accrual. No pre-existing condition limitations, exclusions or waiting periods applicable with respect to life and accidental death and dismemberment insurance, disability, sickness and accident and medical benefits under the Buyer Welfare Plans shall apply to Company Employees to the extent that such limitations, exclusions or waiting periods exceed those in effect under the welfare benefit plans maintained by the Company or any of its subsidiaries as of the Closing Date. The Buyer Welfare Plans in which a Company Employee participates after the Closing Date shall recognize, for purposes of satisfying any deductible, co-pays and out-of-pocket maximums during 2006, any payment made by such Company Employee in 2006 prior to the Closing Date toward deductibles, co-pays and out-of-pocket maximums in any welfare plan of the Company or any of its subsidiaries. Notwithstanding the foregoing, from and after the Closing Date, the Buyer, the Company and the Company's subsidiaries will have sole discretion over employment decisions with respect to Company Employees, will not be obligated to continue the employment of any Company Employee and will have the right to amend, modify or terminate any and all employee benefit plans, programs or arrangements in which a Company Employee participates.

ARTICLE V
Closing Conditions

5.1 Conditions to Obligations of the Buyer. The obligations of the Buyer under this Agreement are subject to the satisfaction at or prior to the Closing of the following conditions, but compliance with any such conditions may be waived by the Buyer in writing:

(a) All representations and warranties of the Company and the Sellers contained in this Agreement will be true and correct in all material respects (if not qualified by materiality including, without limitation, Material Adverse Effect) or in all respects (if qualified by materiality including, without limitation, Material Adverse Effect) at and as of the Closing with the same effect as though such representations and warranties were made at and as of the Closing.

(b) The Company and the Sellers will have performed and complied in all material respects with all the covenants and agreements required by this Agreement to be performed or complied with by them at or prior to the Closing, including, without limitation, the delivery of all items required to be delivered by them pursuant to Sections 1.5 (b), (e), (f), (m), (n), (o), (p), (r), (s), (t), (u), and (x).

(c) All contractual and governmental consents, notices, approvals, orders or authorizations listed on Schedule 5.1(c) will have been obtained or given, as applicable. Without limiting the generality of the foregoing, all filings pursuant to the HSR Act will have been made by the Buyer, the Sellers and their respective Affiliates and the required waiting period under the HSR Act will have expired or been terminated.

(d) As of the Closing Date, there will be no pending action or proceeding before any court of competent jurisdiction or other Governmental Body by any Person seeking to enjoin or prohibit any material aspect of the operation of the Business or the consummation of the transactions contemplated by this Agreement and no such action or proceeding seeking to enjoin or prohibit the consummation of the transactions contemplated by this Agreement will have been threatened in writing.

5.2 Conditions to Obligations of the Sellers. The obligations of the Sellers under this Agreement are subject to the satisfaction at or prior to the Closing of the following conditions, but compliance with any such conditions may be waived by the Seller Representative in writing:

(a) All representations and warranties of the Buyer contained in this Agreement will be true and correct in all material respects (if not qualified by materiality including, without limitation, Material Adverse Effect) or in all respects (if qualified by materiality, including, without limitation, Material Adverse Effect) at and as of the Closing with the same effect as though such representations and warranties were made at and as of the Closing.

(b) The Buyer will have performed and complied in all material respects with the covenants and agreements required by this Agreement to be performed or complied with by it at or prior to the Closing, including without limitation the delivery of all items required to be delivered by the Buyer pursuant to Sections 1.5 (a), (c), (d), (p), (q) and (y).

(c) All HSR Filings will have been made by the Buyer, the Sellers and their respective Affiliates and the required period under the HSR Act will have expired or been terminated.

(d) As of the Closing Date, there will be no pending action or proceeding before any court of competent jurisdiction or other Governmental Body by any Person seeking to enjoin or prohibit any material aspect of the operation of the Business or the consummation of the transactions contemplated by this Agreement and no such action or proceeding seeking to enjoin or prohibit the consummation of the transactions contemplated by this Agreement will have been threatened in writing.

ARTICLE VI
Indemnification

6.1 Indemnification of the Buyer. Notwithstanding any investigation by the Buyer or its representatives, the Sellers, jointly and severally, (but only severally to the extent that proceeds other than amounts in the Escrow Account are sought) will indemnify and hold the Buyer, its Affiliates (including, after the Closing, the Company and its subsidiaries) and their respective managers, directors, officers, employees and agents (collectively, the "Buyer Parties") harmless from any and all Liabilities, obligations, claims, contingencies, damages, costs and expenses, including all court costs, litigation expenses and reasonable attorneys' fees (collectively, "Losses"), that any Buyer Party actually incurs as a result of or relating to:

(a) the breach of any representation or warranty made by the Company or the Sellers in this Agreement or any Ancillary Document;

(b) the breach of any covenant or agreement made by the Company or the Sellers in this Agreement or any Ancillary Document;

(c) any claim for brokers' or finders' fees or agents' commissions arising from or through the Company or any of its subsidiaries, any Seller or any of their respective Affiliates in connection with the negotiation or consummation of the transactions contemplated by this Agreement; or

(d) any Taxes of the Company or its subsidiaries attributable to the change in accounting request filed by the Subsidiary on July 29, 2004 (the "Section 481 Taxes");

provided, however, that (A) except with respect to (1) the breach of the representations and warranties set forth in Section 2.1 (Authority), Section 2.2 (Organization), Section 2.4 (Title to Securities) or Section 2.5 (Capitalization) (collectively, the "Excluded Representations") or (2) any fraud by the party from whom indemnification is sought in connection with this Agreement, the documents executed in connection herewith or the transactions contemplated hereby, for which no such limitations will apply, the Buyer Parties will not be entitled to indemnification under Section 6.1(a) unless the aggregate amount of all Losses for which the Buyer Parties are entitled to indemnification pursuant to such paragraph exceeds $600,000 in which case the Buyer Parties will be entitled to indemnification for the amount of such Losses in excess of such amount up to a maximum amount equal to the then remaining Escrow Amount then held in the Escrow Account; and (B) the Buyer Parties will not be entitled to assert any claims for indemnification under Section 6.1(a) with respect to any individual item or matter unless the amount of Losses with respect to such item or matter exceeds $25,000.

6.2 Indemnification of the Sellers. The Buyer will indemnify and hold the Sellers, their respective Affiliates and their respective managers, directors, officers, employees and agents (collectively, the "Seller Parties") harmless from any and all Losses that any Seller Party actually incurs as a result of or relating to:

(a) the breach of any representation or warranty made by the Buyer in this Agreement or any Buyer Document;

(b) the breach of any covenant or agreement made by the Buyer in this Agreement or any Buyer Document; or

(c) any claim for brokers' or finders' fees or agents' commissions arising from or through the Buyer or any of its Affiliates in connection with the negotiation or consummation of the transactions contemplated by this Agreement;

provided, however, that (A) except with respect to (1) the breach of the representations and warranties set forth in Section 3.1 (Organization) or Sections 3.2 (Authority) and (2) any fraud by the Buyer or (or any of Affiliate of the Buyer) in connection with this Agreement, the documents executed in connection herewith or the transactions contemplated hereby, for which no such limitation will apply, the Seller Parties will not be entitled to indemnification under Section 6.2(a) unless the aggregate amount of all Losses for which indemnification the Seller Parties are entitled to indemnification pursuant to such paragraph exceeds $600,000 in which case the Seller Parties will be entitled to indemnification for the amount of such Losses in excess of such amount up to a maximum amount equal to $7,000,000, and (B) the Seller Parties will not be entitled to assert any claims for indemnification under Section 6.2(a) with respect to any individual item or matter unless the amount of Losses with respect to such item or matter exceeds $25,000.

6.3 Survival. The representations and warranties of the Sellers and the Buyer made in this Agreement or any Ancillary Document will survive the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby until the one-year anniversary of the Closing Date, *provided however,* that the Excluded Representations shall survive the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby indefinitely. Any representation or warranty the violation of which is made the basis of a claim for indemnification pursuant to Sections 6.1(a) or 6.2(a) will survive until such claim is finally resolved if the Buyer notifies the Seller Representative, or if the Seller Representative notifies the Buyer, as applicable, of such claim in accordance with Section 6.5 prior to the date on which such representation or warranty would otherwise expire hereunder. Without limiting the foregoing, no claim for indemnification pursuant to Sections 6.1(a) or 6.2(a) based on the breach of a representation or warranty may be asserted after the date on which such representation or warranty expires hereunder. The covenants and agreements of the Buyer, on the one hand, and the Sellers and the Company, on the other hand, made in this Agreement or any Ancillary Document will survive the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby in accordance with their terms.

6.4 Further Limitations on Indemnification. Notwithstanding anything herein to the contrary, the right of the Buyer Parties and the Seller Parties to indemnification hereunder is further limited as follows:

(a) "Losses" shall be net of (i) any insurance or other third-party recoveries actually received by a party entitled to receive indemnification pursuant to this Article VI (an "Indemnified Party") in connection with the facts giving rise to the right of indemnification, (ii) any Tax benefit actually received by such Indemnified Party resulting from such Losses, and (iii) any amounts for which the Indemnified Party has been compensated under Section 1.4. The Buyer Parties shall use commercially reasonable efforts to claim and recover any Losses suffered by the Buyer Parties under any such insurance policy or other third party indemnification (subject to the limitations in Section 6.4(b)), but except as provided in Section 6.4(b), the Buyer Parties shall not be required to pursue any such claims or recoveries prior to making a claim and receiving indemnification payments under this Agreement.

(b) If the events or circumstances which are the basis for a claim for indemnification by a Buyer Party under this Article VI also constitute a basis for a claim for indemnification by the Company against the sellers under the Prior Purchase Agreement, then the Buyer will cause the Company to use commercially reasonable efforts to pursue a recovery under the Prior Purchase Agreement before pursuing a recovery pursuant to Article VI of this Agreement; *provided*, *however*, that the Company may pursue a recovery under this Agreement without having obtained a recovery under the Prior Purchase Agreement when, in the good faith judgment of the Buyer, it is not commercially reasonable to pursue a recovery under the Prior Purchase Agreement in light of the time, expense and likelihood of recovery involved. In such event, the Buyer shall, at the request of the Seller Representative, cause the Company to assign to the Sellers its rights under the Prior Purchase Agreement with respect to such matter. Notwithstanding the foregoing, other than in connection with a claim for indemnification under Section 6.1(d) (for which the Buyer must cause the Company to exercise any right of set-off it may have against the Subordinated Note before seeking indemnification under this Agreement), in no event shall the Buyer Parties' be obligated to cause the Company to exercise any right of set-off against amounts due under the Subordinated Note before pursuing a claim for indemnification under this Agreement to the extent that such set-off would reduce the principal amount of the Subordinated Note below the amount of Section 481 Taxes reasonably estimated by the Buyer to still be owing; *provided*, *however*, subject to the first sentence of this Section 6.14(b), after all amounts owing with respect to the Section 481 Taxes have been paid, the Buyer shall cause the Company to exercise its right of set-off against the Subordinated Note before pursuing a claim for indemnification under this Agreement. The Buyer shall not, and shall not permit the Company to, amend any provisions of the Prior Purchase Agreement in any manner adverse to the Sellers without the prior written consent of the Seller Representative. In any such case, the full amount of the claim by the Buyer shall be considered Losses alleged in good faith in an unresolved claim for indemnification for purposes of Section 6.7, except to the extent that the Company has actually received payments with respect to its claim under the Prior Purchase Agreement. The fees and expenses incurred by the Company in pursuing a claim for indemnification under the Prior Purchase Agreement shall be included in Buyer's indemnified Losses under this Agreement. For the purposes of this Section 6.4, "Prior Purchase Agreement" means that certain Membership Interest Purchase Agreement, dated February 9, 2005, by and among the Company and the former members of the Subsidiary.

(c) If an Indemnified Party recovers any amount from a Person other than the Indemnifying Party with respect to a Loss for which the Indemnified Party has already obtained an indemnification payment hereunder, then the Indemnified Party shall pay an amount equal to the amount the Indemnified Party has already received as an indemnification payment hereunder to the Escrow Agent if at such time there are any funds remaining in the Escrow Account, and thereafter to the Seller Representative, as disbursing agent for the Sellers, the Company as disbursing agent for the Optionholders, and the Warrantholder, such amounts to be distributed by them in the same manner as distributions are effected under Section 6.7.

(d) No Indemnified Party will be entitled to indemnification pursuant to Section 6.1 or Section 6.2 for punitive damages, or for lost profits, consequential, exemplary or special damages, *provided*, *however,* that this provision shall not limit a Buyer Party's right to indemnification under Section 6.1 to recover Losses that arise as the result of a third-party Claim against the Buyer Party, the Company or any of its subsidiaries for punitive damages, lost profits, consequential, exemplary or special damages.

(e) An Indemnified Party shall use commercially reasonable efforts to mitigate any and all Losses that would otherwise be reimbursable under this Agreement.

(f) Any amounts for which the Buyer Parties are entitled to indemnification pursuant to this Article VI will be satisfied from the Escrow Account; *provided*, *however*, that if the Escrow Amount is not sufficient to satisfy a claim for indemnification under (i) Section 6.1(a) in connection with a breach of an Excluded Representation, or (ii) Section 6.1 (b), (c) or (d) (other than with regard to breaches of Section 4.10, Section 4.11, Section 4.12 or Article VII), then such claim may be satisfied individually from each Seller on a several basis based on the portion of the Purchase Price received by each such Seller hereunder, *provided further*, that the Buyer Parties shall seek to satisfy claims for indemnification for breaches of Section 4.10, Section 4.11, Section 4.12 or Article VII from the Seller or Sellers who committed such breach (and from no other Seller), severally, without resort to amounts held in the Escrow Account.

6.5 Notice. Each Indemnified Party agrees to give prompt written notice to the party or parties required to provide such indemnification (the "Indemnifying Parties") upon the occurrence of any indemnifiable Loss or the assertion of any claim or the commencement of any action or proceeding in respect of which such a Loss may reasonably be expected to occur (each, a "Claim"), but the Indemnified Party's failure to give such notice will not affect the obligations of the Indemnifying Party under this Article VI except to the extent that the Indemnifying Party is materially prejudiced thereby. Such written notice will include (a) a description of the event or events forming the basis of such Loss or Claim, (b) the amount involved, unless such amount is uncertain or contingent, in which event the Indemnified Party will state the estimated amount and give a later written notice when the amount becomes fixed, and (c) copies of written documents and summaries of relevant oral information actually known or in good faith believed by the Indemnified Party to exist sufficient to establish the basis for such Loss or Claim.

6.6 Defense of Claims.

(a) The Indemnifying Party may elect to assume and control the defense of any Claim, including the employment of counsel reasonably satisfactory to the Indemnified Party and the payment of expenses related thereto, if: (i) the Claim does not seek to impose any Liability on the Indemnified Party other than money damages, and (ii) the Claim does not relate to a material Supplier of the Company.

(b) If the conditions of Section 6.6(a) are satisfied and the Indemnifying Party elects to assume and control the defense of a Claim, then: (i) the Indemnifying Party will not be liable for any settlement of such Claim effected without its consent; (ii) the Indemnifying Party may settle such Claim without the consent of the Indemnified Party but only if (A) there is no finding or admission of any violations of Law or any violation of the rights of any Person and no effect on any other claims that may be made against the Indemnified Party, (B) the sole relief provided is monetary damages that are paid in full by the Indemnifying Party and (C) such settlement provides for a full release of the Indemnified Party; and (iii) the Indemnified Party may employ separate counsel and participate in the defense thereof, but the Indemnified Party will be responsible for the fees and expenses of such counsel unless: (A) the Indemnifying Party has failed to actively conduct the defense of such Claim or to employ counsel with respect thereto; or (B) in the reasonable opinion of the Indemnified Party, a conflict of interest exists between the interests of the Indemnified Party and the Indemnifying Party that requires representation by separate counsel, in which case the fees and expenses of such separate counsel will be paid by the Indemnifying Party.

(c) If the conditions of Section 6.6(a) are not satisfied of if the Indemnifying Party does not elect to assume and control the defense of any Claim under Section 6.6(a) above, then the Indemnified Party may assume the exclusive right to defend, compromise or settle such Claim, but the Indemnifying Party will not be bound by any determination of a Claim so defended or any compromise or settlement effected without its consent.

6.7 Escrow. The funds held in the Escrow Account shall serve as security for Sellers' indemnification obligations hereunder and shall be released upon the Escrow Agent's receipt of joint written instructions from the Buyer and the Seller Representative, or as otherwise provided under the terms of the Escrow Agreement. On the one-year anniversary of the Closing Date, the Seller Representative and the Buyer shall issue joint written instructions to the Escrow Agent instructing the Escrow Agent to release all funds in the Escrow Account in excess of the sum of the amount of actual Losses alleged in good faith in any unresolved claim for indemnification, to the Company, as disbursing agent for the Optionholders, the Warrantholder, and the Seller Representative as disbursing agent for the Sellers, in proportion to the amounts in which the Sellers, the Company on behalf of the Optionholders and the Warrantholder received funds on the Closing Date. If there are any remaining claims for indemnification, the Seller Representative and the Buyer shall issue joint written instructions to the Escrow Agent to release any remaining funds in the Escrow Account when such claims are resolved, which funds shall be released to the Company, as disbursing agent for the Optionholders, the Warrantholder, and the Seller Representative as disbursing agent for the Sellers, in proportion to the amounts in which the Sellers, the Company on behalf of the Optionholders and the Warrantholder received funds on the Closing Date. The Company shall disburse any amounts it receives from the Escrow Agent in its capacity as disbursing agent for the Optionholders, including earnings on the escrowed funds, to such Optionholders in the percentages set forth on Schedule 1.3(c)(as such schedule may be updated at Closing).

ARTICLE VII
Noncompetition Agreement

7.1 Noncompetition.

(a) As a material inducement to Buyer to enter into this Agreement, each of Timothy P. Brady, Christopher C. Lapeyrouse, John Tieken, Jr. and Bart J. Hohensee (each a "Restricted Seller") agrees that, for a period of two (2) years from the Closing Date, no such Restricted Seller will, directly or indirectly, as an employee, agent, representative, consultant, advisor, lender, independent contractor, principal, owner, partner, joint venturer, member, manager, officer, director, shareholder or otherwise, engage in or have any financial interest (other than a less than 1% interest in a corporation whose shares are actively traded on a regional or national securities exchange or in the over-the-counter market) in the business of high speed diesel engine and parts sales and service in marine applications in the Restricted Territory, including solicitation of customers or employees of the Company or any of its subsidiaries, except as an employee or authorized representative of the Company or any of its affiliated entities.

(b) Each Restricted Seller acknowledges that any remedy at law will not adequately compensate Buyer for damages resulting from a breach of this noncompetition agreement and agree that Buyer may seek and obtain injunctive relief against the breach or threatened breach of this noncompetition agreement, in addition to any other legal remedies which may be available.

(c) Each Restricted Seller and Buyer agree that the restrictions contained in Section 7.1(a) are reasonable with respect to time, geographical area and scope of activity. However, if any court shall determine that the time, geographical area or scope of activity of any restriction contained in Section 7.1(a) is unenforceable, it is the intention of the parties that such restriction shall not thereby be terminated but shall be deemed amended to the extent required to render it valid and enforceable.

ARTICLE VIII
Miscellaneous

8.1 Termination.

(a) This Agreement and the transactions contemplated hereby may be terminated and abandoned:

(i) at any time prior to the Closing Date by mutual written consent of the Buyer and the Seller Representative;

(ii) by either the Buyer, on the one hand, or the Seller Representative, on the other hand, upon written notice to the other, if (A) the transactions contemplated by this Agreement have not been consummated on or prior to July 31, 2006, or (B) any condition to such party's obligation (or the Sellers' obligation in the case of the Seller Representative) to consummate the transactions contemplated hereby is incapable of being satisfied on or prior to July 31, 2006; *provided, however,* that:

(1) the Buyer may not terminate this Agreement pursuant to this Section 8.1(a)(ii) if the Closing has not occurred because of the Buyer's willful failure to perform or observe any of its covenants or agreements set forth herein or if the Buyer has materially breached this Agreement; and

(2) the Seller Representative may not terminate this Agreement pursuant to this Section 8.1(a)(ii) if the Closing has not occurred because of the willful failure of any Seller to perform or observe any of the covenants or agreements set forth herein or if any Seller has materially breached this Agreement;

(iii) by the Buyer, on the one hand, or the Seller, on the other hand, if any court of competent jurisdiction or other Governmental Body shall have issued an order, decree, or ruling enjoining or otherwise prohibiting the transactions contemplated by this Agreement (unless such order, decree, or ruling has been withdrawn, reversed, or otherwise made inapplicable); or

(iv) by the Buyer, if, since the Latest Balance Sheet Date, there shall have occurred any event or occurrence that would constitute a Material Adverse Effect on the Company; *provided, however*, that the Buyer must exercise its right to terminate pursuant to this Section 8.1(a)(iv) within five (5) business days of the Buyer's discovery of the event or occurrence that is the basis for such Material Adverse Effect.

(b) In the event of termination of this Agreement pursuant to Section 8.1(a), no party hereto will have any liability or any further obligation to any other party, except as provided in this Section 8.1(b) and except that nothing herein releases, or may be construed as releasing, any party hereto from any liability or damage to any other party hereto arising out of the breaching party's willful and material breach in the performance of any of its covenants arising under this Agreement. The obligations of the parties to this Agreement under Section 4.11, this Section 8.1(b), and this Article VIII will survive any termination of this Agreement.

8.2 Notices. All notices and other communications under this Agreement must be in writing and will be deemed given: (a) when delivered personally; (b) on the third business day after being mailed by certified mail, return receipt requested; (c) the next business day after delivery to a recognized overnight courier; or (d) upon transmission and confirmation of receipt by a facsimile operator if sent by facsimile, to the parties at the following addresses or facsimile numbers (or to such other address or facsimile number as such party may have specified by notice given to the other party pursuant to this provision):

if to the Buyer:	with copies to:
Marine Systems, Inc. 55 Waugh Drive, Suite 1000 Houston, Texas 77007 Attention: Mark R. Buese Telecopy: (713) 435-1011	Fulbright & Jaworski L.L.P. 2200 Ross Avenue, Suite 2800 Dallas, Texas 75201 Attention: Thomas G. Adler Telecopy: (214) 855-8200
if to the Sellers:	with copies to:
Industrial Growth Partners II, L.P. 100 Spear Street, Suite 1500 San Francisco, California 94105-1523 Attention: Eric D. Heglie Telecopy: (415) 882-4551	Jones Day North Point 901 Lakeside Avenue Cleveland, Ohio 44114-1190 Attention: Denise A. Carkhuff Telecopy: (216) 579-0212

8.3 Counterparts. This Agreement may be executed in one or more counterparts (including by facsimile) for the convenience of the parties hereto, each of which will be deemed an original, but all of which together will constitute one and the same agreement.

8.4 Interpretation. The article and section headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the parties and will not in any way affect the meaning or interpretation of this Agreement. Unless expressly stated otherwise, references to Sections, Exhibits or Schedules refer to sections, exhibits or schedules to this Agreement.

8.5 Assignment. Neither this Agreement nor any of the rights, interests or obligations hereunder may be assigned or delegated by any Seller, the Company or the Buyer without the prior written consent of the other parties and any purported assignment or delegation in violation thereof will be null and void; except that the Buyer may assign its rights and obligations under this Agreement to any of its Affiliates or to any successor to its business. This Agreement is not intended to confer any rights or benefits on any Person other than the parties hereto, except to the extent specifically provided in Section 4.11, Section 4.15 and Article VI.

8.6 Entire Agreement, Amendment. This Agreement and the related documents contained as Exhibits and Schedules hereto or expressly contemplated hereby contain the entire understanding of the parties relating to the subject matter hereof and supersede all prior written or oral and all contemporaneous oral agreements and understandings relating to the subject matter hereof. The exhibits, schedules and the recitals to this Agreement are hereby incorporated by reference into and made a part of this Agreement for all purposes. This Agreement may be amended, supplemented or modified only by written instrument making specific reference to this Agreement signed by the Buyer and the Seller Representative, and any provision hereof may be waived, only by written instrument making specific reference to this Agreement signed by the party against whom enforcement is sought.

8.7 Specific Performance, Exclusivity. The parties hereby acknowledge and agree that the failure of any party to perform its agreements and covenants hereunder, including its failure to take all actions reasonably required on its part to consummate the transactions contemplated hereby, will cause irreparable injury to the other parties for which damages, even if available, will not be an adequate remedy. Accordingly, each party hereby consents to the issuance of injunctive relief by any court of competent jurisdiction to compel performance of such party's obligations and to the granting by any court of the remedy of specific performance of its obligations hereunder. The parties agree that, from and after the Closing Date, except as otherwise provided under Article VI and Article VII, the exclusive remedies of the parties for any Losses based upon, or arising out of or otherwise in respect of the matters set forth in this Agreement are the indemnification obligations of the parties set forth in Article VI.

8.8 GOVERNING LAW. THIS AGREEMENT WILL BE GOVERNED BY AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE SUBSTANTIVE LAWS OF THE STATE OF DELAWARE, WITHOUT GIVING EFFECT TO ANY CONFLICTS OF LAW RULE OR PRINCIPLE THAT MIGHT RESULT IN THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION.

8.9 Usage. Whenever the plural form of a word is used in this Agreement, that word will include the singular form of that word. Whenever the singular form of a word is used in this Agreement, that word will include the plural form of that word. The term "or" will not be interpreted as excluding any of the items described. The term "include" or any derivative of such term does not mean that the items following such term are the only types of such items.

8.10 Certain Definitions. For purposes of this Agreement:

(a) The term "Affiliate" means, with respect to a specified Person, any relative by blood or marriage, or any other Person or member of a group of Persons acting together that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with the specified Person.

(b) The term "Company Debt Agreements" means (i) the Credit Agreement, (ii) Note and Warrant Purchase Agreement, and (iii) the Subordinated Promissory Note, dated February 9, 2005, by the Company in favor of Christopher C. Lapeyrouse, for the benefit of the former members of the Subsidiary (the "Subordinated Note")..

(c) The term "control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

(d) The terms "Knowledge" and "known" and words of similar import mean:

(i) with respect to the Company, the Company will be deemed to have "Knowledge" of a particular matter, and the particular matter will be deemed to be "known" by the Company, if (A) the Company's President or Chief Financial Officer has actual knowledge of such matter or would have knowledge of such matter following reasonable inquiry, or (B) any of the Persons listed on Schedule 8.10(d) has actual knowledge of such matter; and

(ii) with respect to Buyer, the Buyer will be deemed to have "Knowledge" of a particular matter, and the particular matter will be deemed to be "known" by the Buyer, if any manager, director, officer or any supervisory level employee of the Buyer has actual knowledge of such matter or would have knowledge of such matter following or reasonable inquiry.

(e) The term "Material Adverse Effect" means, with respect to the Company, the Buyer or the Subsidiary, as applicable, any change, occurrence or development that has or would reasonably be expected to have a material adverse effect on the business, results of operations or financial condition of such party and its subsidiaries taken as a whole, but excluding any effect (i) resulting from general economic conditions (whether as a result of acts of terrorism, war (whether or not declared), armed conflicts or otherwise), or (ii) generally affecting companies in the industry in which it conducts its business.

(f) The uncapitalized terms "subsidiary" or "subsidiaries" when used in relation to an entity shall include both the direct and indirect subsidiaries of such entity.

(g) The term "Restricted Territory" means (i) the geographic area(s) within a one hundred (100) mile radius of any and all location(s) of the Company or any of its subsidiaries to which the Restricted Seller had any responsibility immediately prior to the consummation of the transactions contemplated by this Agreement and at any time during the two (2) year period prior to the Closing Date, (ii) the Gulf of Mexico and (iii) all of the specific customer accounts, whether within or outside the geographic locations of the Company and its subsidiaries, to which the Restricted Seller had any responsibility immediately prior to the Closing Date or at any time during the two (2) year period prior to the Closing Date *provided, however*, that with respect to Louisiana, the Restricted Territory includes only the Gulf of Mexico and the following parishes: Iberia, Lafayette, LaFourche, Plaquemines, St. Martin, St. Mary, Terrebonne and Vermillion; *provided further*, that to the extent that the Company, a subsidiary of the Company or any successor-in-interest to the Company or any subsidiary of the Company ceases to operate the Business in any such parish, such parish will no longer be considered part of the Restricted Territory.

(h) In addition, the following terms are defined in the indicated section of this Agreement:

Defined Term	Section
2005 Income Tax Returns	4.13(a)(iv)(A)
Accountant	1.4(e)
Act	2.5(c)
Actual Net Debt	1.4(e)
Actual Working Capital	1.4(e)
Affiliate	8.10(a)
Aggregate Share Amount	1.3(e)
Agreement	First paragraph
Ancillary Documents	2.1(b)
Bank Accounts	2.26
Business	Recitals
Buyer	First paragraph
Buyer Documents	3.2
Buyer Parties	6.1
Buyer Welfare Plans	4.17
Carryback	4.13(a)(v)
Claim	6.5
Closing	1.2
Closing Date	1.2
Code	2.7(c)
Common Stock	Recitals
Company	First paragraph
Company Ancillary Documents	2.1(b)
Company Debt Agreements	8.10(b)
Company Employees	4.17
Competing Transaction	4.10
Confidential Information	4.11
Contracts	2.21(a)
control	8.10(c)
Credit Agreement	4.12
Buyer	First paragraph
Buyer Documents	3.2
Deductions	4.13(a)(iv)
Employee Benefit Plan(s)	2.20(a)
Environmental Law	2.18
ERISA	2.20(a)
Escrow Account	1.3(a)
Escrow Agent	1.3(a)
Escrow Agreement	1.3(a)

Defined Term	Section
Escrow Amount	1.3(a)
Estimated Net Debt	1.4(d)
Estimated Working Capital	1.4(d)
Excluded Representations	6.1
Financial Statements	2.11(a)
Fully Diluted Shares	1.3(f)
GAAP	1.4(a)
Governmental Body	2.10
Guaranteed Obligations	Signature Page
Hazardous Material	2.18
HSR Act	2.10
HSR Filing	4.15
Income Tax	2.14
Income Tax Returns	2.14
Indemnified Party	6.4(a)
Indemnifying Parties	6.5
Interim Financial Statements	2.11(a)
IRS	2.20(b)
Knowledge and Known	8.10(d)
Latest Balance Sheet	2.11(a)
Latest Balance Sheet Date	2.11(a)
Laws	2.16
LEG	8.11(a)
Liabilities	2.12
Lien	2.4(a)
Litigation	2.15
Losses	6.1
Majority-in-Interest	8.11(b)
Material Adverse Effect	8.10(e)
Material Customers	2.22(a)
Material Contracts	2.21(a)
Net Debt	1.4(b)
Net Debt Excess	1.4(h)
Net Debt Shortfall	1.4(i)
Note and Warrant Purchase Agreement	4.12(b)
Option	1.3(c)
Option Amount	1.3(c)
Optionholder	1.3(c)
Parent	Signature Page
Payoff Letters	1.5(b)
Permits	2.17
Permitted Testing	4.3
Person	2.15
Post-Closing Period	4.1(h)
Post-Closing Straddle Period	4.13(a)

Defined Term	Section
Pre-Closing Straddle Period	4.13(a)(ii)
Pre-Closing Tax Period	4.13(a)(vi)
Prior Purchase Agreement	6.4(b)
Purchase Price	1.3
Real Property	2.7(a)
Restricted Seller	7.1(a)
Restricted Territory	8.10(g)
Section 481 Taxes	6.1(d)
Seller(s)	First paragraph
Seller Ancillary Documents	2.1(a)
Seller Parties	6.2
Seller Refunds	4.13(a)(vi)
Seller Representative	8.11(a)
Shares	Recitals
Stated Working Capital	1.4(c)
Statement	4.13(a)(vii)
Straddle Period	4.13(a)(i)
Stub Period Returns	4.13(a)(iv)
Subordinated Note	8.10(b)
Subsidiary	Recitals
subsidiary or subsidiaries	8.10(f)
Subsidiary Equity	Recitals
Suppliers	2.22(b)
Tax(es)	2.14
Taxing Authority	2.14
Tax Return	2.14
Transaction Costs	1.4(a)
Transfer Taxes	4.13(d)
UST Systems	2.18(e)
Warrant	1.3(d)
Warrant Amount	1.3(d)
Warrantholder	1.3(d)
Working Capital	1.4(a)
Working Capital Excess	1.4(f)
Working Capital Shortfall	1.4(g)
Written Report	4.13(a)(ix)

8.11 Seller Representative. For purposes of this Agreement:

(a) Industrial Growth Partners II, L.P. is hereby appointed as the "Seller Representative" and is hereby granted the full power and authority, on behalf of each Seller and his, her or its successors and assigns, to (i) interpret the terms and provisions of this Agreement and the documents to be executed and delivered in connection herewith, including, without limitation, Article VI and the Ancillary Documents, (ii) execute and deliver and receive deliveries of all agreements, certificates, statements, notices, approvals, extensions, waivers, undertakings, amendments, updates of Schedules and other documents required or permitted to be given in connection with the consummation of the transactions contemplated by this Agreement and the Ancillary Documents, (iii) receive service of process in connection with any claims under this Agreement or the Ancillary Documents, (iv) agree to negotiate, enter into settlements and compromises of, assume the defense of claims, demand arbitration and comply with orders of courts and awards of arbitrators with respect to such claims and to take all actions necessary or appropriate in the sole judgment of the Seller Representative for the accomplishment of the foregoing, including, without limitation, taking all such actions as may be necessary under Article VI, (v) give and receive notices and communications, (vi) authorize delivery or release to Buyer of funds held in the Escrow Account, (vii) receive and disburse funds hereunder to the Sellers and the Warrantholder in accordance with the terms of this Agreement (including the schedules and exhibits attached hereto) and (viii) take all actions necessary or appropriate in the judgment of the Seller Representative on behalf of the Sellers in connection with this Agreement and the Ancillary Documents. The Seller Representative shall not amend or modify this Agreement in any manner that (y) treats the Sellers differently from each other except in the manner and to the extent such Sellers are treated differently as of the date of this Agreement or (z) treats the Warrantholder and LEG Partners III, SBIC, L.P. ("LEG") in a manner that would violate Section 4.3 of the Stockholders Agreement, dated as of February 9, 2005, by and among the Company, Industrial Growth Partners II, L.P., the Warrantholder, LEG and the other investors named therein, and as the same is in effect on the date hereof.

(b) Such agency may be changed by Sellers who held, immediately prior to the Closing, Shares representing a majority in interest of all Shares outstanding at such time (the "Majority-in-Interest") from time to time upon not less than five (5) days prior written notice to the Buyer. The Seller Representative, or any successor hereafter appointed, may resign at any time by written notice to Buyer and the Seller Representative. A successor Seller Representative will be named by a Majority-in-Interest. All power, authority, rights and privileges conferred in this Agreement to the Seller Representative will apply to any successor Seller Representative.

(c) The Seller Representative will not be liable to any Seller for any act done or omitted under this Agreement or any Ancillary Document as Seller Representative while acting in good faith, and any act taken or omitted to be taken pursuant to the advice of counsel will be conclusive evidence of such good faith.

8.12 Expenses. Except as otherwise provided herein, whether or not the transactions contemplated by this Agreement are consummated, all costs and expenses (including all legal, accounting, broker, finder or investment banker fees) incurred in connection with this Agreement and the transactions contemplated hereby are to be paid by the party incurring such expenses except as expressly provided herein.

8.13 Severability. Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction. If any provision of this Agreement is so broad as to be unenforceable, the provision will be interpreted to be only so broad as is enforceable.

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

THE BUYER:

MARINE SYSTEMS, INC.

By: /s/ DORMAN L. STRAHAN
Dorman L. Strahan, President

THE SELLERS:

INDUSTRIAL GROWTH PARTNERS II, L.P.

By: IGP Capital Partners II, LLC,
its General Partner

By: /s/ GOTTFRIED TITTIGER
Name: Gottfried Tittiger
Title: Managing Director

ANTARES CAPITAL CORPORATION

By: /s/ TIMOTHY G. LYNE
Name: Timothy G. Lyne
Title: Director

LEG PARTNERS III, SBIC, L.P.

By: Golub PS-GP, LLC
its General Partner

By: /s/ GREGORY W. CASHMAN
Name: Gregory W. Cashman
Title:

/s/ TIMOTHY P. BRADY
Timothy P. Brady

/s/ JOYCE N. BRADY
Joyce N. Brady

/s/ BART J. HOHENSEE
Bart J. Hohensee

/s/ LAURIE L. HOHENSEE
Laurie L. Hohensee

/s/ GARETT J. HOHENSEE
Garett J. Hohensee

/s/ BECKY B. HOHENSEE
Becky B. Hohensee

/s/ WENDELL J. HOHENSEE
Wendell J. Hohensee

/s/ JOANN D. HOHENSEE
Joann D. Hohensee

/s/ JAMES LAFLEUR
James Lafleur

/s/ FRANKIE T. LAFLEUR
Frankie T. Lafleur

/s/ WILFRED R. DEHART
Wilfred R. DeHart

/s/ JANICE W. DEHART
Janice W. DeHart

/s/ CHRISTOPHER C. LAPEYROUSE
Christopher C. Lapeyrouse

/s/ ROBIN L. LAPEYROUSE
Robin L. Lapeyrouse

/s/ RANDY MELANCON
Randy Melancon

/s/ LISA M. MELANCON
Lisa M. Melancon

/s/ BUSTER NAQUIN
Buster Naquin

/s/ VANESSA M. NAQUIN
Vanessa M. Naquin

/s/ JOHN TIEKEN JR.
John Tieken Jr.

/s/ CYNTHIA TIEKEN
Cynthia Tieken

/s/ LANCE DEHART

Lance DeHart

/s/ DEIRDRE B. DEHART

Deirdre B. DeHart

/s/ KAREN GREAVES
Karen Greaves

/s/ JEFFREY M. WEBB
Jeffrey M. Webb

/s/ TOM PARNELL
Tom Parnell

/s/ WILLIAM LUNDSTROM
William Lundstrom

/s/ JAMES EASTER
James Easter

THE COMPANY:

GLOBAL POWER HOLDING COMPANY

By /s/ BART J. HOHENSEE
Name: Bart J. Hohensee
Title: President

Parent Guarantee

Kirby Corporation, a Nevada corporation ("Parent"), hereby unconditionally and irrevocably guarantees to the Sellers the full and timely performance, payment and discharge by Buyer of all obligations and liabilities of Buyer pursuant to this Agreement to be performed on or before the Closing Date, as the same may from time-to-time be amended, modified, substituted, extended or renewed (the "Guaranteed Obligations"), and agrees that if Buyer shall fail to pay or perform any Guaranteed Obligation when and as required by the terms of this Agreement, Parent will promptly pay or perform any such Guaranteed Obligation as required of Buyer pursuant to the terms of the Agreement.

This Parent Guarantee is an absolute, unconditional and continuing guarantee of payment and performance and not merely of collection, and will be binding upon and a primary obligation of Parent, irrespective of (i) the bankruptcy, insolvency, dissolution or liquidation of Buyer or the discharge of Buyer's obligations in bankruptcy; (ii) any assignment, amendment, modification or termination of or any change in the term, manner or place of performance or payment of, or any other term of, all or any part of the Guaranteed Obligations, this Agreement or any other agreement or instrument relating thereto; (iii) any merger or consolidation of Parent or Buyer with or into any other Person or any sale, lease or transfer of any of the stock or assets of Parent or Buyer to any other Person, or any change in the name, stock ownership, membership, constitution or place of formation or incorporation of Parent or Buyer, or any change of Parent or Buyer into another form of business entity; or (iv) any failure, neglect or omission on the part of the Seller Representative before the Closing Date to give Parent notice of the occurrence of any default or event of default.

Notwithstanding anything to the contrary contained herein, this Parent Guarantee will continue to be effective or be reinstated, as the case may be, if at any time any payment of any of the Guaranteed Obligations by or on behalf of Parent or Buyer is rescinded or must otherwise be returned by any Person upon the insolvency, bankruptcy or reorganization of Parent or Buyer or otherwise, all as though such payment had not been made.

KIRBY CORPORATION,
a Nevada corporation

By: /s/ MARK R. BUESE

Name: Mark R. Buese

Title: Senior Vice President

Exhibits

A	Sellers
B	Form of Escrow Agreement
C	Form of Termination of Management Agreement
D	Form of Option Cancellation Agreement
E	Form of Warrant Cancellation Agreement
F	Form of Buyer's Closing Certificate
G	Form of Sellers' Closing Certificate
H	Form of Resignation
I	Form of Termination of Consulting Agreement
J	Form of Letter Agreement

Schedules

Schedule 1.3(c)	Option Amount Allocation
Schedule 1.3(e)	Aggregate Share Amount Allocation
Schedule 1.4(a)	Working Capital Calculation
Schedule 1.4(b)	Net Debt Calculation
Schedule 2.2(a)	Foreign Qualifications
Schedule 2.2(b)	Subsidiary Foreign Qualifications
Schedule 2.5(a)	Capitalization
Schedule 2.6	Subsidiaries and Other Interests
Schedule 2.7(a)	Title to Assets
Schedule 2.7(b)	Exceptions to Title
Schedule 2.9	Consents
Schedule 2.11(a)	Financial Statements
Schedule 2.13	Absence of Certain Changes
Schedule 2.14(b)	Tax Extensions of Time
Schedule 2.14(g)	Tax Liability
Schedule 2.14(h)	280G Matters
Schedule 2.14(m)	Tax Affiliated Groups
Schedule 2.14(n)	Change in Accounting Method
Schedule 2.15	Litigation
Schedule 2.17	Permits
Schedule 2.18	Environmental
Schedule 2.18(f)	Environmental Report
Schedule 2.19	Employees
Schedule 2.20(a)	Employee Benefit Plans
Schedule 2.20(e)	Employee Benefit Plan Litigation
Schedule 2.20(g)	Benefits Beyond Retirement or Other Termination
Schedule 2.20(h)	Benefits Triggered by Transaction
Schedule 2.21(a)	Material Contracts
Schedule 2.21(b)	Material Contracts Full Force and Effect
Schedule 2.22(a)	Material Customers
Schedule 2.22(b)	Suppliers
Schedule 2.23	Intellectual Property

Schedule 2.25	Insurance
Schedule 2.26	Bank Accounts and Powers of Attorney
Schedule 4.1	Conduct of Business
Schedule 4.13(a)(iv)	Deductions
Schedule 5.1(c)	Buyer’s required Closing Consents
Schedule 8.10(d)	Additional Knowledge Persons

Exhibit 10.2

KIRBY CORPORATION

Nonemployee Director Compensation Program

Annual Director Fee

1. Each director will receive an annual fee of $24,000, payable in four equal quarterly payments to be made at the end of each calendar quarter, unless the director elects to receive (a) a stock option for shares of Kirby common stock or (b) restricted shares of Kirby common stock, in lieu of all or part of the cash fee. The fee will be prorated for any director elected between annual stockholder meetings.

2. The election to receive a stock option or restricted stock in lieu of director fees will be made annually. Except as provided in the next sentence, any director who elects to receive a stock option or restricted stock in lieu of all or part of the annual fee for the year following any annual meeting of stockholders must give written notice of that election to Kirby no later than the December 31 preceding such annual meeting. A newly elected director must give written notice of his or her election to receive a stock option or restricted stock in lieu of all or part of the annual fee no later than 30 days after the date of his or her first election as a director.

3. The stock option shall be issued on the following terms:

(a) The number of shares of stock subject to the option will be equal to (i) the portion of the annual fee that a director elects to receive in the form of a stock option divided by (ii) the fair market value of a share of stock on the date of grant multiplied by (iii) 3, with the result then rounded to the nearest whole share.

(b) The exercise price per share will be the fair market value on the date of grant. The fair market value of a share of stock means the mean of the high and low sales price on the New York Stock Exchange on the date of reference.

(c) The option will vest one-fourth on the first quarterly payment date, one-fourth on the second quarterly payment date, one-fourth on the third quarterly payment date and one-fourth on the fourth quarterly payment date or, in the case of a director elected between annual stockholder meetings, in equal parts on the remaining quarterly payment dates prior to the first anniversary of the most recent annual meeting of stockholders.

(d) The option will be subject to the terms of the plan under which it is issued, including without limitation provisions relating to vesting, exercise, termination and transferability.

4. The restricted stock shall be issued on the following terms:

(a) The number of shares of restricted stock will be equal to (i) the portion of the annual fee that a director elects to receive in the form of restricted stock divided by (ii) the fair market value of a share of stock on the date of grant multiplied by (iii) 1.2, with the result then rounded to the nearest whole share.

(b) The fair market value of a share of stock means the mean of the high and low sales price on the New York Stock Exchange on the date of reference.

(c) The restricted stock will vest one-fourth on the first quarterly payment date, one-fourth on the second quarterly payment date, one-fourth on the third quarterly payment date and one-fourth on the fourth quarterly payment date or, in the case of a director elected between annual stockholder meetings, in equal parts on the remaining quarterly payment dates prior to the first anniversary of the most recent annual meeting of stockholders.

(d) The restricted stock will be subject to the terms of the plan under which it is issued, including without limitation provisions relating to vesting and transferability.

5. Except as provided in the next sentence, the date of grant of an option or restricted stock granted in lieu of the annual fee means the date of the next annual meeting of stockholders after the election by the director to receive a stock option or restricted stock in lieu of cash fees. For a newly elected director, the date of grant means the date of his or her election to receive a stock option or restricted stock in lieu of cash fees.

6. The quarterly payment of cash fees and vesting of stock options and restricted stock are contingent on a director's continuing to serve in that capacity on each such quarterly payment or vesting date.

Annual Committee Chairman and Presiding Director Fees

1. The Chairman of the Audit Committee will receive an annual fee of $15,000. The Chairmen of the Compensation Committee and the Governance Committee will each receive an annual fee of $10,000. The director selected to be the presiding director at executive sessions of non-management directors will receive an annual fee of $5,000. All of such fees will be payable in four equal quarterly payments to be made at the end of each calendar quarter. The committee chairman and presiding director fees will be prorated for any director who is elected to such position between annual meetings of the board of directors.

2. The quarterly payment of the committee chairman and presiding director fees is contingent on a director’s continuing to serve in such position on each such quarterly payment date.

Meeting Fees

1. Each director will receive a fee of $1,250 for each board meeting attended in person or by telephone.

2. Each member of a committee of the board will receive a fee of $3,000 for each committee meeting attended in person or by telephone.

Automatic Stock Option Grants

1. Each director will receive an option for 10,000 shares of Kirby common stock upon his or her first election as a director.

2. Each director will receive an option for 6,000 shares of Kirby common stock immediately after each annual meeting of stockholders.

3. The exercise price per share in both cases will be the fair market value on the date of grant. The options will be subject to the terms of the plan under which they are issued, including without limitation provisions relating to vesting, exercise, termination and transferability.

Automatic Restricted Stock Grants

1. Each director will receive 1,000 restricted shares of Kirby common stock immediately after each annual meeting of stockholders.

2. The restricted stock will be subject to the terms of the plan under which it is issued, including without limitation provisions relating to vesting and transferability.

General

1. This compensation program may be amended, modified or terminated by the board at any time.

2. This compensation program applies only to directors of Kirby who are not employees of Kirby or any of its subsidiaries.

3. This compensation program is effective May 11, 2006 and amends and restates in its entirety the Nonemployee Director Compensation Program previously in effect.

Certification of Chief Executive Officer

In connection with the filing of the Quarterly Report on Form 10-Q for the quarter ended June 30, 2006 by Kirby Corporation, Joseph H. Pyne, President and Chief Executive Officer, certifies that:

1. I have reviewed this quarterly report on Form 10-Q of Kirby Corporation (the "Company");

2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;

3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the Company as of, and for, the periods presented in this quarterly report;

4. The Company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f) for the Company and we have:

   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;

   b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c) Evaluated the effectiveness of the Company's disclosure controls and procedures and presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this quarterly report based on such evaluation; and

   d) Disclosed in this quarterly report any change in the Company's internal control over financial reporting that occurred during the Company's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting; and

5. The Company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Company's auditors and the audit committee of the Company's board of directors:

   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information; and

   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal control over financial reporting.

/s/ JOSEPH H. PYNE

Joseph H. Pyne

President and Chief Executive Officer

Dated: August 7, 2006

Certification of Chief Financial Officer

In connection with the filing of the Quarterly Report on Form 10-Q for the quarter ended June 30, 2006 by Kirby Corporation, Norman W. Nolen, Executive Vice President, Treasurer and Chief Financial Officer, certifies that:

1. I have reviewed this quarterly report on Form 10-Q of Kirby Corporation (the "Company");

2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;

3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the Company as of, and for, the periods presented in this quarterly report;

4. The Company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f) for the Company and we have:

   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;

   b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c) Evaluated the effectiveness of the Company's disclosure controls and procedures and presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this quarterly report based on such evaluation; and

   d) Disclosed in this quarterly report any change in the Company's internal control over financial reporting that occurred during the Company's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting; and

5. The Company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Company's auditors and the audit committee of the Company's board of directors:

   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information; and

   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls over financial reporting.

/s/ NORMAN W. NOLEN

Norman W. Nolen
Executive Vice President, Treasurer
and Chief Financial Officer

Dated: August 7, 2006

Exhibit 32

Certification Pursuant to Section 13 U.S.C. Section 1350
(As adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002)

In connection with the filing of the Quarterly Report on Form 10-Q for the quarter ended June 30, 2006 (the "Report") by Kirby Corporation (the "Company"), each of the undersigned hereby certifies that:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ JOSEPH H. PYNE
Joseph H. Pyne
President and Chief Executive Officer

/s/ NORMAN W. NOLEN
Norman W. Nolen
Executive Vice President, Treasurer and Chief Financial Officer

Dated: August 7, 2006