

POLYMET MINING CORP  
Form 20-F  
May 09, 2011

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

**FORM 20-F**

REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR (g) OF THE SECURITIES EXCHANGE ACT OF 1934

OR

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

For the fiscal year ended January 31, 2011

OR

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

OR

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

Commission file number 0-18701

**POLYMET MINING CORP.**

(Formerly Fleck Resources Ltd.)

(Exact name of Registrant as specified in its charter)

British Columbia, Canada

(Jurisdiction of incorporation or organization)

Suite 390 3600 Lysander Lane, Richmond, British Columbia V7B 1C3

(Address of principal executive offices)

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(Name, telephone, e-mail and/or facsimile number and address of Company contact person)

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

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Common Shares, without par value  
(Title of Class)

Name of each exchange on which registered

**NYSE Amex  
Toronto Stock Exchange**

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

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act: None

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report. 154,825,191

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

If this report is an annual or transition report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934. []Yes []No

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

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

Indicate by check mark 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. (Check one)

Large accelerated filer [] Accelerated filer [] Non-accelerated filer []

Indicate by check mark which basis of accounting the registrant has used to prepare the financial statements included in this filing:

U.S. GAAP [] International Financial Reporting Standards as issued by the International Accounting Standards Board [] Other []

If "Other" has been checked in response to the previous question, indicate by check mark which financial statement item the registrant has elected to follow. Item 17 [] Item 18 []

If this is an annual report, indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). []Yes []No

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This Annual Report on Form 20-F (this Annual Report ) contains statements that constitute "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933 as amended and Section 21E of the Securities Exchange Act of 1934, as amended (the Exchange Act ). These statements appear in a number of different places in this Annual Report and can be identified by words such as "expects", "anticipates", "believes", "intends", "estimates", "potential", "possible", "projects", "plans", and similar expressions, or statements that events, conditions or results will, may, could, or should occur or be achieved or their negatives or other comparable words. Such forward-looking statements involve known and unknown risks, uncertainties and other factors which may cause our actual results, performance or achievements to be materially different from any future results, performance or achievements that may be expressed or implied by such forward-looking statements. The statements, including the statements contained in Item 3D Risk Factors , Item 4B Business Overview , Item 5 Operating and Financial Review and Prospects and Item 11 Quantitative and Qualitative Disclosures About Market Risk , are inherently subject to a variety of risks and uncertainties that could cause actual results, performance or achievements to differ significantly. Forward-looking statements include statements regarding the outlook for our future operations, plans and timing for our exploration and development programs, statements about future market conditions, supply and demand conditions, forecasts of future costs and expenditures, the outcome of legal proceedings, and other expectations, intentions and plans that are not historical fact. Our actual results may differ materially from those in the forward-looking statements due to risks facing us or due to actual facts differing from the assumptions underlying our predictions. Some of these risks and assumptions include:

- general economic and business conditions, including changes in interest rates and exchange rates;
- prices of natural resources, costs associated with mineral exploration and development, and other economic conditions;
- natural phenomena;
- actions by government authorities, including changes in government regulation;
- uncertainties associated with legal proceedings;
- changes in the resources market;
- future decisions by management in response to changing conditions;
- our ability to execute prospective business plans, and
- misjudgments in the course of preparing forward-looking statements.

All forward-looking statements included in this Annual Report are based on information available to us on the date of this Annual Report. We expressly disclaim any obligation to update publicly or otherwise these statements, whether as a result of new information, future events or otherwise except to the extent required by law. You should carefully review the cautionary statements and risk factors contained in this and other documents that we file from time to time with the Securities and Exchange Commission (the SEC ).

#### **ITEM 1. IDENTITY OF DIRECTORS, SENIOR MANAGEMENT AND ADVISORS**

Not required.

#### **ITEM 2. OFFER STATISTICS AND EXPECTED TIMETABLE**

Not required.

**ITEM 3. KEY INFORMATION****A. Selected Financial Data**

The following selected financial information, as of and for the years ended January 31, 2011, 2010 and 2009 have been derived from our audited consolidated financial statements, which are included elsewhere in this Annual Report. The selected financial data as of and for the years ended January 31, 2008 and 2007 have been derived from our audited consolidated financial statements not included in this Annual Report. Our consolidated financial statements are prepared in accordance with Canadian Generally Accepted Accounting Principles ("GAAP"); the application of which conforms in all material respects for the periods presented with United States ( US ) GAAP, except as disclosed in the footnotes to the financial statements. The selected financial data should be read in conjunction with the consolidated financial statements and related notes thereto and other information included elsewhere in the Annual Report.

We are in the process of transitioning to reporting under International Financial Reporting Standards ("IFRS"). Our first quarter 2012, ending April 30, 2011, will include comparative information under IFRS.

Selected Financial Data  
(US\$ in 000 s, except loss per share and weighted average shares)

	Year Ended 1/31/11	Year Ended 1/31/10	Year Ended 1/31/09	Year Ended 1/31/08	Year Ended 1/31/07
Revenue	\$	\$	\$	\$	\$
Income (loss) from Operations	\$	\$	\$	\$	\$
Net Loss	\$ (7,283)	\$ (9,023)	\$ (5,523)	\$ (4,124)	\$ (18,126)
Loss Per Share	\$ (0.05)	\$ (0.06)	\$ (0.04)	\$ (0.03)	\$ (0.16)
Diluted Net Loss Per Share	\$ (0.05)	\$ (0.06)	\$ (0.04)	\$ (0.03)	\$ (0.16)
Dividends Per Share	\$	\$	\$	\$	\$
Weighted Average Shares	149,444,955	139,456,827	137,187,927	133,697,572	114,754,213
Working Capital	\$ 779	\$ 16,313	\$ 3,582	\$ 16,558	\$ 5,240
Total Assets	\$ 145,032	\$ 139,648	\$ 101,599	\$ 88,485	\$ 48,451
Long-Term and Convertible Debt	\$ 29,408	\$ 33,782	\$ 24,006	\$ 10,834	\$ 11,853
US GAAP Long-Term and Convertible Debt <sup>1</sup>	\$ 29,658	\$ 34,032	\$ 24,256	\$ 10,834	\$ 11,853
Shareholders Equity	\$ 102,618	\$ 97,567	\$ 70,335	\$ 68,437	\$ 29,658
US GAAP Shareholders Equity	\$ 102,368	\$ 97,317	\$ 70,085	\$ 68,437	\$ 29,658
Capital Stock	\$ 142,373	\$ 132,066	\$ 105,312	\$ 104,615	\$ 72,923

1 Under Canadian GAAP, we include the fair value of the conversion ability as shareholders equity. Under US GAAP, this amount is included in convertible debt.

Unless otherwise indicated, all monetary amounts in this Annual Report are expressed in United States dollars, our reporting currency.

#### **D. Risk Factors**

*Factors that could cause our actual results to differ materially from those described in the forward-looking statements contained in this Annual Report and other documents we file with the Securities and Exchange Commission include the risks described below. You should also refer to the other information in this Annual Report, including the consolidated financial statements and accompanying notes thereto.*

#### **RISKS RELATING TO OUR BUSINESS**

##### **We may experience delays, higher than expected costs, difficulties in obtaining environmental permits and other obstacles when implementing our capital expenditure projects.**

We are investing heavily in various facets of our NorthMet Project. Our project is subject to a number of risks that may make it less successful than anticipated, including:

- delays or higher than expected costs completing the environmental review process necessary before construction and operating permits can be issued;
- delays in the issuance of permits after completion of the environmental review process;
- delays or higher than expected costs in obtaining the necessary equipment or services to build and operate our projects, and
- adverse mining conditions may delay and hamper our ability to produce the expected quantities of minerals.

##### **Our future activities could be subject to environmental laws and regulations which may have a materially adverse effect on our future operations, in which case our operations could be suspended or terminated.**

We are subject to a variety of federal, provincial, state and local statutes, rules and regulations designed to, among other things:

- protect the environment, including the quality of the air and water in the vicinity of exploration, development, and mining operations;
- remediate the environmental impacts of those exploration, development, and mining operations;
- protect and preserve wetlands and endangered species, and
- mitigate negative impacts on certain archeological and cultural sites.

We are required to obtain various governmental permits to conduct exploration, development, construction and mining activities at our properties. Obtaining the necessary governmental permits is often a complex and time-consuming process involving numerous U.S. or Canadian federal, provincial, state, and local agencies. The duration and success of each permitting effort is contingent upon many variables not within our control. In the context of obtaining permits or approvals, we must comply with known standards, existing laws, and regulations that may entail greater or lesser costs and delays depending on the nature of the activity to be permitted and the interpretation of the laws and regulations implemented by the permitting authority. The failure to obtain certain permits or the adoption of more stringent permitting requirements could have a material adverse effect on our business, operations, and properties and we may be unable to proceed with our exploration and development programs.

Federal legislation and implementing regulations adopted and administered by the U.S. Environmental Protection Agency, Army Corp of Engineers, Forest Service, Bureau of Land Management, Fish and Wildlife Service, Mine Safety and Health Administration, and other federal agencies, and legislation such as the Federal Clean Water Act, Clean Air Act, National Environmental Policy Act, Endangered Species Act, and Comprehensive Environmental Response, Compensation, and Liability Act, have a direct bearing on U.S. exploration, development and mining operations. Due to the uncertainties inherent in the permitting process, we cannot be certain that we will be able to obtain required approvals for proposed activities at any of our properties in a timely manner, or that our proposed

activities will be allowed at all.

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The process of obtaining federal and local regulatory approvals is increasingly cumbersome, time-consuming, and expensive, and the cost and uncertainty associated with the permitting process could have a material adverse effect on exploring, developing or mining our properties. Moreover, compliance with statutory environmental quality requirements described above may require significant capital outlays, significantly affect our earning power, or cause material changes in our intended activities. Environmental standards imposed by federal, state, or local governments may be changed or become more stringent in the future, which could materially and adversely affect our proposed activities.

**Because the price of metals fluctuate, if the prices of metals in our ore body decrease below a specified level, it may no longer be profitable to develop our NorthMet Project for those metals and we will cease operations.**

Prices of metals are determined by some of the following factors:

- expectations for inflation;
- the strength of the United States dollar;
- global and regional supply and demand, and
- political and economic conditions and production costs in major metals producing regions of the world.

The aggregate effect of these factors on metals prices is impossible for us to predict. In addition, the prices of metals are sometimes subject to rapid short-term and/or prolonged changes because of speculative activities. The current demand for and supply of various metals affect the prices of copper, nickel, cobalt, platinum, palladium and gold, but not necessarily in the same manner as current supply and demand affect the prices of other commodities. The supply of these metals primarily consists of new production from mining. If the prices of copper, nickel, cobalt, platinum, palladium and gold are, for a substantial period, below our foreseeable costs of production, we could cease operations.

**We are dependent on our key personnel.**

Our success depends on key members of our management. The loss of the services of one or more of such key management personnel could have a material adverse effect us. Our ability to manage exploration and development activities, and hence our success, will depend in large part on the efforts of these individuals. We face intense competition for qualified personnel, and we cannot be certain that we will be able to attract and retain such personnel.

**We may not be able to raise the funds necessary to develop our mineral properties. If we are unable to raise such additional funds, we will have to suspend or cease operations.**

We will need to seek additional financing to complete our development and construction of the NorthMet Project. Sources of such external financing include future equity offerings, advance payments by potential customers to secure long-term supply contracts, grants and low-cost debt from certain state financial institutions, and commercial debt secured by the NorthMet Project. The failure to obtain such additional financing could have a material adverse effect on our results of operations and financial condition. We may not be able to secure the financing necessary to sustain exploration and development activities in the future. If we cannot raise the money necessary to continue to explore and develop our property, we will have to suspend or cease operations.

**Our metals exploration and development efforts are highly speculative in nature and may be unsuccessful.**

As a development stage company, our work is speculative and involves unique and greater risks than are generally associated with operating businesses.

The development of mineral deposits involves uncertainties, which careful evaluation, experience, and knowledge cannot eliminate. Although the discovery of an ore body may result in substantial rewards, few properties explored are ultimately developed into producing mines. It is impossible to ensure that the current development program we have planned will result in a profitable commercial mining operation. Significant capital investment is required to achieve commercial production from successful exploration efforts.

**We are subject to all the risks inherent to mineral industry, which may have an adverse affect on our business operations.**

We are subject to all of the risks inherent in the mining industry, including, the following:

- Success in discovering and developing commercially viable quantities of minerals is the result of a number of factors, including the quality of management, the interpretation of geological data, the level of geological and technical expertise and the quality of land available for exploration;
- Exploration for minerals is highly speculative and involves substantial risks, even when conducted on properties known to contain significant quantities of mineralization, and most exploration projects do not result in the discovery of commercially mineable deposits of ore;
- Operations are subject to a variety of existing laws and regulations relating to exploration and development, permitting procedures, safety precautions, property reclamation, employee health and safety, air and water quality standards, pollution and other environmental protection controls, all of which are subject to change and are becoming more stringent and costly to comply with;
- A large number of factors beyond our control, including fluctuations in metal prices and production costs, inflation, the proximity and liquidity of precious metals and energy fuels markets and processing equipment, government regulations, including regulations relating to prices, taxes, royalties, land tenure, land use, importing and exporting of minerals and environmental protection, and other economic conditions, will affect the economic feasibility of mining;
- Substantial expenditures are required to construct mining and processing facilities;
- Title to mining properties may be subject to other claims, and
- In the development stage of a mining operation, our mining activities could be subject to substantial operating risks and hazards, including metal bullion losses, environmental hazards, industrial accidents, labor disputes, encountering unusual or unexpected geologic formations or other geological or grade problems, encountering unanticipated ground or water conditions, cave-ins, pit-wall failures, flooding, rock falls, periodic interruptions due to inclement weather conditions or other unfavorable operating conditions and other acts of God. Some of these risks and hazards are not insurable or may be subject to exclusion or limitation in any coverage which we obtain or may not be insured due to economic considerations.

As a result of all of these factors, we may run out of money, in which case we will have to suspend or cease operations.

**Our actual mineral reserves and mineral resources may not conform to our established estimates.**

The figures for mineral reserves and mineral resources stated in this Annual Report are estimates and no assurances can be given that the anticipated tonnages and grades will be achieved or that the indicated level of recovery will be realized. Market fluctuations and the prices of metals may render reserves and mineral resources uneconomic. Moreover, short-term operating factors relating to the mineral deposits, such as the need for the orderly development of the deposits or the processing of new or different grades of ore, may cause a mining operation to be unprofitable in any particular accounting period.

**There is no assurance that any of our mineral resources, not currently classified as mineral reserves, will ever be classified as mineral reserves under the disclosure standards of the SEC.**

Item 4.D of this Annual Report discusses our mineral resources in accordance with Canadian National Instrument 43-101 Standards of Disclosure for Mineral Projects ( NI 43-101 ). Resources are classified as measured resources , indicated resources and inferred resources under NI 43-101. However, U.S. investors are cautioned that the SEC does not recognize these resource classifications. There is no assurance that any of our mineral resources, not currently classified as mineral reserves, will be converted into mineral reserves under the disclosure standards of the SEC.

**We have had no production history and we do not know if we will generate revenues in the future.**

While we were incorporated in 1981, we have no history of producing minerals. We have not developed or operated any mines, and we have no operating history upon which an evaluation of our future success or failure can be made. We currently have no mining operations of any kind. Our ability to achieve and maintain profitable mining operations is dependent upon a number of factors, including our ability to either attract a partner to operate, or to successfully build and operate mines, processing plants and related infrastructure ourselves.

We are subject to all the risks associated with establishing new mining. We may not successfully establish mining operations or profitably produce metals at any of our properties. As such, we do not know if we will ever generate revenues.

**We have a history of losses which we expect will continue for the future. If we do not begin to generate revenues or find alternate sources of capital, we may either have to suspend or cease operations.**

As a development stage company with no holdings in any producing mines, we continue to incur losses and expect to incur losses in the future. As of January 31, 2011, we had an accumulated deficit of \$78.832 million. We may not be able to achieve or sustain profitability in the future. If we do not begin to generate revenues or find alternate sources of capital, we may either have to suspend or cease operations.

**We may not have adequate or any insurance coverage for some business risks that could lead to economically harmful consequences to us.**

Our businesses are generally subject to a number of risks and hazards, including:

- industrial accidents;
- railroad accidents;
- labor disputes;
- environmental hazards;
- electricity stoppages;
- equipment failure, and
- severe weather and other natural phenomena.

These occurrences could result in damage to, or destruction of, mineral properties, production facilities, transportation facilities, or equipment. They could also result in personal injury or death, environmental damage, waste of resources or intermediate products, delays or interruption in mining, production or transportation activities, monetary losses and possible legal liability. The insurance we maintain against risks that are typical in our business may not provide adequate coverage. Insurance against some risks (including liabilities for environmental pollution or certain hazards or interruption of certain business activities) may not be available at a reasonable cost or at all. As a result, accidents or other negative developments involving our mining, production or transportation facilities could have a material adverse effect on our operations.



**The mining industry is an intensely competitive industry, and we may have difficulty effectively competing with other mining companies in the future.**

We face intense competition from other mining and producing companies. In recent years, the mining industry has experienced significant consolidation among some of our competitors, as a result these companies may be more diversified than us. We cannot assure you that the result of current or further consolidation in the industry will not adversely affect us.

In addition, because mines have limited lives we must periodically seek to replace and expand our reserves by acquiring new properties. Significant competition exists to acquire properties producing or capable of producing copper, nickel and other metals.

If we are unable to successfully manage these risks, our growth prospects and profitability may suffer.

**We may be subject to risks relating to the global economy.**

Recent market events and conditions, including disruptions in the international credit markets and other financial systems and the deterioration of global economic conditions could impede our access to capital or increase the cost of capital. Since 2008 the U.S. credit markets have experienced a serious disruption due to, among other things, deterioration in residential property values, defaults and delinquencies in the residential mortgage market and a decline in the credit quality of mortgage backed securities. These problems led to a slow-down in residential housing market transactions, declining housing prices, delinquencies in non-mortgage consumer credit and a general decline in consumer confidence. These conditions caused a loss of confidence in the broader U.S. and global credit and financial markets and resulting in the collapse of, and government intervention in, major banks, financial institutions and insurers and creating a climate of greater volatility, less liquidity, widening of credit spreads, a lack of price transparency, increased credit losses and tighter credit conditions. Notwithstanding various actions by the U.S. and foreign governments, concerns about the general condition of the capital markets, financial instruments, banks, investment banks, insurers and other financial institutions caused the broader credit markets to further deteriorate and stock markets to decline substantially.

These unprecedented disruptions in the current credit and financial markets have had a significant material adverse impact on a number of financial institutions and have limited access to capital and credit for many companies. These disruptions could, among other things, make it more difficult us to obtain, or increase its cost of obtaining capital and financing for its operations. Our access to additional capital may not be available on terms acceptable to it or at all.

We are also exposed to liquidity risks in meeting our operating and capital expenditure requirements in instances where cash positions are unable to be maintained or appropriate financing is unavailable. These factors may impact our ability to obtain loans and other credit facilities in the future and, if obtained, on terms favourable to us. If these increased levels of volatility and market turmoil continue, our operations could be adversely affected and the trading price of our shares could be adversely affected. As a result of current global financial conditions, numerous financial institutions have gone into bankruptcy or have been rescued by government authorities. As such, we are subject to the risk of loss of its deposits with financial institutions that hold our cash.

**RISKS RELATED TO THE OWNERSHIP OF OUR SHARES**

**We may experience volatility in our share price.**

Our common shares are listed for trading on the Toronto Stock Exchange and on the NYSE Amex. Our shareholders may be unable to sell significant quantities of our common shares into the public trading markets without a significant reduction in the price of the shares, if at all. The market price of our common shares may be affected significantly by factors such as changes in our operating results, the availability of funds, fluctuations in the price of metals, the

interest of investors, traders and others in development stage public companies such as us and general market conditions. In recent years the securities markets have experienced a high level of price and volume volatility, and the market price of securities of many companies, particularly small capitalization development companies similar to us, have experienced wide fluctuations, which have not necessarily been related to the operating performances, underlying asset values, or the future prospects of such companies. There can be no assurance that future fluctuations in the price of our shares will not occur.

**A large number of shares will be eligible for future sale and may depress our share price.**

Our shares that are eligible for future sale may have an adverse effect on the price of our common shares. As of January 31, 2011 there were 154,825,791 of our common shares outstanding. The average trading volume for the three months prior to January 31, 2011 was approximately 113,000 shares per day on the Toronto Stock Exchange and 519,000 shares per day on the NYSE Amex. Sales of substantial amounts of our common shares, or a perception that such sales could occur, and the existence of options or warrants to purchase common shares at prices that may be below the then current market price of our common shares, could adversely affect the market price of our common shares and could impair our ability to raise capital through the sale of our equity securities.

**Your ownership interest, voting power and the market price of our common shares may decrease because we have issued, and may continue to issue, a substantial number of securities convertible or exercisable into our common shares.**

We have issued common shares and options, and warrants to purchase our common shares to satisfy our obligations and fund our operations (see Item 5.A). Since we currently do not have a source of revenue, we will likely issue additional common shares, options, warrants or other securities exercisable for or convertible into our common shares to raise money for our continued operations or as non-cash incentives to our own and our subsidiaries' directors, officers, and key employees. If conversions of warrants and/or options into common shares or additional sales of equity occur, your ownership interest and voting power in us will be diluted and the market price of our common shares may decrease.

Under our 2007 Omnibus Share Compensation Plan (the Plan ), the aggregate number of our common shares that may be issuable pursuant to the Plan may not at any time exceed the greater of (i) 10% of our issued and outstanding common shares and (ii) 18,592,888 common shares, representing 13.62% of our outstanding common shares at the time of the approval of the Plan, of which 4,640,000 common shares are reserved for issuance as awards other than options. As of January 31, 2011 the aggregate number of Common Shares issuable pursuant to the Plan was 13,952,888 shares. Our bonus share incentive plan (the Bonus Plan ) was established for our directors and key employees. Under the Bonus Plan we may issue an additional 3,640,000 shares upon achieving certain milestones.

Upon any issuances or exercise of options issued, the ownership interests and voting power of existing shareholders may be further diluted.

**We have a Shareholders Rights Plan Agreement and certain employment and management contracts that contain provisions designed to discourage a change of control.**

A Shareholders Rights Plan between us and shareholders effective as of June 27, 2007 and modified on June 17, 2008 and certain employment and management agreements contain provisions that could discourage an acquisition or change of control without our board of directors approval. Under the Shareholders Rights Plan, if a shareholder individually or in concert with other shareholders acquires 20% or more of our outstanding common shares without complying with the Shareholders Rights Plan or without the approval of our board of directors, all holders of record will have a right to receive one common share for each common share owned. We have also entered into agreements with certain key employees and officers that contain severance provisions in the event of a take-over bid. The Shareholders Rights Plan and the preceding agreements may make it more difficult for a third party to acquire control of us, even if such a change of control is more beneficial to shareholders.

## **Conflicts of Interest**

Certain of our directors, officers or promoters are directors, officers, significant shareholders or promoters of other U.S. and Canadian publicly traded companies. As a result, potential conflicts of interest may arise with respect to the exercise by such persons of their respective duties for us. In the event that such a conflict of interest arises at a meeting of our directors, a director who has such a conflict will abstain from voting for or against the approval of such participation or such terms. In the appropriate cases, we will establish a special committee of independent directors to review a matter in which several directors, or management, may have a conflict. Other than as indicated, we have no other procedures or mechanisms to deal with conflicts of interest. We are not aware of any conflicts of interest at the present time.

**Because we believe that we will be classified as a passive foreign investment company (a PFIC), U.S. holders of our common shares may be subject to United States federal income tax consequences that are worse than those that would apply if we were not a PFIC.**

Because we believe that we will be classified as a passive foreign investment company, U.S. holders of our common shares may be subject to United States federal income tax consequences that are worse than those that would apply if we were not a PFIC, such as ordinary income treatment plus a charge in lieu of interest upon a sale or disposition of our common shares even if the shares were held as a capital asset. See Certain United States Federal Income Tax Consequences .

## **Absence of Dividends**

We have never declared or paid cash dividends on our common shares and do not anticipate doing so in the foreseeable future. There can be no assurance that our board of directors will ever declare cash dividends, which action is exclusively within its discretion. Investors cannot expect to receive a dividend on our common shares in the foreseeable future, if at all.

## **Increased Costs and Compliance Risks as a Result of Being a Public Company**

Legal, accounting and other expenses associated with public company reporting requirements have increased significantly in the past few years. We anticipate that general and administrative costs associated with regulatory compliance will continue to increase as a result of governance requirements, including requirements under the Sarbanes-Oxley Act of 2002, as well as new rules implemented by the SEC, Canadian Securities Administrators and the TSX. We expect these rules and regulations to significantly increase its legal and financial compliance costs and to make some activities more time consuming and costly. There can be no assurance that we will continue to effectively meet all of the requirements of these regulations, including Sarbanes-Oxley Section 404 and Canadian National Instrument 52-109 Financial Disclosure ( NI 52-109 ). Any failure to effectively implement new or improved internal controls, or to resolve difficulties encountered in their implementation, could harm our operating results, cause us to fail to meet reporting obligations or result in management being required to give a qualified assessment of our internal controls over financial reporting or our independent registered public accounting firm providing an adverse opinion regarding management's assessment. Any such result could cause investors to lose confidence in our reported financial information, which could have a material adverse effect on our share price. We also expect these rules and regulations may make it more difficult and more expensive for us to obtain director and officer liability insurance, and it may be required to accept reduced policy limits and coverage or incur substantially higher costs to obtain the same or similar coverage. As a result, it may be more difficult for us to attract and retain qualified individuals to serve on our board of directors or as executive officers. If we fail to maintain the adequacy of our internal controls, our ability to provide accurate financial statements and comply with the requirements of the Sarbanes-Oxley Act and/or NI 52-109 could be impaired, which could cause our share price to decrease.



**ITEM 4. INFORMATION ON THE COMPANY**

**A. History and Development of the Company**

PolyMet Mining Corp. was incorporated under the British Columbia *Companies Act* and continued under the *Business Corporations Act* (British Columbia) in British Columbia, Canada on March 4, 1981, under the name Fleck Resources Ltd., which we changed to PolyMet Mining Corp. on June 10, 1998.

Our principal executive office is situated at Suite 390 3600 Lysander Lane, Richmond, B.C. V7B 1C3. Our phone number is (604) 248-0939. Our registered and records office is located at our legal counsel's offices situated at 2500 700 West Georgia Street, Vancouver, B.C. V7Y 1B3, Canada. Our operational headquarters are located at P.O. Box 475, 6500 County Road 666, Hoyt Lakes, Minnesota 55750-0475, United States.

We are a reporting issuer in the following Canadian provinces: Alberta, British Columbia, and Ontario. Our common shares have been listed on the Toronto Stock Exchange (TSX) since February 1, 2007 and, formerly, on the TSX Venture Exchange (TSX-V) (formerly the Vancouver Stock Exchange) from April 13, 1984 to January 31, 2007 under the symbol "POM" and since June 26, 2006 our common shares have been listed on the NYSE Amex (formerly the American Stock Exchange) under the symbol PLM .

Our registrar and transfer agent is Computershare Investor Services Inc. of 9th Floor, 100 University Avenue, Toronto, Ontario M5J 2Y1, Canada.

During the years ended January 31, 2011, 2010, and 2009 we spent \$16.519 million, \$17.754 million, and \$22.776 million, respectively to acquire property, advance the environmental review, and perform work following completion of our Definitive Feasibility Study on our NorthMet Project located in Minnesota, USA.

All of these expenses were incurred at our NorthMet Project and were funded from the proceeds of equity and convertible debt financings. Since completion of Definitive Feasibility Study in September 2006, these expenditures and the Erie Plant acquisition have been capitalized.

## **B. Business Overview**

We are a development stage company engaged in the exploration and development of natural resource properties. Currently our sole mineral property is the NorthMet Project, a polymetallic deposit located in northeastern Minnesota, USA.

In the years ended January 31, 2011, 2010 and 2009, we conducted exploration, development and acquisition activities only and did not conduct any operations that generated revenues. Thus, we rely principally on equity or debt convertible into equity financings to fund our projects and expenditures.

Since 2003, we have focused on commencing commercial production on our NorthMet Project. We have focused our efforts on four main areas:

Acquisition of the Erie Plant. The Erie Plant is a large processing facility and associated infrastructure located approximately six miles west of our NorthMet deposit. On November 15, 2005 and December 20, 2006 we entered into a total of three Contracts for Deed with Cliffs Erie LLC, a subsidiary of Cliffs Natural Resources Inc. (formerly Cleveland Cliffs, Inc.) of Cleveland, Ohio ( Cliffs ), under which we now own a large processing facility, a tailings disposal facility, and extensive associated infrastructure located approximately six miles west of our NorthMet deposit. In combination, the Erie Plant includes a 100,000 ton-per-day crushing and milling facility, a railroad and railroad access rights connecting the Erie Plant to the NorthMet deposit, as well as 120 railcars, locomotive fueling and maintenance facilities, water rights and pipelines, large administrative offices on site and approximately 6,000 acres to the east and west of the Erie Plant, contiguous to the existing tailing facilities.

Environmental and permitting. To commence commercial production at NorthMet, various regulatory approvals are needed. In October 2005, the Minnesota Department of Natural Resources ("MDNR") published its Environmental Assessment Worksheet Decision Document establishing the MDNR as the lead state agency and the US Army Corps of Engineers ( USACE") as the lead federal agency (together the Lead Agencies ) for preparation of an Environmental Impact Statement ( EIS ) for the project.

In October 2009, the Lead Agencies published the PolyMet Draft EIS, which marked that start of a period for public review and comment that ended on February 3, 2010. During this period, the Lead Agencies held two public meetings and received more than 3,700 submissions containing approximately 22,000 separate comments, including an extensive comment letter from the US Environmental Protection Agency ( EPA ) in its role as reviewer of projects that could impact the environment.

On June 25, 2010 the Lead Agencies announced that they intended to complete the EIS process by preparing a Supplemental Draft EIS that incorporates a proposed land exchange with the US Forest Service ("USFS") Superior National Forest and expands government agency cooperation. The USFS joined the USACE as a federal co-lead agency through the completion of the EIS process. In addition, the EPA has joined the effort as a cooperating agency. The MDNR remains the state co-lead agency.

On October 13, 2010 the USACE and the USFS published a Notice of Intent to complete the Supplemental Draft EIS, which will:

- Supplement and supersede the Draft EIS and respond to concerns identified by the US EPA and other comments on the Draft EIS, and
- Incorporate potential effects from the proposed land exchange between the USFS Superior National Forest and PolyMet.

Once the Supplemental Draft EIS is completed, it will be made available for public review prior to preparation of the Final EIS. Completion of the Final EIS and a subsequent Adequacy Decision by the MDNR and Record of Decision

by the federal agencies are necessary before the land exchange can occur and various permits required to construct and operate the NorthMet Project can be issued.

Prior to receipt of these permits, we intend to secure production debt financing that would be available upon receipt of key permits, with construction slated to start upon availability of construction finance.

Engineering and feasibility. We retained Bateman Engineering Pty. of Brisbane, Australia ( Bateman ) as the coordinating consultant to prepare a Definitive Feasibility Study (the DFS ). In September 2006 we reported that the DFS confirmed the economic and technical viability of our NorthMet Project.

Bateman was responsible for completing the process design and detail engineering and cost estimates for the plant and infrastructure. This work was supported by other firms that provided geo-statistical reviews of the ore body, mine planning and scheduling of ore and waste, and assessment of the market for the metals and intermediate products planned to be produced.

Since September 2006 we have completed additional drilling and expanded the reserves. In May 2008 we completed an internal update of the DFS (the DFS Update ) which contemplates an initial stage in which we would sell concentrate during completion of construction and commissioning of the hydrometallurgical plant that was contemplated in the DFS. This approach has the advantage of staging capital costs so that the hydrometallurgical plant can be funded in part from cash flow from sales of concentrate, and it reduces our reliance on delivery of long lead-time equipment before we start commercial production.

In February 2011 we announced that we plan to build the NorthMet Project in two phases, the first to produce and market concentrates containing copper, nickel, cobalt and precious metals, and the second to process the nickel concentrate through a single autoclave, resulting in production and sale of high grade copper concentrate, value added nickel-cobalt hydroxide, and precious metals precipitate products.

Financing and corporate development. Since 2003 we have raised approximately \$115 million from equity private placement financings.

In October 2008, we entered into a strategic partnership with Glencore AG ( Glencore ) whereby Glencore agreed (i) to purchase up to \$50 million of our floating rate secured debentures, of which \$25 million has been issued, which are exchangeable into our common shares, and (ii) to purchase all of our production of concentrates, metal, or intermediate products on market terms at the time of delivery, for at least the first five years of production. We also appointed a senior technical representative of Glencore to join our Technical Steering Committee and another officer of Glencore, Stephen Rowland, was appointed to our Board of Directors.

\$7.5 million of the Debentures were issued in October 2008, \$7.5 million were issued in December 2008, \$5.0 million were issued in June 2009, and \$5 million were issued in August 2009. The final \$25 million was not issued.

In November 2009 we entered into an agreement with Glencore whereby, in two installments, Glencore purchased \$25 million of our common shares at \$2.65 per share.

In November 2010, we entered into a further agreement with Glencore whereby Glencore agreed to purchase 15 million shares of our common stock at \$2.00 per share in three tranches over the next two years. In addition, Glencore agreed to extend the maturity date of the \$25 million (initial principal) debentures issued to Glencore under the 2008 financing to September 30, 2012 and cancelled the final \$25 million debenture financing commitment and the 6.25 million share purchase warrants issued as part of the 2008 financing. We issued warrants to purchase 3 million shares at \$2.00 per share at any time until December 31, 2015 as compensation for the other changes. On January 17, 2011 Glencore funded the first \$10 million tranche of the November 2010 financing agreement and we issued 5 million of our common shares to Glencore.



At our annual shareholders' meeting on July 7, 2010, Messrs. Corneliuson and Swearingen did not stand for re-election to our Board of Directors owing to personal commitments. Effective December 31, 2010, Mr. Murray stepped down as Executive Chairman and Mr. Molyviatis resigned from our Board. Mr. Murray continues to serve as a non-management director. Messrs. Forrest and Sims, both independent directors, now serve as our independent co-Chairmen. Mr. Forrest continues as Chair of the Audit and Compensation Committees and Mr. Sims continues as Chair of the Corporate Governance Committee.

### **C. Organizational Structure**

Poly Met Mining, Inc., incorporated in Minnesota, USA on February 16, 1989, is our only material wholly owned operating subsidiary.

### **D. Property, Plant and Equipment**

#### Property - NorthMet Project, Minnesota, USA

Our primary mineral property is the NorthMet Project, a polymetallic project located in northeastern Minnesota, USA. Our Erie Plant facility is located approximately six miles west of the NorthMet ore body.

In the years ended January 31, 2011, 2010 and 2009, we conducted exploration, development and acquisition activities only and did not conduct any operations.

#### **(a) History**

The NorthMet Project is located immediately south of the eastern end of the historic Mesabi Iron Range in northeastern Minnesota. Mining in the Iron Range dates back to the 1880 s when high grade iron ore known as hematite was first mined commercially. During the 1940 s and 1950 s, with reserves of hematite dwindling, the iron industry began to focus on taconite, a lower-grade iron ore. Eight large crushing, grinding, milling and pelletizing facilities were built by various iron and steel companies to process the taconite, including the Erie Plant that we acquired in November 2005.

In the 1940s, copper and nickel were discovered nearby, following which, in the 1960s, United States Steel Corporation ( US Steel ) drilled what is now our NorthMet property. US Steel investigated the deposit as a high-grade, underground copper-nickel resource, but considered it to be uneconomic based on its inability to produce separate, clean nickel and copper concentrates with the metallurgical processes available at that time. In addition, prior to the development of the autocatalyst market in the 1970s, there was little market for platinum group metals (PGMs) and there was no economic and reliable method to assay for low grades of these metals.

In 1987, the Minnesota Natural Resources Research Institute ( NRRI ) published data suggesting the possibility of a large resource of PGMs in the base of the Duluth Complex. In 1989, we acquired a 20-year renewable mining lease over the property from US Steel and commenced an investigation into the potential for mining and recovery of copper, nickel, and PGMs. We re-assayed pulps and rejects from the previous US Steel drilling to obtain data on the PGMs. Sequentially we entered into joint venture agreements with Nerco and Argosy Mining, which assisted in identifying and quantifying potential PGM values. However, the challenge of producing separate concentrates of saleable copper and nickel remained.

In the mid-90 s, we began investigating the use of alternative metallurgical processes, including bio-leaching and pressure oxidation. In 1998 we focused on a hydrometallurgical technology that uses autoclaves, which are vessels operating at high temperature, high pressure, and in an oxygen-enriched environment, to oxidize the sulfidic ores and leach the metals therein. This technology was developed in the 1950s and has been used commercially in the copper, nickel, cobalt, and gold mining industries since the 1980s.



In July 2000, we entered into a joint venture arrangement with North Limited ( North ), a major Australian mining company, to advance the NorthMet Project to commercial production. Under the joint venture arrangement, North had the opportunity to earn an 87.5% interest in the NorthMet Project by producing a feasibility study and funding 100% of the total capital costs to develop the project.

In August 2000, Rio Tinto Limited ( Rio Tinto ) acquired North. Subsequently, Rio Tinto decided not to proceed with the NorthMet Project and we exercised our 30-day pre-emptive right, under a change of control clause, to terminate the joint venture arrangement. As a result, we regained a 100% interest in the NorthMet Project.

Following completion of metallurgical pilot plant work in November 2000, we commissioned a pre-feasibility study on the project that was completed in April 2001. The pre-feasibility study contemplated a 50,000 metric tonne-per-day (55,000 short tpd) operation and anticipated the construction of a new, stand-alone processing plant to produce copper, nickel and cobalt metals on site. The study found the economics of the NorthMet Project were unacceptably low owing to the capital cost of building a new plant facility combined with low metal prices prevailing at that time. No further work was done until March 2003, when a new management team took over our company and commenced a detailed review of the project.

The new management team believed that acquisition of the Erie Plant had the potential to substantially reduce the capital cost and to simplify the permitting process which could improve the project economics.

By a Memorandum of Understanding dated December 5, 2003 and an option agreement dated February 14, 2004, we obtained an option (the Cliffs Option ) to acquire certain property, plant, and equipment ( Cliffs Assets ) from Cliffs Erie LLC, a wholly owned subsidiary of Cliffs, located near our NorthMet Project. As consideration for the Cliffs Option, we paid \$500,000 prior to January 31, 2004 and issued to Cliffs 1,000,000 shares of our common stock on March 30, 2004, valued at \$229,320 to maintain our exclusive rights until June 30, 2006. On September 15, 2005 we reached an agreement with Cliffs on the terms for the early exercise of our option to acquire 100% ownership of large portions of the former LTV Steel Mining Company ore processing plant in northeastern Minnesota (the Asset Purchase Agreement ). Under this agreement we agreed to pay Cliffs \$1 million in cash, 6.2 million of our shares, and make quarterly payments of \$250,000 starting on March 31, 2006 for a total of \$2.4 million plus interest at 4% per annum on the outstanding balance. The final payment was made on June 30, 2008.

On November 15, 2005, we consummated the Asset Purchase Agreement and completed the acquisition thereunder. The property, plant, and equipment assets we now own includes land, crushing and milling equipment, extensive spare parts, plant site buildings, real estate, tailings impoundments and workshops, as well as access to extensive mining infrastructure.

On September 14, 2006, we entered into an agreement through two separate contracts for deed with Cliffs whereby we would acquire property and associated rights ( Cliffs II. ) We closed the transaction on December 20, 2006. The transaction provides us with a railroad connection linking the mine development site and the Erie Plant as well as a 120-railcar fleet, locomotive fueling and maintenance facilities, water rights and pipelines, large administrative offices on site and approximately 6,000 acres to the east and west of and contiguous to our existing tailings facilities.

The purchase price for this additional infrastructure consisted of 2 million of our common shares and US\$15 million in cash to be issued and paid in four tranches:

- 2 million of our common shares;
- \$1 million in cash was paid at closing;
- \$7 million in cash is payable in quarterly installments of \$250,000 commencing December 31, 2006 with the balance payable upon receipt of commercial financing. Interest on the outstanding amount is payable quarterly from December 31, 2006 at the *Wall Street Journal* Prime Rate. As of March 31, 2011 the remaining balance was \$2.5 million; and



- \$7 million in cash is payable in quarterly installments of \$250,000 commencing on December 31, 2009 with a balloon payment of any unpaid balance due on December 31, 2011. Interest began to accrue on the outstanding amount beginning on December 31, 2009 and is now payable quarterly at the *Wall Street Journal* Prime Rate. As of March 31, 2010 the remaining balance was \$5.5 million.

We also assumed certain liabilities associated with the property.

As of January 31, 2011, we have expended \$130 million primarily on the acquisition of the Erie Plant and related infrastructure. Under the Asset Purchase Agreement we have paid \$3.4 million plus interest and owe Cliffs \$nil. Under Cliffs II we have paid \$5.5 million plus interest and owe \$8.5 million.

Since inception, we have a cumulative deficit of \$78.8 million, much of which has been incurred directly and indirectly in connection with our NorthMet Project. These expenditures supported drilling, sampling, assaying, environmental, metallurgical testing, and the pre-feasibility studies.

The following diagram illustrates the location of the NorthMet Project.

Figure No. 1  
NorthMet Project Map

**(b) Location / Access / Climate**

The NorthMet Project covers a total of 16,700 acres or 25.9 square miles comprising two areas: the NorthMet mine site totaling approximately 4,300 acres or 6.5 square miles of leased mineral rights and the Erie Plant site totaling 12,400 acres of freehold land located approximately six miles west of the mine site. The property is located in St. Louis County in the Mesabi Range District about 60 miles north of Duluth, Minnesota. The NorthMet Project is easily accessible via state and county roads. The surfaced County Highway 666 links the plant to the town of Hoyt Lakes, itself approximately 25 miles east of Virginia, Minnesota which is located on State Highway 53. The mine site is accessible by an all-season gravel road from the plant site and a private railroad crosses the property immediately south of the deposit and runs to the plant site. The plant site is serviced by commercial railroad which connects into the US national and Trans-Canadian railroad systems, as well as a private railroad providing access to port facilities located on Lake Superior. Three high-voltage power lines owned by Minnesota Power supply the plant site and there is ready access to industrial electric power at the mine site.

The northern Minnesota climate is continental, characterized by wide variations in temperature. The temperature in the nearby town of Babbitt averages -14°C (7°F) in January and 19°C (66°F) in July. The average annual precipitation is 28 inches with approximately 30% during the months from November to April and 70% from May through October.

**(c) Claims and ownership**

**(i) NorthMet Leases**

Pursuant to two lease agreements, we lease certain lands covering 4,282 acres or 6.5 square miles located in St. Louis County, Minnesota, known as the NorthMet Project:

- Pursuant to an agreement dated January 4, 1989, subsequently amended and assigned, we lease 4,162 acres from RGGGS Land & Minerals Ltd., L.P ( RGGGS ). During the year ended January 31, 2005, US Steel assigned the lease to RGGGS. The initial term of the renewable lease was 20 years and called for total lease payments of \$1.450 million. We can indefinitely extend the 20-year term by continuing to make \$150,000 annual lease payments on each successive anniversary date. All lease payments have been paid or accrued to January 31, 2011.

We can, at our option, terminate the lease at any time by giving written notice to the lessor not less than 90 days prior to the effective termination. The lease payments are considered advance royalty payments and will be deducted from future production royalties payable to RGGGS, which range from 3% to 5% based on the net smelter return that we receive. Our recovery of the advance royalty payments is subject to the lessor receiving an amount not less than the amount of the annual lease payment due for that year.

- Pursuant to an agreement effective December 1, 2008, we lease 120 acres that are encircled by the RGGGS property from LMC Minerals ( LMC ). The initial term of the renewable lease is 20 years and calls for minimum annual lease payments of \$3,000 on each successive anniversary date until our project commences commercial production, or for the first four years, whichever is the shorter, after which the minimum annual lease payment increases to \$30,000. The initial term may be extended for up to four additional five-year periods on the same terms. All lease payments have been paid to January 31, 2011.

The lease payments are considered advance royalty payments and will be deducted from future production royalties payable to LMC, which range from 3% to 5% based on the net smelter return that we receive. Our recovery of the advance royalty payments is subject to the lessor receiving an amount not less than the amount of the annual lease payment due for that year.



**(ii) The Erie Plant**

The Erie Plant

As set forth under the Asset Purchase Agreement, we have assumed certain ongoing site-related environmental and reclamation obligations of Cliffs in connection with the Erie Plant. Once we obtain our permit to mine and Cliffs is released from its obligations by certain state agencies, we will be directly obligated to comply with applicable environmental and reclamation obligations. Prior to Cliffs' acquisition of the plant from LTV Steel and prior to our acquisition of the plant from Cliffs, both Cliffs and we undertook environmental assessments and concluded that there were no material liabilities other than the ultimate closure and reclamation of the site. Until operating permits are granted to us, Cliffs remains the Regulated Party for such obligations although, as part of the Asset Purchase Agreement, we have indemnified Cliffs for such costs.

The Erie Plant comprises a large crushing, grinding and milling facility that was built by a consortium of steel companies in the mid-1950s and processed low grade iron ore known as taconite that was transported to the facility by railroad from nearby mines. In the mid-1980 s, the consortium was consolidated into a single owner LTV Steel. Pickands-Mather and its successor Cliffs operated the plant on behalf of the owners, processing approximately 100,000 tons per day of taconite ore. The plant was shut down in 2001 when LTV Steel filed for bankruptcy protection. Since then it has been maintained initially by Cliffs and, since November 15, 2005, by us. The plant did not operate during the period ended January 31, 2011.

The plant is located approximately six miles west of our NorthMet ore body, about five miles north-northwest of the town of Hoyt Lakes, itself located about 25 miles west of Virginia, Minnesota. The plant site covers approximately 12,400 acres, or 19.4 square miles, and is powered by electricity from local power lines.

The plant facilities include two rail dump pockets, two primary 60 gyrotory crushers, eight secondary 36 gyrotory crushers, seven tertiary seven-foot standard cone crushers, 14 seven-foot short-head crushers, 30 mill circuits each comprising one 12 x 14' rod mill and one 12 x 14' ball mill, three 12'x 24' regrind mills, maintenance facilities and spare parts, extensive conveyors, feeders, bins, auxiliary facilities and offices, established infrastructure including a 225 MVA high voltage electrical substation, water supply, roads, tailings basins and rail facilities.

With the completion of Cliffs II, we also own a 120-railcar fleet, locomotive fueling and maintenance facilities, water rights and pipelines, and large administrative offices on site.

Until the plant was closed in 2001, Cliffs had undertaken numerous programs to update and modernize control systems. The plant is generally in good physical condition and was operating at or near full capacity prior to its closure. We are not yet utilizing the Erie Plant but we have examined the plant in detail and have restarted certain pieces of equipment and believe it to be serviceable.

We plan to use approximately one-third of the historic productive capacity to crush and grind material that we expect to mine from the NorthMet deposit. We intend to construct new facilities to recover copper metal, nickel and cobalt hydroxides, and precious metal precipitates.

On January 28, 2010, Cliffs received a notice of intent to sue pursuant to Section 505 of the Clean Water Act on behalf of the Center for Biological Diversity, Save Lake Superior Association and the Indigenous Environmental Network. Pursuant to the notice, these environmental groups intended to file a lawsuit in Federal court for alleged violations by Cliffs Erie of National Pollutant Discharge Elimination System ("NPDES") permits at three separate locations on the Cliffs Erie property. On March 25, 2010 Cliffs entered a consent decree under which it is obligated to proceed with both short- and long-term mitigation of the alleged violations. As the indemnifying party, we are working closely with Cliffs on fulfillment of Cliffs' obligations under the consent decree.

As of January 31, 2011 we estimate the total indemnification liability (including the additional liabilities associated with the consent decree) to be approximately \$28.2 million and, based on the expected timing of such payments, our cost of capital, and anticipated inflation rates, we made a provision of \$3.8 million in our financial statements at that date.

**(d) Permitting and Environmental**

We commenced the environmental review and permitting process in early 2004. In October 2005, the MDNR published its Environmental Assessment Worksheet Decision Document establishing the MDNR as the lead state agency and the USACE as the lead federal agency (together the Lead Agencies) for preparation of an EIS for the project. In 2006 these Lead Agencies selected an independent environmental contractor (the EIS Contractor) to prepare the EIS. The EIS Contractor is Environmental Resources Management, a leading global provider of environmental, health and safety, risk, and social consulting services. The EIS Contractor team included members with expertise and experience in mining sulfidic ores. Several other government agencies (including the USFS, the Bois Forte Band of Chippewa and the Fond Du Lac Band of Lake Superior Chippewa) joined the EIS preparation team as Cooperating Agencies, which brought their special expertise to the process.

In January 2007, we submitted a Detailed Project Description (DPD) to state and federal regulators. The DPD laid out our development plans and proposed environmental safeguards including a mine plan, a wetland mitigation plan, air and water quality monitoring plans and a closure plan with closure estimate. Since then, we have submitted a supplemental DPD as well as more than 100 supporting research studies, including comprehensive mine waste characterization studies, water quality modeling and air quality modeling.

Under state and federal guidelines and regulations, a Draft EIS identifies the environmental impact of a proposed project as well as evaluating alternatives and ways to mitigate potential impacts. We were involved in the process of alternative/mitigation development and had input into the technical and economical feasibility of potential alternatives and mitigations. The EIS Contractor prepared a series of preliminary versions of the Draft EIS that were reviewed and commented on by the Lead Agencies, other governmental agencies, and PolyMet.

In October 2009, the Lead Agencies published the PolyMet Draft EIS with formal notification of publication in the Minnesota Environmental Quality Board (EQB) Monitor and the Federal Register on November 2 and November 6, 2009, respectively. The formal notification of publication started a 90-day period for public review and comment, which ended on February 3, 2010. During this period, the lead Agencies held two public meetings—one in the town of Aurora, MN near the project location and one in Blaine, MN in the metropolitan Minneapolis-St. Paul area.

The Lead Agencies received more than 3,700 submissions containing approximately 22,000 separate comments, including an extensive comment letter from the EPA in its role as reviewer of projects that could impact the environment.

On June 25, 2010 the Lead Agencies announced that they intended to complete the EIS process by preparing a Supplemental Draft EIS that incorporates a land exchange proposed with the USFS Superior National Forest land exchange and expands government agency cooperation. The USFS joined the USACE as a federal co-lead agency through the completion of the EIS process. In addition, the EPA has joined the effort as a cooperating agency. The MDNR remains the state co-lead agency.

On October 13, 2010 the USACE and the USFS published a Notice of Intent to complete the Supplemental Draft EIS, which will:

- Supplement and supersede the Draft EIS and respond to concerns identified by the EPA and other comments on the Draft EIS, and
- Incorporate potential effects from the proposed land exchange between the USFS Superior National Forest and us.

Public review of the scope of the land exchange ended on November 29, 2010. The Notice of Intent stated that the proposed land exchange would eliminate conflicts between the United States and private mineral ownership and consolidate land ownership to improve Superior National Forest management effectiveness and public access to

federal lands. The proposed exchange is in accordance with Forest Service Strategic Plan Goals to provide and sustain long-term socioeconomic benefits to the American people, conserve open space, and sustain and enhance outdoor recreation activities.

The NorthMet mine site encompasses approximately 2,840 of the 6,650 acres of land proposed for exchange to private ownership; the remaining federal property would improve intermingled and inefficient ownership patterns and eliminate conflicts if minerals development were to expand in the future.

The lands that would be received by the Superior National Forest consist of forest and wetland habitat as well as lake frontage. These lands would enhance public recreation opportunities and complement existing federal ownership by eliminating or reducing private holdings surrounded by Superior National Forest land.

On April 15, 2011 we reported that we and the Lead Agencies expect to finalize detailed modeling work plans by early May, 2011. Once final modeling confirms that the project meets state and federal standards required for it to be permitted, the third party contractor hired by the DNR will prepare a preliminary supplemental draft EIS, which will be reviewed by the lead agencies, cooperating agencies (including the US Environmental Protection Agency and tribal governments) and PolyMet, before being finalized for publication and public comment. The lead agencies anticipate publishing the supplemental draft EIS for public comment during the fall of 2011. A final EIS will incorporate comments, after which a subsequent Adequacy Decision by the DNR and Record of Decision by the federal agencies are necessary before the land exchange can occur and various permits required to construct and operate the project can be issued.

A number of permits will need to be issued by the MDNR, the Minnesota Pollution Control Agency (PCA) and the USACE before construction can begin - the major permits are:

**U.S. Army Corps of Engineers**

- Section 404 Individual Permit for Impacted Wetlands

**Minnesota Department of Natural Resources**

- Permit to Mine
- Water Appropriations Permit
- Dam Safety Permit
- Wetland Replacement Plan

**Minnesota Pollution Control Agency**

- National Pollutant Discharge Elimination System (NPDES) Permit (storm water)
- State Disposal System (SDS) Permit
- Air Emissions Permit

As of January 31, 2011, we had spent approximately \$31.9 million on environmental review and permitting activities.

(e) **History of Exploration**

**Cautionary Note to United States Investors Concerning Estimates of Measured, Indicated and Inferred Resources**

This section uses the terms measured resources, indicated resources, and inferred resources. We advise United States investors that while these terms are recognized and required by Canadian regulations (under National Instrument 43-101 - Standards of Disclosure for Mineral Projects ( NI-43-101 )), the SEC does not recognize them. **United States investors are cautioned not to assume that any part or all of the mineral deposits in these categories will ever be converted to reserves.** In addition, inferred resources have a great amount of uncertainty as to their existence and economic and legal feasibility. It cannot be assumed that all or any part of an Inferred Mineral Resource will ever be upgraded to a higher category. Under Canadian Rules, estimates of Inferred Mineral Resources may not form the basis of Feasibility or Pre-Feasibility Studies, or economic studies except for a Preliminary Assessment as defined under NI 43-101. **United States investors are cautioned not to assume that part or all of an inferred resource exists, or is economically or legally mineable.**

**Important Notes and Assumptions Throughout.**

- 1. The terms Mineral Resources and Reserves as used herein conform to the definitions contained in NI 43-101.**
- 2. Reserves are contained within the envelope of Measured & Indicated Mineral Resource. Mineral Resources are not Reserves and do not have demonstrated economic viability.**
- 3. Mineral Resources and Reserves have been calculated using the following metal prices: Copper - \$1.25/lb, Nickel - \$5.60 per pound, Cobalt - \$15.25/lb, Palladium - \$210 per ounce, Platinum - \$800 per ounce and Gold - \$400 per ounce.**
- 4. Base Case economics for the purpose of the Technical Report to NI 43-101 standards are the weighted average of the three-year trailing (60%) and two-year forward (40%) market prices using July 31, 2006 as a reference for the three-year trailing price and average forward prices during July 2006 for forward prices. Specifically, these prices are: Copper - \$2.25/lb, Nickel - \$7.80 per pound, Cobalt - \$16.34/lb, Palladium - \$274 per ounce, Platinum - \$1,040 per ounce and Gold - \$540 per ounce.**
- 5. The copper equivalent grade is calculated by multiplying the grade of each metal by the metal price (in the same units) used in reserve and resource modeling (see note 3) and dividing the product by the copper price.**
- 6. The Net Metal Value (NMV) is calculated by summing the product of the grade of each metal, the metal price (in the same units) used in reserve and resource modeling (see note 3), the expected metal recovery, and the expected payment terms.**

Prospectors first discovered copper and nickel near Ely, Minnesota about 20 miles north of NorthMet in the 1940s. Subsequently, the Bear Creek Mining Company conducted a regional exploration program resulting in the discovery of the Babbitt deposit (northeast of NorthMet). US Steel began an exploration program in the Duluth Complex in the

late 1960 s and over the next few years drilled 114 core holes into the NorthMet property (then called Dunka Road).

From 1998 to present, we have conducted a series of drilling programs totaling 271 holes for approximately 162,000 feet of core and reverse circulation drilling. These holes, combined with earlier drilling by US Steel, bring the total to 418 diamond and reverse circulation holes aggregating to approximately 318,000 feet. In addition, we have meticulously recompiled all prior work started by US Steel in 1969. We have also recently drilled an additional 37 holes totaling approximately 6,300 feet of tightly-spaced grid drilling for detailed mine planning.

## Mineral Resources and Reserves

Within the overall mineralized envelope defined by these exploration programs, the 2006 DFS defined measured and indicated mineral resources above the 500-foot elevation (approximately 1,120 feet below surface.) On August 9, 2007 we reported that measured and indicated mineral resources at the NorthMet Project had increased by 51% to 638 million short tons from the 422 million short tons reported in the DFS. The revised mineral resource estimates are based on the same cut-off grades used in the DFS – namely a Net Metal Value ( NMV ) of US\$7.42 per ton, reflecting mine planning at a copper price of US\$1.25 per pound and a nickel price of US\$5.60 per pound – see notes to the following table.

The increase in mineral resources reflects two changes:

- Data from the calendar 2007 drill program which confirmed the continuity of the main mineralized zone and the size of the Magenta Zone, which was extended down dip and to the west. These changes contributed 149 million short tons to the increase in measured and indicated mineral resources.
- Extension of the overall mineral envelope to approximately 1,620 feet below surface (0' elevation), compared with the prior cutoff at approximately 1,120 feet below surface (500' elevation). This change contributed 67 million short tons to the increase in measured and indicated mineral resources.

As a result, measured and indicated mineral resources have increased by 216 million short tons to 638 million short tons and inferred mineral resources have been expanded to 252 million short tons from 121 million short tons – all on the DFS cut-off grade. Details of the mineral resources are set out in the following table.

	Updated Mineral Resources compared with DFS					
	Short (million)	Copper (%)	Nickel (%)	Cobalt (%)	Precious Metals (oz/st)	(g/mt)
<b>Updated Mineral Resource Estimate</b>						
Measured	187.0	0.287	0.084	0.007	0.010	0.359
Indicated	451.1	0.256	0.075	0.007	0.009	0.325
Measured & Indicated	638.2	0.265	0.078	0.007	0.010	0.334
Inferred	251.6	0.275	0.079	0.006	0.011	0.385
<b>DFS</b>						
Measured	133.7	0.298	0.087	0.008	0.011	0.371
Indicated	288.4	0.266	0.078	0.007	0.010	0.330
Measured & Indicated	422.1	0.276	0.081	0.007	0.010	0.343
Inferred	120.6	0.247	0.074	0.007	0.009	0.315
<b>Change in M&amp;I from DFS to Current</b>						
Infill drilling	149.3					
Extension to 0' elevation from 500' elevation	66.7					
Total change	216.1					

1. Mineral resources have been calculated using the following metal prices: Copper - \$1.25/lb, Nickel - \$5.60 per pound, Cobalt - \$15.25/lb, Palladium - \$210 per ounce, Platinum - \$800 per ounce and Gold - \$400 per ounce.
2. The NMV is calculated by summing the product of the grade of each metal, the metal price (in the same units) used in resource modeling, the expected metal recovery, and the expected payment terms as set out in the DFS. The resource estimate update was completed by a team from the Toronto office of Wardrop Engineering working closely with PolyMet's chief geologist Richard Patelke. A NI 43-101 compliant report describing this increase was

issued in September 2007 and has been filed on PolyMet's website ([www.polymetmining.com](http://www.polymetmining.com)) and on SEDAR at [www.sedar.com](http://www.sedar.com). Pierre Desautels of Wardrop and Richard Patelke of PolyMet are the Qualified Persons for this report.

On September 26, 2007 PolyMet reported that proven and probable mineable reserves at the NorthMet Project had increased by 51% to 275 million short tons from the 182 million short tons reported in the DFS.

These reserves are constrained to mineable blocks associated with material contained in the measured and indicated resource blocks in the DFS for which detailed mining cost estimates, infrastructure planning, and waste rock stockpile locations were prepared as part of a larger study supporting the DFS. It should be noted that the inferred resources were not included in the DFS or in this interim reserve update.

In conjunction with this increase in reserves, the strip (waste:ore) ratio for the revised mine plan declined to 1.46:1 from 1.66:1.

### Updated Reserves compared with DFS

	Short Tons (millions)	Copper (%)	Nickel (%)	Cobalt (%)	Precious Metals (oz/st)	(g/mt)
<b>Updated Reserve Estimate</b>						
Proven	118.1	0.30	0.09	0.008	0.011	0.368
Probable	156.5	0.27	0.08	0.008	0.010	0.327
Proven and Probable	274.7	0.28	0.08	0.008	0.010	0.337
Waste	401.2					
Strip Ratio	1.46					
<b>DFS</b>						
Proven	80.4	0.32	0.09	0.008	0.012	0.406
Probable	101.3	0.30	0.08	0.007	0.011	0.385
Proven and Probable	181.7	0.31	0.08	0.008	0.012	0.395
Waste	302.3					
Strip Ratio	1.66					

1. The terms Mineral Resources and Reserves as used herein conform to the definitions contained in NI 43-101.
2. Mineral Resources and Reserves have been calculated using the following metal prices: Copper - \$1.25/lb, Nickel - \$5.60 per pound, Cobalt - \$15.25/lb, Palladium - \$210 per ounce, Platinum - \$800 per ounce and Gold - \$400 per ounce.

The reserve estimate update was completed by a team from the Toronto office of Wardrop Engineering working closely with our team of Don Hunter and Richard Patelke. Gordon Zurowski of Wardrop and Don Hunter of PolyMet were the Qualified Persons.

### f) Geology and Mineralization

The geology of northeastern Minnesota is predominantly Precambrian in age. Approximately 1.1 billion years ago, mid-continent rifting resulted in mafic volcanism and associated intrusions along a portion of the Midcontinent Rift System, which extends from Ohio, through the Lake Superior region to Kansas. The Midcontinent Rift consists of three parts: thick lava flows, intrusive rock and overlying sedimentary rock. There are three major intrusive complexes: the Coldwell Complex of Ontario, the Mellen Complex along the south shore of Lake Superior and the Duluth Complex along the north shore.

The Duluth Complex hosts the NorthMet mineralization. The Complex extends in an arcuate belt from Duluth to the northeastern tip of Minnesota. Emplacement of the intrusion appears to have been along a system of northeast-trending normal faults that form half-grabens stepping down to the southeast. The magma was intruded as

sheet-like bodies along the contact between the Early Proterozoic sedimentary rocks of the Animikie Group and the mafic lava flows of the North Shore Volcanic Group.

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The Duluth Complex is represented by the Partridge River intrusion which overlays the Biwabik Iron Formation the Partridge River intrusion is locally sub-divided into seven troctolitic units:

- Unit 7 and Unit 6 texturally homogeneous plagioclase-rich troctolite, each with a persistent ultramafic base. Units 6 and 7 are each about 400 ft. thick.
- Unit 5 coarse grained anorthositic troctolite (300 ft.) grading down to Unit 4.
- Unit 4 homogeneous augite troctolite and troctolite, with a less persistent ultramafic horizon. The contact between Unit 4 and Unit 5 is difficult to establish and the two units may actually be a single unit.
- Unit 3 the most easily recognized unit because of its mottled appearance due to olivine oikocrysts. It is fine grained troctolitic anorthosite to anorthositic troctolite. Average thickness is 250 ft. but locally can be up to 500 ft.
- Unit 2 homogeneous troctolite with abundant ultramafic units and a generally persistent basal ultramafic. This unit shows the most variation in thickness and may be locally absent. Units 2 & 3 are modeled as a single package for resource estimation.
- Unit 1 the most heterogeneous unit, both texturally and compositionally. Grain size is generally coarser at the top of the unit and fines downward. The unit contains abundant inclusions of the footwall rock and is noritic towards the base. This is the main sulfide mineral bearing unit. Two internal ultramafic layers are generally present. Unit 1 is probably the result of multiple pulses of magma injection. Average thickness is about 450 ft.

The general trend of the sedimentary rocks at the base of the NorthMet deposit is striking east-northeast and to dipping to the southeast about 15-25°, and the Partridge River intrusion appears to follow this general trend.

The majority of the rock at NorthMet is unaltered, with a minor alteration found along fractures and micro-fractures, consisting of serpentine, chlorite and magnetite replacing olivine, uralite and biotite replacing pyroxene, and saussurite and sericite replacing plagioclase. Sulfide mineralization does not appear to be directly related to the alteration.

The metals of interest at NorthMet are copper, nickel, cobalt, platinum, palladium, gold and lesser amounts of rhodium and ruthenium. In general, the metals are positively correlated with copper mineralization, cobalt being the main exception. Unit 1 mineralization is found throughout the deposit. A less extensive mineralized zone is found in Units 4, 5, and 6 in the western part of the deposit, it is copper-rich relative to sulfur, and moderately enriched in PGMs.

Sulfide mineralization consists of chalcopyrite, cubanite, pyrrhotite and pentlandite with minor bornite, violarite, pyrite, sphalerite, galena, talnakhite, mackinawite and valleriite. Sulfide minerals occur mainly as blebs interstitial with plagioclase, olivine and augite grains, but also occur within plagioclase and augite grains, as intergrowths with silicates, or as fine veinlets. The percentage of sulfides varies from trace to about 5%. Palladium, platinum and gold are associated with the sulfides.

The NorthMet deposit has been identified over a length of approximately 2.5 miles and has been found to a depth of more than 2,600 feet. It is covered by a thin layer of glacial till but otherwise reaches to the surface at the northern edge.

**(g) Development Plans**

Our development plans were set out in our Definitive Feasibility Study prepared by Bateman Engineering Pty. in September 2006. This contemplated the development of a new open pit mine at our NorthMet ore body, using rail infrastructure we acquired as part of Cliffs II to transport approximately 32,000 tons of ore per day from the mine site to our Erie Plant, where we would use our existing facilities to crush and mill the rock. The finely ground material would then pass to a new flotation circuit with waste material sent to existing waste tailings facilities and the concentrate being passed to a new hydrometallurgical plant that we plan to build at the Erie Plant site.

We believe that we have completed exploration work required for the initial phases of production at NorthMet, however, we may need to conduct further in-fill drilling during the anticipated life of the project. Since publication of the DFS, we have recognized the commercial potential to sell concentrates during the construction and commissioning of the new hydrometallurgical facilities.

*DFS Update*

On May 20, 2008 we reported revised plans and cost estimates for construction and operating costs. These revised plans included:

- the sale of concentrate during the construction and commissioning of new metallurgical facilities resulting in a shorter pre-production construction period (under twelve months) and reduced capital costs prior to first revenues (\$312 million versus \$380 million) despite the inclusion of an estimated \$65 million of additional measures to protect the environment;
- the new metallurgical facilities to be constructed during initial production and sales of concentrate. We anticipate that much of the additional \$290 million of capital costs, including \$20 million of additional environmental measures, will be largely funded from cash flow from initial operations;
- mine plans (based on copper at \$1.25 per pound) reflect the increase in reserves and decrease in stripping ratio reported on September 26, 2007, the use of 240-ton trucks, and owner versus contract mine operations, and
- \$77 million of mining equipment, which was assumed to be provided by a mining contractor in the DFS has been incorporated as an operating lease in updated operating costs.

On February 2, 2011 we reported a further refinement to the development plan whereby we propose to build the project in two phases:

- Phase I: produce and market concentrates containing copper, nickel, cobalt and precious metals, and
- Phase II: process the nickel concentrate through a single autoclave, resulting in production and sale of high grade copper concentrate, value added nickel-cobalt hydroxide, and precious metals precipitate products.

The changes reflect continued metallurgical process and other project improvements as well as improved environmental controls that are being incorporated into the Supplemental Draft EIS. The analysis is based on likely metal market conditions. The advantages, compared with the earlier plan, include a better return on capital investment, reduced financial risk, lower energy consumption, and reduced waste disposal and emissions at site.

Approximately \$127 million of the total \$602 million in total capital costs, and of the \$290 million capital costs for the larger scale metallurgical facilities described in the 2008 DFS Update was attributed to the second autoclave and the copper circuit.

We plan to provide a detailed project update when the project development plans now being analyzed in the Supplemental Draft EIS are finalized. This detailed project update will include revised mine plans, process and project improvements, and will incorporate the latest environmental controls.

Saleable Products

The DFS describes three products from NorthMet. During construction and commissioning of the hydrometallurgical plant, we anticipate that we will sell separate copper and nickel concentrates. Once the smaller-scale hydrometallurgical plant is operational, our long term products will comprise copper concentrate, a mixed hydroxide of nickel and cobalt that will be shipped to a third-party processor to produce nickel and cobalt metals, and a precious metals precipitate that will be shipped to a third-party refiner for production of palladium, platinum and gold.

On September 4, 2008 we announced that we had reached an agreement with Glencore whereby Glencore would purchase our production of concentrates, metals, or intermediate products at prevailing market terms at the time of delivery for at least the first 5 years of production. We executed the agreement on October 31, 2008 as part of a strategic alliance between us and Glencore.

#### Capital Costs

Our May 2008 DFS Update set out that, on a like-for-like basis (excluding scope changes), the total capital cost had increased to \$516.8 million. This increase reflects both cost inflation and design scope changes since the DFS, including facilities needed to ship concentrate during the construction and commissioning of the new hydrometallurgical plant. This staged approach shortens the initial construction period, makes the project less sensitive to the delivery schedule for long lead time equipment such as autoclave vessels, and means that we can commence operations of the mine, the existing crushing and milling plant, the existing tailings disposal facilities, and the new flotation circuit, before starting the new hydrometallurgical plant.

In addition to these scope changes and the effect of inflation, we anticipate spending an additional \$85.1 million on measures to protect the environment, over and above the measures contemplated in the DFS. \$76.6 million for mining equipment that was assumed to be provided by a mining contract in the DFS has been incorporated as an operating lease in updated operating costs.

#### May 2008 DFS Update Capital Costs (US dollars, millions)

	Full Project	<i>Change from DFS</i>	Initial Concentrate Sales
Definitive Feasibility Study	379.8		138.7
Escalation and other scope changes	137.0	36%	108.9
<b>Total</b>	<b>516.8</b>		<b>247.6</b>
Environmental measures	85.1		64.7
Total change	222.1	58%	173.6
<b>TOTAL</b>	<b>601.9</b>		<b>312.3</b>

In February 2011 we announced that we had simplified the metallurgical process whereby we plan to build one hydromet circuit to process nickel concentrate, and continue producing and marketing copper concentrate over the long term. This revised process eliminates the planned copper solvent-extraction/electro-winning circuit. These elements represented approximately \$127 million of the total \$602 million capital costs, but have no effect on the capital cost for the concentrates-only phase of the project.

#### May 2008 DFS Update Operating Plans and Costs

The overall mining and operating plan remains the same as that defined in the DFS and which forms the basis of the plan being analyzed in the environmental impact statement. We intend to mine 32,000 tons of ore per day for an operating life of twenty years, processing a total of 224 million tons of ore. The mine plan continues to be based on the following metal prices: copper - \$1.25/lb, nickel - \$5.60 per pound, cobalt - \$15.25/lb, palladium - \$210 per ounce, platinum - \$800 per ounce, and gold - \$400 per ounce.

Operating costs per ton of ore processed have increased to \$13.33 from \$11.02 in the DFS reflecting higher fuel, mine equipment, and other consumable costs, as well as general inflation. The cost of mining and delivering ore to the plant is now estimated at \$4.31 per ton compared with \$3.80 per ton in the DFS. The increase in mining costs has been partially offset by the lower strip ratio, larger mining equipment, and owner versus contractor operation.



The economic analysis is based on SEC-reserve standards, namely the three-year trailing average, which we calculated at April 30, 2008 (the end of our first fiscal quarter). This price deck is: copper - \$2.90/lb, nickel - \$12.20/lb, cobalt - \$23.50/lb, palladium - \$320/oz, platinum - \$1,230/oz, and gold - \$635/oz. While these prices are somewhat higher than those used on the economic analysis in the DFS, the price are slightly below the three-year average at the end of our fiscal 2009 year, namely: copper - \$3.13/lb, nickel - \$12.45/lb, cobalt - \$27.34/lb, palladium - \$342/oz, platinum - \$1,343/oz, and gold - \$733/oz.

The DFS Update prices translate into copper cash costs of \$1.05 per pound using a co-product basis to calculate costs, compared with the DFS estimate of \$0.81 per pound. Taking revenues from the other metals as a deduction against costs, the co-product basis shows a cost of \$(0.28) per pound compared with \$0.06 per pound in the DFS.

We plan to further update the DFS during the course of our current fiscal year to reflect all project changes that are being incorporated into the Supplemental Draft EIS.

#### Economic Summary

Key economic metrics include earnings before interest, tax, depreciation, and amortization (EBITDA) which is projected to increase to \$217.3 million on average over the first five years of operations from \$175.3 million estimated in the DFS. The net present value of future cash flow (after tax) discounted at 7.5% is estimated to be \$649.4 million compared with \$595.4 million in the DFS, and the after tax internal rate of return is now estimated at 30.6% compared with 26.7% in the DFS. The table below also sets out the affect on EBITDA of a 10% change in each metal price.

May 2008 DFS Update Key Economic Highlights

**(h) Regulations and Government Rules**

The mining industry has been subject to increasing government controls and regulations in recent years. We have obtained all necessary permits for exploration work performed to date and anticipate no material problems obtaining the necessary permits to proceed with further development.

**ITEM 4A. UNRESOLVED STAFF COMMENTS**

None.

**ITEM 5. OPERATING AND FINANCIAL REVIEW AND PROSPECTS**

**(a) Operating Results**

This discussion and analysis should be read in conjunction with our consolidated financial statements. Our functional currency is the United States dollar and our financial statements are prepared in accordance with Canadian Generally Accepted Accounting Principles (GAAP), which is in the process of transitioning to IFRS; however, the only significant difference between U.S. GAAP and Canadian GAAP with regard to our financial statements relates to the accounting for fair value of the conversion factor of convertible debt (see Item 3: Key Information A. Selected Financial Data for the impact of this difference). All amounts in this discussion and in the consolidated financial statements are expressed in United States dollars, unless identified otherwise.

Summary of Events During the Fiscal Year Ended January 31, 2011

During the year ended January 31, 2011, and through the date of the filing of this Annual Report, we continued to advance our NorthMet Project including the activities noted below.

In April 2010, Cliffs entered into a consent decree with the Minnesota Pollution Control Agency ( MPCA ) relating to alleged violations on the Cliffs Erie Property. This consent decree required submission of Field Study Plan Outlines, which have been approved by the MPCA, and Short Term Mitigation Plans, which have not yet been formally approved. As part of its prior transactions with Cliffs, we had agreed to indemnify Cliffs for certain on-going site environmental liabilities.

At the annual shareholders' meeting held on July 7, 2010, Messrs. Corneliuson and Swearingen did not stand for re-election to our Board of Directors owing to other personal commitments. The Board thanked them for their contributions to the Company during their tenure.

On October 31, 2010, 1,100,000 warrants to purchase shares of PolyMet common stock at \$4.00 per share that had been issued to BNP Paribas Loan Services ( BNPP ) expired.

On November 12, 2010, we announced that Glencore had agreed to purchase 15 million shares of our common stock at \$2.00 per share in three tranches over the next two years. In addition, Glencore agreed to extend the maturity date of the \$25 million (initial principal) debentures issued to Glencore under the 2008 financing to September 30, 2012 and cancelled the final \$25 million debenture financing commitment and the 6.25 million share purchase warrants issued as part of the 2008 financing. We have issued warrants to purchase 3 million shares at \$2.00 per share at any time until December 31, 2015 as compensation for the additional financing and other changes. On 17 January 2011 we closed the first tranche of this private placement, issuing 5 million of our common shares to Glencore at US\$2.00 per Share for gross proceeds of US\$10 million.

On December 16, 2010 the Board of the Iron Range Resources and Rehabilitation Board ( IRRRB ) approved, on the commissioner's recommendation, a secured loan to our wholly-owned subsidiary, Poly Met Mining, Inc. of up to \$4 million. A legal challenge as to whether the IRRRB was authorized to make such a loan was withdrawn following passage of state legislation that clarified that the IRRRB is an economic development agency with no regulatory oversight for mine permitting activities.

Proceeds from the loan will be used to purchase forest land, wetlands, and lakes with high natural resource and recreational value that would become available for public use and enjoyment. These properties, which we currently have under purchase option, would be purchased for future use as part of a proposed land exchange for surface rights at the proposed NorthMet mine site currently controlled by the USFS Superior National Forest.

With effect from December 31, 2010, William Murray stepped down as Executive Chairman and George Molyviatis resigned his board membership. Mr. Murray continues to serve as one of our directors. Ian Forrest and Frank Sims, both independent directors, serve as independent co-Chairmen. Mr. Forrest continues as Chair of the Audit and Compensation Committees and Mr. Sims continues as Chair of the Corporate Governance Committee.

On December 31, 2010, warrants to purchase 3,842,045 shares of our common stock at \$3.00 per share, which had been issued in connection with the April 2007 financing, expired.

On January 17, 2011 we closed the first tranche of the November 2010 private placement with Glencore, issuing 5 million common shares of the Company to Glencore at US\$2.00 per Share for gross proceeds of US\$10 million.

On January 24, 2011 Bradley H. (Brad) Moore was appointed Executive Vice-President, Environmental & Governmental Affairs. Mr. Moore has more than 25 years experience in environmental regulation and review and is

assuming overall responsibility for our effort to complete environmental review and obtain permits necessary for construction and operation of the NorthMet copper-nickel-precious metals project located in the established Mesabi mining district in northeastern Minnesota. Mr. Moore served as Commissioner of the Minnesota Pollution Control Agency ("MPCA") from 2006 to 2008, and as Assistant Commissioner for Operations of the Minnesota Department of Natural Resources (MDNR) from January 1999 to August 2006.

On February 2, 2011 we announced that we had simplified the proposed metallurgical process and now plans to build the project in two phases:

- Phase I: produce and market concentrates containing copper, nickel, cobalt and precious metals, and
- Phase II: process the nickel concentrate through a single autoclave, resulting in production and sale of high grade copper concentrate, value added nickel-cobalt hydroxide, and precious metals precipitate products.

Previous plans included a second autoclave and a copper solvent extraction/electro-winning ( SX-EW ) circuit to produce copper metal along with value added nickel-cobalt hydroxide and precious metals precipitate products. The changes reflect continued metallurgical process and other project improvements as well as improved environmental controls that are being incorporated into the Supplemental Draft EIS. The advantages, compared with the earlier plan, include a better return on capital investment, reduced financial risk, lower energy consumption, and reduced waste disposal and emissions at site. Approximately \$127 million of the total \$602 million capital costs estimated in the May 2008 DFS Update will not be incurred in this revised plan.

On March 10, 2011 we appointed Alan R. (Al) Hodnik and Michael M. (Mike) Sill to our Board of Directors.

In March 2011, we entered into an agreement with the MDNR committing to an additional \$2,818,000 work on environmental review through April 1, 2012.

On April 15, 2011 we reported that the Company and the Lead Agencies expect to finalize detailed work plans for the Supplemental Draft EIS by May, 2011. The detailed project, which includes the simplified metallurgical process and reduction in capital costs that we announced on February 2, 2011, will then be modeled to predict environmental impacts of the project. The third party contractor hired by the lead agencies will then prepare a preliminary supplemental draft Environmental Impact Statement, which will be reviewed by the Lead Agencies, cooperating agencies (including the US Environmental Protection Agency and tribal governments) and ourselves. Once that review process has been completed, the supplemental draft EIS will be finalized for publication and public comment. The lead agencies anticipate publishing the Supplemental Draft EIS during the fall of 2011.

On April 15, 2011 the Board of the IRRRB reapproved a secured loan to Poly Met Mining, Inc. of up to \$4 million, which is expected to close on or before 30 June, 2011. The loan will be secured by the land to be acquired from proceeds of the loan, carry a fixed interest rate of 5% per annum, and will be repayable on June 30, 2016. Subject to regulatory approval, we also agreed to issue warrants giving the IRRRB the right to purchase up to 400,000 shares of our common stock at US\$2.50 per share at any time until the earlier of June 30, 2016 and one year after we receive permits.

### Summary of Operating Results

As of January 31, 2011, we operated in one segment, the exploration and development of the base and precious metals at our NorthMet Project in Minnesota, United States. Head office comprises general and administrative costs, stock based compensation expense, financing expenses, foreign exchange interest income, assets, purchase of property, plant and equipment and amortization reported by the Canadian head office.

	NorthMet Project (US\$000 s)	Head Office (US\$000 s)	Consolidated (US\$000 s)
<b>2011</b>			
Segment operating loss	\$ 1,536	\$ 5,747	\$ 7,283



Mineral property, plant and equipment	\$	130,192	\$	39	\$	130,231
Other assets	\$	4,478	\$	10,323	\$	14,801
Identifiable assets	\$	134,670	\$	10,362	\$	145,032

**2010**

Segment operating loss	\$	892	\$	8,131	\$	9,023
Mineral property, plant and equipment	\$	115,781	\$	51	\$	115,832
Other assets	\$	2,466	\$	21,340	\$	23,806
Identifiable assets	\$	118,257	\$	21,391	\$	139,648

**2009**

Segment operating loss	\$	560	\$	4,963	\$	5,523
Mineral property, plant and equipment	\$	91,832	\$	78	\$	91,910
Other assets	\$	2,546	\$	7,143	\$	9,689
Identifiable assets	\$	94,378	\$	7,221	\$	101,599

On November 12, 2010, we announced that we had renegotiated our debenture financing with Glencore. The agreed amendments to the debenture financing are as follows:

- The maturity date, and therefore accounting for accretion, of the Tranche A-D Debentures was extended from September 30, 2011 to September 30, 2012. The Debentures were issued in four tranches between October 2008 and September 2009. The total initial principal of the Debentures is US\$25 million with US\$2.539 million of accrued interest as of December 31, 2011. The Debentures continue to be exchangeable into our common shares at US\$4.00 per share, as agreed to in 2008.
- Cancellation of Glencore's commitment to purchase, and our commitment to issue, US\$25 million of Tranche E Debentures which were to be issued upon publication of the Final Environmental Impact Statement, receipt of a term sheet for construction financing, and other customary conditions.
- Cancellation of warrants to purchase 6.25 million of our common shares at US\$3.00 at any time until September 30, 2011 issued to Glencore in connection with the Debentures.
- Issuance of warrants to purchase 3 million of our common shares at US\$2.00 at any time until December 31, 2015, issued to Glencore in consideration of the amendments listed above.

On November 12, 2010, we announced that we had entered into a definitive agreement with Glencore to sell in a private placement 15 million common shares at US\$2.00 per share for gross proceeds of US\$30 million, before deducting estimated offering expenses. Completion of the sale of these shares and funding are expected to occur in the following three tranches subject, in each case, to certain closing conditions:

- Tranche 1 of US\$10 million closed on January 17, 2011;
- Tranche 2 of US\$10 million will close on the earlier of (i) the date of the Company's funding requirement as set forth in the Company's three year operating budget to be approved by Glencore (the "Budget"), and (ii) 17 October 2011, and
- Tranche 3 of US\$10 million will close on the earlier of (i) the date of the Company's funding requirement as set forth in the Budget, ii) within ten business days following receipt by us of key permits, in a form reasonably acceptable to Glencore, that will enable the start of construction of the Project, and iii) 15 October 2012.

Glencore has a right of first refusal to provide all material financings, subject to regulatory approval, if it owns 10% or more of our issued and outstanding shares and, if it owns more than 5% of our issued and outstanding shares, Glencore has the right to participate in any equity-related financing to maintain its partially diluted ownership interest (19.7% as of 31 January 2011).

In accordance with both Canadian GAAP and US GAAP, the 12 November 2010 transactions, whereby our existing convertible debt at that date with a book value of \$26.730 million was deemed to have been extinguished and reissued, all of the costs associated with the transaction have been recorded as a non-cash expense of \$3.647 million

Year ended January 31, 2011 compared with the year ended January 31, 2010

Overall. Our focus for the fiscal year ended January 31, 2011 was to provide the Lead Agencies with input into the Supplemental Draft EIS and permit work at our NorthMet Project, obtain additional financing and to continue to develop the NorthMet Project including updating the mineral reserves and mineral resources estimates and preparing for construction.

Loss for the year. During the year ended January 31, 2011, we incurred a loss of \$7.283 million (\$0.05 loss per share) compared to a loss of \$9.023 million (\$0.06 loss per share) in 2010. The decrease in the net loss for the period was primarily attributable to:

- A non-cash future income tax recovery related to expiration of stock purchase warrants previously issued of \$1,390,000 (January 31, 2010 \$nil);
- A non-cash reversal of previously recorded stock-based compensation costs relating to board and other management changes resulting in a credit of \$119,000 in the current year (January 31, 2010 expense of \$915,000);
- A non-cash charge of \$4.920 million for the amendment of stock warrants in the prior year period (current year period - \$nil), and
- Investor relations and financing expenses of \$420,000 due to the filing of an F-3 registration statement during the prior year period (current year period - \$118,000).

These items were partially offset by the non-cash costs associated with extending the term of our debentures by a year, the fair value of the amendments to the Glencore warrants, which resulted in a non-cash charge of \$3,647 million to our income statement. A further offset to the decrease in reported net loss derived from our decision to review alternatives for construction financing and not to renew our agreement with BNP Paribas Loan Services, to advise and assist us in all aspects of preparation for construction finance, which expired on July 31, 2010. As such, the \$1.830 million, \$1.197 million of which was non-cash related to the fair value of warrants issued, recorded as a deferred financing cost asset was written off to the consolidated statement of loss in the current year. In addition, we recorded a loss of \$520,000 in the current year period as a result of our decision to reclassify an asset as held for sale and write-down its carrying value to fair value less cost to sell.

Year ended January 31, 2010 compared with the year ended January 31, 2009

Overall. Our focus for the fiscal year ended January 31, 2010 was to provide the state of Minnesota with input into the environmental impact statement and permitting work at our NorthMet Project, obtain additional financing and to continue to develop the Project including updating the mineral reserves and mineral resources estimates and preparing for construction.

Loss for the year. During the year ended January 31, 2010 we incurred a loss of \$9.023 million (\$0.06 loss per share) compared to a loss of \$5.523 million (\$0.04 loss per share) in 2009. The increase in the net loss for the period was primarily attributable to:

- A non-cash charge of \$4.920 million for the amendment of warrants (prior year period - \$544,000);
- Stock-based compensation expense of \$915,000 (prior year period - \$487,000) with the increase being predominantly due to the granting of additional stock options in the first quarter and the extension of the term of all our stock options outstanding at June 24, 2009 by two years which was approved by the disinterested shareholders at our Annual and Special of shareholders on June 24, 2009;

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- Interest income of \$5,000 (prior year period - \$154,000) with the decrease being due to lower cash balances and interest rates;
- Investor relations and financing expenses of \$420,000 due to the filing of an F-3 registration statement during the 2010 third quarter and additional financing related activities, and
- A foreign exchange loss of \$156,000 in the prior year period due to the strengthening of the U.S. dollar versus the Canadian dollar, compared to a gain of \$24,000 in the current year quarter.

This was partially offset by an other-than-temporary impairment loss of \$1,365,000 in the prior year period (current year period - \$nil) and a foreign exchange loss of \$156,000 in the prior year period (current year period - \$24,000) due to the strengthening of the U.S. dollar versus the Canadian dollar.

Effective February 1, 2009, we adopted CICA Section 3064 - Goodwill and Intangible Assets. As a result of this standard, the CICA withdrew EIC 27, Revenue and Expenses during the pre-operating period. With the withdrawal of EIC 27, we are no longer able to defer operating costs and revenues incurred prior to commercial production at its development project. The adoption of this standard resulted us retroactively ceasing to capitalize to mineral property accretion related to asset retirement obligations in our consolidated financial statements.

We restated our financial statements for the items above and the impacts on certain line items of the financial statements with significant changes were as follows:

Line Item	Year Ended 31 January 2009	
	As Previously Reported	Restated
Mineral Property Plant and Equipment	93,067	91,910
Loss for the period	4,536	4,979
Deficit	60,825	61,982
Loss per share	0.03	0.04

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Effective November 1, 2009, we changed our accounting policy for accounting for amendments to warrants. Prior to this date, if the amendment related to warrants held by existing equity holders, we would debit the increase in fair value as a result of an amendment to the warrants to share capital. Under its new accounting policy, we record the debit to warrant amendment expense. This change in accounting policy has been applied retroactively, the impacts on certain line items of the financial statements with significant changes, after taking into account the above restatement with respect to Section 3064 / EIC 27, were as follows:

Line Item	Year ended 31 January 2009	
	As Previously Reported	Restated
Share Capital	104,768	105,312
Loss for the period	4,979	5,523
Deficit	61,982	62,526
Loss per share	0.04	0.04

## (b) Liquidity And Capital Resources

### Financing Activities

On November 12, 2010, we entered into an agreement with Glencore whereby Glencore agreed to purchase 15 million common shares at \$2.00 per share in three tranches to occur no later than certain agreed dates, and according to our needs based on a budget to be agreed. The first tranche of 5 million shares for gross proceeds of \$10 million was funded on schedule on January 17, 2010. The remaining tranches, both for gross proceeds of \$10 million, are scheduled to close on or before October 17, 2011 and the earlier of ten business days following receipt of key permits and October 15, 2012, respectively. Transaction costs for the first tranche totaled \$106,000.

On November 24, 2009 we closed an equity financing with Glencore for 3,773,585 common shares at \$2.65 per share for gross proceeds of \$10 million. On January 26, 2010, we closed the second tranche of the previously announced equity financing with Glencore of an additional 5,660,377 common shares at \$2.65 per common share for gross proceeds of \$15 million. Transactions costs for these two financings totaled \$499,000.

During the year ended January 31, 2011 we issued 845,000 common shares (prior year period 775,000) upon exercise of options for proceeds of \$808,000 (prior year period - \$477,000) and nil common shares (prior year period 167,954) upon exercise of share warrants for proceeds of \$nil (prior year period -\$494,000).

On August 27, 2009, we announced that we had filed a universal shelf registration on Form F-3 with the U.S. Securities and Exchange Commission ( SEC ). This universal shelf registration allows us to have the option to offer and sell, from time to time in one or more offerings, up to \$500 million of our debt securities, common shares, warrants and units.

On October 31, 2008, we entered into a financing with Glencore for an aggregate of US\$50 million floating rate secured debentures due on September 30, 2011 issued by PolyMet US and guaranteed by the Company. The Debentures bear interest at 12-month US dollar LIBOR plus 4%. Interest is payable in cash or by increasing the principal amount of the Debentures, at Glencore's option. The Debentures are secured by the assets of PolyMet and PolyMet US, including PolyMet's 100% shareholding in PolyMet US.

The Debentures are exchangeable into our common shares at Glencore's option at US\$4.00 per share. We can, at our option, prepay the Debentures if our shares trade at a 20-day volume weighted average price equal to or exceeding US\$6.00, at which time, and at Glencore's option, Glencore could exchange the Debentures for our common shares

within 30 days in lieu of payment. Repayment between October 1, 2010 and September 30, 2011 would be at 102.5% of the outstanding principal.

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On October 31, 2008, we issued to Glencore warrants (the "Purchase Warrants") to purchase 6.25 million our common shares at US\$5.00 if exercised before the NorthMet Project has produced a total of 20,000 metric tonnes of concentrate, or US\$6.00 thereafter.

On November 17, 2009, we announced that we had agreed to modify certain terms of the above transaction. Under the new terms the Purchase Warrants entitled Glencore to purchase 6.25 million of our common shares at US\$3.00 and expired on September 30, 2011. If the 20-day volume weighted average price of our shares were 150% of the exercise price or more (\$4.50), and the Final EIS had been published in the Minnesota Department of Natural Resources EQB Monitor, PolyMet could accelerate the expiration of the Glencore Warrants to not less than 21 business days after the notice of acceleration. The incremental \$158,000 increase in the fair value of the warrants due to the warrant exchange was debited to warrant amendment expense and credited to contributed surplus.

Separately in November 2009, we agreed to modify the terms of the final \$25 million Tranche E of the \$50 million Debenture with Glencore such that Tranche E, if drawn, could be exchanged at US\$2.65 per share. The first four tranches totaling US\$25 million (excluding capitalized interest) that have already been drawn continue to be exchangeable at US\$4.00 per share.

On November 12, 2010, we announced that we had agreed additional modification of certain terms of the above transaction:

- the maturity date of the Debentures was extended from September 30, 2011 to September 30, 2012;
- Glencore's commitment to purchase, and our commitment to issue, US\$25 million of Tranche E Debentures, which were to be issued upon publication of the Final Environmental Impact Statement and other conditions, were cancelled;
- warrants to purchase 6.25 million of our common shares at US\$3.00 at any time until September 30, 2011 issued to Glencore were cancelled, and
- warrants to purchase 3 million of our common shares at US\$2.00 at any time until December 31, 2015, issued to Glencore in consideration of the amendments listed above (the "New Warrants") were issued.

During the year ended January 31, 2010 we issued 775,000 shares (prior year period 262,800) upon exercise of options for proceeds of \$477,000 and 167,954 shares upon exercise of share warrants for proceeds of \$494,000.

During the year ended January 31, 2008 we issued 15 million units at US\$2.75 per unit, with each unit comprising one common share and one-half of one warrant (for accounting purposes, the value of the units was bifurcated between the common shares and the warrants). Each whole warrant was exercisable into a common share at a price of US\$4.00 at any time until October 13, 2008 (see amendment below), subject to an early trigger if the 20-day volume weighted average price of the common shares is US\$6.00 or more. On October 10, 2008, we announced that we had received the consent from the holders of more than two-thirds of the 8,020,000 warrants issued as part of the April 2007 private placement to exchange those warrants into:

- 4,010,000 warrants, each warrant entitling the holder to purchase one of our common shares at US\$3.00 per share at any time until the sooner of 30 calendar days after publication of the draft Environmental Impact Statement by the State of Minnesota in the state's Environmental Quality Board Monitor and October 13, 2009, and
- 4,010,000 warrants, each warrant entitling the holder to purchase one of our common shares at US\$5.00 if exercised before the NorthMet Project has produced a cumulative total of 20,000 metric tonnes of concentrate, or US\$6.00 thereafter and prior to August 31, 2011. We can accelerate the expiration of the warrants if our volume-weighted 20-day average share price trades at a 50% premium to the exercise price applicable at any time.



In October 2009, we received the consent from holders of more than two-thirds of the above warrants to exchange the 4,010,000 warrants due to expire on October 13, 2009 for 4,010,000 warrants, each warrant entitling the holder to purchase one share of our common stock at US\$3.00 per share at any time until the sooner of 30 calendar days after publication of the draft Environmental Impact Statement by the State of Minnesota in the state's Environmental Quality Board Monitor and December 31, 2009. The incremental \$1,005,000 increase in the fair value of the warrants due to the warrant exchange was debited to warrant amendment expense and credited to contributed surplus.

In November 2009, we received the consent from holders of more than two-thirds of the above warrants to exchange the 4,010,000 warrants due to expire the earlier of 30 calendar days after publication of the draft Environmental Impact Statement by the State of Minnesota in the state's Environmental Quality Board Monitor and December 31, 2009 for 4,010,000 warrants, each warrant entitling the holder to purchase one share of our common stock at US\$3.00 per share at any time until the sooner of 21 business days after publication of the final Environmental Impact Statement by the State of Minnesota in the state's Environmental Quality Board Monitor and December 31, 2010. The incremental \$3,757,000 increase in the fair value of the warrants due to the warrant exchange was debited to warrant amendment expense and credited to contributed surplus.

Warrants to purchase 167,954 shares of our common stock had been exercised prior to 31 January 2010 and, on 31 December 2010 warrants to purchase 3,842,046 shares of our common stock at \$3.00 per share expired. We recorded a future income tax recovery as the expiration of the warrants triggered a capital gain for tax purposes, which was offset by the application of tax losses carried forward resulting in a credit of \$1,219,000.

#### Year Ended January 31, 2011

Cash used in operating activities in the year ended January 31, 2011 was \$3.068 million compared to cash used in the prior year of \$2.429 million. The variance is primarily due to the cash based operating activity differences described above, \$193,000 of exploration expenses in the current year (prior year -\$nil) and changes in working capital balances.

Cash provided by financing activities for the year ended January 31, 2011 was \$8.666 million compared with \$34.111 million in the prior year. The activity in the current year was primarily due to net proceeds of \$9.894 million from a Glencore equity offering (prior year period \$24.501 million), the net funding from issuance of exchangeable secured debentures of \$nil (prior year period - \$9.944 million), the scheduled repayment of \$2,000,000 of debt (prior year period - \$1,250,000) This was offset by the net funding from issuance of exchangeable secured debentures of \$9,944,000 in the prior year (current year - \$nil). During the current year period, we received \$808,000 from the issuance of common shares on exercise of stock options (prior year period - \$477,000) and \$nil from the issuance of common shares on the exercise of share warrants (prior year period - \$494,000).

Cash used in investing activities for the year ended January 31, 2011 was \$16.519 million compared with \$17.754 million in the preceding year, with the decrease being primarily the result of lower engineering, project and environmental / permitting costs in the current year period as we continued to scale back detailed engineering and design work that is not needed for permitting.

Total cash for the year ended January 31, 2011 decreased by \$10.921 million for a balance of \$10.361 million compared to the year ended January 31, 2010 when cash increased by \$13.928 million to a balance of \$21.282 million.

Substantially all cash and equivalents are held in United States currency.

As at January 31, 2011 we had working capital of \$779,000 compared with working capital of \$16.313 million at 31 January 2010 consisting primarily of cash of \$10.361 million (January 31, 2010 - \$21.282 million), prepaid expenses of \$636,000 (January 31, 2010 - \$512,000), accounts payable and accrued liabilities of \$2.444 million (January 31, 2010 - \$2.953 million), the current portion of the notes to Cliffs of \$6.750 million (January 31, 2010 - \$2.000 million) and the current portion of asset retirement obligations of \$1.408 million (January 31, 2010 - \$756,000). We expect to

pay the remaining balance of \$1.775 million (January 31, 2010 - \$8.529 million) long term notes to Cliffs and the convertible debt principal balance of \$25 million plus capitalized interest from working capital and additional financing. Our cash is primarily held in deposits and bearer deposits of a major Canadian bank and does not include any exposure to asset-backed commercial paper.

Our consolidated financial statements have been prepared on the basis that we will continue as a going concern, which assumes that the Company will be able to meet its commitments, continue operations, realize its assets and discharge its liabilities in the normal course of business for the foreseeable future. However, there are conditions that cast significant doubt on the validity of that assumption. We have incurred losses since inception and have an accumulated deficit of \$78,832,000 at January 31, 2011.

We will need to raise sufficient funds to meet our current obligations as well as fund ongoing development, capital expenditures and administration expenses, in accordance with our spending plans.

On November 12, 2010, we announced that we had entered into a definitive agreement with Glencore AG ( Glencore ) to sell in a private placement 15 million common shares at US\$2.00 per share for gross proceeds of US\$30 million, before deducting estimated offering expenses. Completion of the sale of these shares and funding are expected to occur in the following three tranches subject, in each case, to certain closing conditions:

- Tranche 1 of US\$10 million closed on January 17, 2011;
- Tranche 2 of US\$10 million to close on the earlier of (i) the date of our funding requirement as set forth in our three year operating budget approved by Glencore (the Budget ), and (ii) October 17, 2011, and
- Tranche 3 of US\$10 million to close on the earlier of (i) the date of our funding requirement as set forth in the Budget, (ii) the tenth Business Day following receipt by us of key permits, in forms reasonably acceptable to Glencore, that enable us to begin construction of the Project, and (iii) October 15, 2012.

In order to meet all of its obligations for the period to January 31, 2012, including paying off the current portion of our long-term debt, we will have to successfully receive all of the remaining equity tranches, or obtain alternate financing. We are in the latter stage of discussions with Glencore with respect to the budget and believe that agreement will be reached by June 30, 2011, which will enable us to access the second and third \$10 million tranches of the equity funding in a timely manner that will enable us to meet our obligations. However, this cannot be assured.

We believe that, based upon the underlying value of the NorthMet Project, that it will be able to obtain the necessary financing from Glencore or other sources to meet our requirements on an ongoing basis; however, there can be no assurance that the necessary financing will be obtained. Factors that could affect the availability of financing include the state of international debt and equity markets, investor perceptions and expectations and the global metals markets.

The financial statements do not reflect any adjustments to the carrying values of assets and liabilities, reported expenses, and balance sheet classifications that would be necessary should we be unable to continue as a going concern, and these adjustments could be material.

Should we wish to continue to further advance the NorthMet Project to commercial production we will require additional funds. As we have no operating revenues, the only source of liquidity consists primarily of cash from proceeds of project debt, other debt and equity financing.

#### Debt

Pursuant to Asset Purchase Agreements, our wholly owned subsidiary Poly Met Mining, Inc. signed three notes payable to Cliffs in the amounts of \$2,400,000, \$7,000,000 and \$7,000,000, respectively. The first note has been fully repaid. The second note is interest bearing at the *Wall Street Journal* Prime Rate and is being paid in quarterly instalments equal to \$250,000 commencing December 31, 2006, with the balance repayable upon receipt of commercial financing, for total repayment of \$7,000,000. The third note is interest bearing at the *Wall Street Journal* Prime Rate and is being paid in quarterly instalments equal to \$250,000 commencing on December 31, 2009 for total repayment of \$7,000,000 with final payment due on December 31, 2011. No interest was payable on the third note until December 31, 2009, which accordingly had been fair valued, for balance sheet purposes, by discounting it at 8.25% .



Pursuant to a financing agreement with Glencore, we have entered into convertible debenture agreements for \$25 million. The Debentures, originally due September 30, 2011, were extended under the same terms to September 30, 2012, bear interest at 12-month US dollar LIBOR plus 4%. Interest is payable in cash or by increasing the principal amount of the Debentures, at Glencore's option.

As at January 31, 2011 the outstanding long term debt was as follows:

	<b>January 31, 2011</b>	January 31, 2010
Notes payable	\$ 8,500	\$ 10,499
Accrued interest	25	30
Convertible debt	27,633	25,253
Total debt	36,158	35,782
Less current portion	(6,750)	(2,000)
Long term debt	\$ 29,408	\$ 33,782

We anticipate using working capital, additional financing and funds from operations once commercial production has commenced to meet the above payment obligations to Cliffs and Glencore.

**(c) Research and Development, Patents and Licenses, Etc.**

None.

**(d) Trend Information**

None.

**(e) Off-Balance Sheet Arrangements**

None.

**(f) Tabular Disclosure of Contractual Obligations**

The following table lists as of January 31, 2011 information with respect to the Company's known contractual obligations:

	<i>Total</i>	<i>Less than 1 year</i>	<i>Payments due by period</i>			<i>More than 5 years</i>
			<i>1</i>	<i>3 years 3</i>	<i>5 years</i>	
<i>Contractual Obligations</i>						
Accounts payable and accrued liabilities	\$ 2,444,000	\$ 2,444,000	\$ -	\$ -	\$ -	-
Long-term debt obligations	38,720,000	8,340,000	30,380,000	-	-	-
Asset retirement obligation	26,495,000	1,469,000	615,000	537,000	23,874,000	-
Total	\$ 67,659,000	\$ 12,253,000	\$ 30,995,000	\$ 537,000	\$ 23,874,000	-

Long-term debt obligations (including the current portion) are comprised of long-term and convertible debt balances, are set out in this table on an undiscounted basis and include anticipated interest. Asset retirement obligation represents the undiscounted obligation at January 31, 2011.



**(g) Critical Accounting Policies**

Our consolidated financial statements have been prepared in accordance with accounting principles generally accepted in Canada that require management to make assumptions and estimates that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities as at the date of the financial statements. Significant estimates used in the preparation of these consolidated financial statements include, amongst other things, expected economic lives of plant and equipment, anticipated costs of asset retirement obligations including the reclamation of mine site, valuation of options and share purchase warrants, and the assessment of impairment in value of long lived assets.

Mineral Property, Plant and Equipment

Mineral property costs, aside from mineral property acquisition costs, incurred prior to determination of the DFS are expensed as incurred and expenditures incurred subsequent to the DFS and mineral property acquisition costs are deferred/capitalized until the property is placed into production, sold, allowed to lapse or abandoned. Acquisition costs include cash and fair market value of common shares. As a result of the DFS on the NorthMet Project, the NorthMet Project entered the development stage effective October 1, 2006. We have deferred mineral property development expenditures related to the NorthMet Project from that date.

Plant and equipment are recorded at cost and depreciated over the estimated life of the related assets calculated on a unit of production or straight-line basis, as appropriate. Mineral property, plant and equipment related to the NorthMet Project will begin to be amortized at the time the project commences operations.

We perform impairment tests on our mineral property, plant and equipment when events or changes in circumstances indicate that the carrying values of assets may not be recoverable. These tests require the comparison of the undiscounted future cash flows to be derived from these assets with the carrying value of the assets. If a shortfall exists, the assets are written down to fair value, determined primarily using discounted cash flow models.

Stock-Based Compensation and Share Purchase Warrants

All stock-based awards made to directors, employees and non-employees are measured and recognized using a fair value based method. For directors and employees, the fair value of the options is measured at the date of the grant. For non-employees, the fair value of the options is measured on the earlier of the date at which the counterparty performance is complete or the date the performance commitment is reached or the date at which the equity instruments are granted if they are fully vested and non-forfeitable. For directors, employees and non-employees, the fair value of the options is accrued and charged either to operations or mineral property plant and equipment, with the offsetting credit to contributed surplus, on a graded method over the vesting period. If and when the stock options are ultimately exercised, the applicable amounts of contributed surplus are transferred to share capital.

We issue share purchase warrants in connection with certain equity transactions. The fair value of the warrants, as determined using the Black-Scholes option pricing model, is credited to contributed surplus. The recorded value of share purchase warrants is transferred to share capital upon exercise.

When we amend the terms of either stock options or share purchase warrants, the incremental change in the fair value of the options or warrants due to the amendment is charged to warrant amendment expense and contributed surplus.

Asset Retirement Obligations

We follows CICA Handbook Section 3110, *Asset Retirement Obligations* which requires the recognition of a legal liability for obligations relating to the retirement of property, plant and equipment and obligations arising from the acquisition, construction, development, or normal operation of those assets. Such asset retirement costs must be

recognized at fair value, when a reasonable estimate of fair value can be estimated, in the year in which the liability is incurred. A corresponding increase to the carrying amount of the related asset, where one is identifiable, is recorded and amortized over the life of the asset.

Where a related asset is not easily identifiable with a liability, the change in fair value over the course of the year is expensed. The amount of the liability is subject to re-measurement at each reporting year-end. The estimates are based principally on legal and regulatory requirements. It is possible that our estimates of its ultimate reclamation and closure liabilities could change as a result of changes in regulations, changes in the extent of environmental remediation required, changes in the means of reclamation or changes in cost estimates.

Our operations may in the future be affected from time to time in varying degrees by changes in environmental regulations, including those for future removal and site restoration costs. Both the likelihood of new regulations and their overall effect upon us may vary greatly and are not predictable.

#### Financial Instruments

Section 3855 of the CICA Handbook requires that all financial assets, except those classified as held to maturity, and derivative financial instruments, must be measured at fair value. All financial liabilities must be measured at fair value when they are classified as held for trading, otherwise, they are measured at cost. Investments classified as held for sale are reported at fair market value (or mark to market) based on quoted market prices with unrealized gains or losses excluded from earnings and reported as other comprehensive income or loss. All financial assets and liabilities have been classified as either held-to-maturity, available-for-sale, held for trading or loans and receivables effective February 1, 2007. Investments subject to significant influence are reported at cost and not adjusted to fair market value.

**ITEM 6. DIRECTORS, SENIOR MANAGEMENT AND EMPLOYEES****A. Directors and Senior Management**

Each Director serves until the next annual general meeting of shareholders or until his/her successor is duly elected, unless his/her office is vacated in accordance with our Articles of Incorporation.

Vacancies on the Board of Directors are filled by election from nominees chosen by the remaining Directors and the persons filling those vacancies will hold office until the next annual general meeting of shareholders, at which time they may be re-elected or replaced. (For more details on the process for nominating directors, see our Nominations Committee Charter, referenced hereto as Exhibit 11.2.)

The following is a list of the names and ages of our directors and executive officers:

<b>Name</b>	<b>Age</b>	<b>Position</b>
W. Ian L. Forrest	72	Director, Co-Chairman
Frank L. Sims	60	Director, Co-Chairman
Joseph Scipioni	57	Director, President, and Chief Executive Officer
Douglas J. Newby	52	Chief Financial Officer
Bradley H. Moore	50	Executive Vice President, Environmental & Governmental Affairs
Niall Moore	49	Corporate Secretary and Group Controller
David Dreisinger	53	Director
Alan R. Hodnik	51	Director
William Murray	62	Director
Stephen Rowland	49	Director
Michael M. Sill	49	Director

**W. Ian L. Forrest** has served as a member of our board of directors since October 2003, and as our Co-Chair since January 2011. Mr. Forrest previously served as Chairman of our board until February 5, 2008. He also serves on our audit, compensation, and nominating and corporate governance committees. Having played an important role in our revival in 2003, he was appointed Chairman in May 2004. Mr. Forrest is a member of the Institute of Chartered Accountants of Scotland and continues to practice as a public accountant in Geneva, Switzerland. Mr. Forrest has more than 30 years of experience with public companies in the resource sector. His experience encompasses the areas of promotion, financing, exploration, production and company management. He has also participated in several notable projects including Gulfstream's North Dome gas discovery, Qatar, Reunion Mining's Scorpion zinc, Namibia, which was subsequently developed by Anglo American, and Ocean Diamond Mining, which pioneered the independent diamond dredging industry off the west coast of southern Africa. He also serves as a director of MGold Resources Inc., Belmore Resources (Holdings) plc and Georex SA.. Mr. Forrest was a director of Viatrade plc, which was put into receivership in August 2009. Mr. Forrest currently resides in Vaud, Switzerland.

**Frank L. Sims** has served as a member of our board of directors since February 2008, and as our Co-Chair since January 2011. He also serves on our audit, compensation, nominating and corporate governance, and safety, health and environmental committees. Mr. Sims has held a series of progressively senior positions with Cargill, Incorporated between 1972 and his retirement in December 2007. Most recently he served as Corporate Vice President. Minnesota-headquartered Cargill is an international provider of food, agricultural and risk management products and services. Mr. Sims currently serves on the board of Piper Jaffray Companies. Mr. Sims has previously served on the board of Tennant Company, as Vice-Chair of the U.S. Marine Transportation System National Advisory Council, was a Chairman of the board of the North American Export Grain Association, and as Chairman of the Federal Reserve Bank of Minneapolis. Mr. Sims currently resides in Georgia, United States.



**Joseph Scipioni** has served as our President and Chief Executive Officer since February 5, 2008 and as a member of our board of directors since February 19, 2008. He also serves on our safety, health and environmental committee. Mr. Scipioni served as our Chief Operating Officer since March 2007 and as General Manager of our Minnesota operations since July 2006. Prior to June 2006, Mr. Scipioni's career spanned more than 30 years with United States Steel Corporation where he worked in a number of progressively senior positions in operations. His last position was Plant Manager at the Keewatin Taconite plant in Minnesota. Mr. Scipioni is an active advisor to the University of Minnesota Natural Resources Research Institute based in Duluth, Minnesota and is an officer of the Northern Minnesota Chapter of the Society of Mining, Metallurgy and Exploration. In addition, Mr. Scipioni has served in leadership positions with the Iron Mining Association of Minnesota, Central Iron Range Initiative, United Way of Northeastern Minnesota and Hibbing Chamber of Commerce. Mr. Scipioni currently resides in Minnesota, United States.

**Douglas J. Newby** has served as our Chief Financial Officer since November 2005. Mr. Newby has nearly 30 years of experience in the evaluation and financing of mining companies and projects around the world. Before coming to PolyMet, Mr. Newby served variously as a Director, Executive Vice President, interim Chairman, President and Chief Executive Officer of Western Goldfields, Inc. (now New Gold, Inc.) a US-based gold mining company. Mr. Newby has also been President of Proteus Capital Corp., a corporate advisory firm that specializes in the natural resource industries, since July 2001. Mr. Newby served as Managing Director of Proteus Consultants Ltd. from January 1991 to July 2001 and Managing Partner of Moyes Newby & Co., Inc. from April 1994 to December 1998, both of which provided corporate advisory services primarily to the international energy and mining industries. From January 2004 to March 2006, Mr. Newby served as Vice-President of Cadence Resources Corporation, an oil and gas exploration and development company. Prior to January 1991, Mr. Newby held senior positions with the investment banking firms of S.G. Warburg & Co., Inc., Morgan Grenfell & Co., and James Capel & Co. Mr. Newby currently resides in New York, United States.

**Bradley H Moore** has served as our Executive Vice President, Environmental & Government Affairs since January 24, 2011. Mr. Moore has nearly 30 years experience in government and regulatory positions. He served as Commissioner of the Minnesota Pollution Control Agency from 2006 to 2008, and as Assistant Commissioner for Operations of the Minnesota Department of Natural Resources (MDNR) from January 1999 to August 2006. Prior to that, he worked in leadership and policy analyst positions with the MDNR and the Minnesota Department of Public Service (now the Department of Commerce). In December 2008, Mr. Moore joined Barr Engineering as Senior Advisor, Public and Governmental Affairs where he advised several companies, including PolyMet, on environmental strategy. Mr. Moore currently resides in Minnesota, United States.

**Niall Moore** has served as our Corporate Secretary since December 2006 and as our Group Controller since September 2006. Mr. Moore has over 25 years of experience with public companies in the resource sector. From November 2002 to May 2006, he was Director, Corporate Reporting for Placer Dome Inc. and from May 2006 until December 2006 he worked as a consultant to Barrick Gold, Inc. following that company's acquisition of Placer. Prior to November 2002, Mr. Moore was an audit partner at Ernst & Young LLP. Mr. Moore has extensive experience in financial reporting, compliance and valuation work. Mr. Moore currently resides in British Columbia, Canada.

**Dr. David Dreisinger** has served as a member of our board of directors since October 2003. Dr. Dreisinger also served on our audit committee prior to June 2006. Since 1988, Dr. Dreisinger has been a member of the faculty at the University of British Columbia in the Department of Materials Engineering and is currently Professor and Chairholder of the Industrial Research and Chair in Hydrometallurgy. He has published over 200 papers and has been extensively involved as a process consultant in industrial research programs with metallurgical companies. Dr. Dreisinger has participated in 14 U.S. patents for work in areas such as pressure leaching, ion exchange removal of impurities from process solutions, use of thiosulfate as an alternative to cyanide in gold leaching, and leach-electrolysis treatment of copper recovery from sulfide ores, and the Sepon Copper Process for copper recovery from sulfidic-clayey ores. Dr. Dreisinger serves as a director of Search Minerals, Inc. and as Vice President Metallurgy/Process for each of Baja Mining Corp and South American Silver Corp. Dr. Dreisinger currently resides in British Columbia, Canada.



**Alan R. Hodnik** has served as a member of our board of directors since March 9, 2011. He also serves on our compensation committee and our corporate governance and nominating committee. Mr. Hodnik was named President of ALLETE, Inc. in May 2009 and CEO of that company in May 2010. Since joining ALLETE in 1982, Mr. Hodnik has served as Vice President-Generation Operations, Senior Vice President of Minnesota Power Operations, and Chief Operating Officer. As Chief Operating Officer, he led transmission, distribution, generation, and engineering for all aspects of the Company. Mr. Hodnik was the elected mayor of the City of Aurora, MN from 1988 to 1998. He is a member of the board of Essentia Health - East Region and of the Area Partnership for Economic Expansion (APEX). Mr. Hodnik currently resides in Minnesota, United States.

**William Murray** served as our Executive Chairman from February 5, 2008 to December 31, 2010 and has served as a member of our board of directors since March 2003. He previously served as our President and Chief Executive Officer from March 2003 until February 2008. Mr. Murray is an engineer in the mining industry with more than 35 years of experience in construction management and project evaluation in North America and Africa. From April 1993 to 2003, Mr. Murray provided consulting services to the mining industry as a principal of Optimum Project Services Ltd. Prior to that, Mr. Murray was employed by Fluor Daniel, a large U.S. Engineering & Construction contractor, as the Director of New Business from October 1989 to April 1993. From September 1981 to May 1986, Mr. Murray was a Director of Project Services at Denison Mines where he was part of the core team that built the \$1.2 billion Quintette Coal project. From September 1970 to August 1981, Mr. Murray held a number of positions at Anglo American Corp in South Africa, principally in the Gold Division. Mr. Murray is also a director of South American Silver Corp., Aura Minerals, Inc., and Prospero Silver Corp. Mr. Murray currently resides in British Columbia, Canada.

**Stephen Rowland** has served as a member of our board of directors since October 30, 2008. He also serves on our audit and compensation committees. Mr. Rowland has been an executive with Glencore, a privately held diversified natural resources company, since 1988. Mr. Rowland has held various positions with responsibility for international trading in metals and minerals in London, Switzerland, and the United States. Prior to joining Glencore, Mr. Rowland started his career in 1985 with Cargill, Inc. in Minneapolis. Mr. Rowland currently resides in Connecticut, United States.

**Michael M. Sill** has served as a member of our board of directors since March 9, 2011. He also serves on our audit committee and our safety, health and environmental committee. Mr. Sill has served as President and CEO of Road Machinery & Supplies Co. since 1994, having joined the company in 1988. Road Machinery is a distributor of construction, mining and forestry equipment. Educated at Dartmouth College and J.L. Kellogg Graduate School of Management, Mr. Sill started his career as a financial analyst and commercial lending officer with The Northern Trust Company. He has served on the boards of the Equipment Distributors Association of MN, Associated General Contractors of MN, and the Twin Cities Regional Board of US Bank. Mr. Sill currently resides in Minnesota, United States.

**B. Statement of Executive Compensation**

The following table sets forth the compensation paid to our Named Executive Officers for the fiscal year ended January 31, 2011:

	Salaries Commissions and Bonuses	Options	Pension, Retirement and Similar Benefits <sup>(1)</sup>	Bonus Shares	Total Compensation
William Murray, Executive Chairman	\$ 256,035	\$ nil	\$ nil	\$ nil	\$ 256,035
Joseph Scipioni, President and Chief Executive Officer	\$ 275,100	\$ nil	\$ 14,700	\$ nil	\$ 289,800
Douglas Newby Chief Financial Officer	\$ 220,200	\$ nil	\$ 6,606	\$ nil	\$ 226,806

<sup>(1)</sup> Balances represent Company contributions under 401k pension plans.

During the fiscal year ended January 31, 2011, we had three Named Executive Officers ( NEOs ) (for the purposes of applicable securities legislation), namely:

- (a) William Murray, Executive Chairman until 31 December 2010;
- (b) Joseph Scipioni, President and Chief Executive Officer; and
- (c) Douglas Newby, Chief Financial Officer

During the fiscal year ended January 31, 2011, no compensation was paid or is payable by us to the directors of the Company, other than the NEOs (the Other Directors ), or our subsidiaries, if any, for their services in their capacity as directors, including any amounts payable for committee participation or special assignments pursuant to any standard or other arrangements; or

The Company has no pension plan or other arrangement for non-cash compensation to the Other Directors, except as follows:

Name of Director	Consulting Fees
David Dreisinger	59,000 <sup>(1)</sup>

<sup>(1)</sup> Consulting Fees paid in connection with the Company's NorthMet Project.

**C. Board Practices**

All of our directors hold office until the next annual meeting of shareholders and until their successors have been elected and qualified. Our officers are elected by the Board of Directors at the first Board of Directors meeting after each annual meeting of shareholders and hold office until death, resignation, or upon removal from office.

None of our directors have service contracts with us providing for benefits upon termination of their employment.

Our Audit Committee consists of W. Ian L. Forrest (Chair), Stephen Rowland, Michael M. Sill, and Frank L. Sims, all of whom are independent directors. All four members of the Audit Committee meet the criteria of an Audit Committee Financial Expert under the applicable rules and regulations of the SEC and such designation has been ratified by the Board of Directors. The Audit Committee oversees our auditing procedures, receives and accepts the reports of our independent certified public accountants, oversees our internal systems of accounting and management controls, and makes recommendations to the Board of Directors as to the selection and appointment of our auditors. The Audit Committee is governed by the terms of the Charter of the Audit Committee of the Board of Directors which

has previously been filed as Exhibit 16.1.

Our Compensation Committee consists of W. Ian L. Forrest (Chair), Alan R. Hodnik, Stephen Rowland, and Frank L. Sims. The function of the Compensation Committee is to administer the 2007 PolyMet Omnibus Share Compensation Plan and to have authority over the salaries, bonuses, and other compensation arrangements of our executive officers.

Our Nominating and Corporate Governance Committee consists of Frank L. Sims (Chair), W. Ian L. Forrest, and Alan R. Hodnik. The committee (1) identifies individuals qualified to become members of the Board, (2) selects, or recommends to the Board, the director nominees for the next annual shareholders meeting, (3) selects candidates to fill any vacancies on the Board, and (4) develops and recommends to the Board a set of corporate governance principles applicable to the corporation.

**D. Employees**

As of January 31, 2011 we had 21 full-time employees, with 3 located in our Vancouver office and 18 located in our Hoyt Lakes office. None of our employees are covered by a collective bargaining agreement. We believe that our relations with our employees are good.

During the fiscal year ended January 31, 2011, we employed an average of 6 consultants working out of our Vancouver and Minnesota offices.

**E. Share Ownership**

For the shareholdings of our directors and executive officers see Item 7(A).

**ITEM 7. MAJOR SHAREHOLDERS AND RELATED PARTY TRANSACTIONS****A. Major Shareholders**

The following table sets forth, as of May 4, 2011, certain information regarding the ownership of our voting securities by each shareholder known to our management to be (i) the beneficial owner of more than 5% of our outstanding common shares, (ii) our directors, (iii) our current executive officers identified under Item 6(A), and (iv) all executive officers and directors as a group. We believe that, except as otherwise indicated, the beneficial owners of the common shares listed below, based on information furnished by such owners, have sole investment and voting power with respect to such shares.

<b>Name and Address of Beneficial Owner (1)</b>	<b>Amount and Nature of Beneficial Ownership</b>	<b>Percent of Outstanding Common Shares</b>
W. Ian L. Forrest (2)	2,453,000	1.6%
Frank Sims (3)	939,100	*
Joseph Scipioni (4)	1,100,000	*
Douglas J. Newby (5)	1,015,000	*
Bradley H. Moore (6)	300,000	
Niall Moore (7)	525,000	*
David Dreisinger (8)	1,426,300	*
Alan R. Hodnik (9)	250,000	*
William Murray (10)	3,157,276	2.0%
Stephen Rowland	Nil	*
Michael M. Sill (11)	250,000	*
All executive officers and directors as a group (11 persons) (12)	11,415,676	7.1%
<b>5% or more shareholders:</b>		
Glencore (13) Baarermattstrasse 3 CH-6341 Baar Switzerland	14,433,962	9.3%
Cleveland-Cliffs, Inc. (14) 1100 Superior Avenue Cleveland, OH 44114-2589	9,200,547	5.9%
George Molyviatis (15) Sunion, Greece	8,634,920	5.6%

\* Less than 1%.

1. The address of each person, unless otherwise noted, is c/o PolyMet Mining Corp., Suite 390-3600 Lysander Lane, Richmond, British Columbia V7B 1C3.

2. Includes 350,000 common shares issuable upon exercise of currently exercisable options, at an exercise price of CDN\$0.66 per share set to expire on July 5, 2011, 150,000 common shares issuable upon exercise of currently exercisable options, at an exercise price of CDN\$1.36 per share set to expire on September 19, 2012, 250,000 common shares issuable upon exercise of currently exercisable options, at an exercise price of CDN\$2.76 per share set to expire on March 20, 2013 and 150,000 common shares issuable upon exercise of currently exercisable options, at an exercise price of US\$0.82 per share set to expire on February 17, 2016. Mr. Forrest has voting and dispositive control with respect to 1,178,000 common shares owned in the name of Micor Trading SA of which he is a director, 375,000 common shares owned in the name of Panares Resources Inc. of which he is a director, and Catherine L. Forrest, Mr. Forrest's wife, directly owns 932,380 common shares.
3. Includes 400,000 common shares issuable upon exercise of currently un-exercisable options, at an exercise price of US\$2.72 per share set to expire on February 15, 2015, 200,000 common shares issuable upon exercise of currently exercisable options, at an exercise price of US\$0.82 per share set to expire on February 17, 2016 and 250,000 common shares issuable upon exercise of currently un-exercisable options, at an exercise price of US\$2.04 per share set to expire on March 10, 2018. Mr. Sims directly owns 89,100 common shares.
4. Includes 200,000 common shares issuable upon exercise of currently exercisable options, at an exercise price of CDN\$2.97 per share set to expire on June 19, 2013, 300,000 common shares issuable upon exercise of currently non-exercisable options, at an exercise price of CDN\$3.30 per share set to expire on January 5, 2014, 250,000 common shares issuable upon exercise of currently non-exercisable options, at an exercise price of USD\$2.92 per share set to expire on March 12, 2014 and 100,000 common shares issuable upon exercise of currently non-exercisable options, at an exercise price of USD\$2.72 per share set to expire on February 15, 2015, 200,000 common shares issuable upon exercise of currently exercisable options, at an exercise price of US\$0.82 per share set to expire on February 17, 2016 held in Mr. Scipioni's name. Mr. Scipioni directly owns 50,000 common shares.
5. Includes 165,000 common shares held in the name of Proteus Capital Corp. of which he is the President and controlling shareholder, 100,000 common shares issuable upon exercise of currently exercisable options, at an exercise price of CDN\$1.15 per share set to expire on December 5, 2012, 500,000 common shares issuable upon exercise of currently exercisable options, at an exercise price of CDN\$2.76 per share set to expire on March 20, 2013 held in Mr. Newby's name; and 40,000 common shares issuable upon exercise of currently exercisable options, at an exercise price of CDN\$0.94 per share set to expire on June 15, 2012, and 210,000 common shares issuable upon exercise of currently exercisable options, at an exercise price of CDN\$1.36 per share set to expire on September 19, 2012 held in the name of Proteus Capital Corp. of which he is the President and controlling shareholder.
6. Includes 300,000 common shares issuable upon exercise of currently un-exercisable options, at an exercise price of USD \$2.17 per share set to expire on January 25, 2018.
7. Includes 275,000 common shares issuable upon exercise of currently exercisable options, at an exercise price of CDN\$3.82 per share set to expire on September 1, 2013, 175,000 common shares issuable upon exercise of currently non-exercisable options, at an exercise price of CDN\$3.30 per share set to expire on January 5, 2014 and 75,000 common shares issuable upon exercise of currently exercisable options, at an exercise price of US\$0.82 per share set to expire on January 30, 2016 held in Mr. Moore's name.
8. Includes 300,000 common shares issuable upon exercise of currently exercisable options, at an exercise price of CDN\$0.66 per share set to expire on July 5, 2011, 150,000 common shares issuable upon exercise of currently exercisable options, at an exercise price of CDN\$1.36 per share set to expire on September 19, 2012, 250,000 common shares issuable upon exercise of currently exercisable options, at an exercise price of CDN\$2.76 per share set to expire on March 20, 2013 and 150,000 common shares issuable upon exercise of currently

exercisable options, at an exercise price of US\$0.82 per share set to expire on February 17, 2016. Dr. Dreisinger directly owns 576,300 common shares.

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9. Includes 250,000 common shares issuable upon exercise of currently un-exercisable options, at an exercise price of USD \$2.04 per share set to expire on March 10, 2018.
  10. Includes 100,000 common shares issuable upon exercise of currently exercisable options, at an exercise price of CDN\$0.66 per share set to expire on July 5, 2011, 300,000 common shares issuable upon exercise of currently exercisable options, at an exercise price of CDN\$1.36 per share set to expire on September 19, 2012, 450,000 common shares issuable upon exercise of currently exercisable options at an exercise price of CDN\$2.76 per share set to expire on March 20, 2013 and 200,000 common shares issuable upon exercise of currently exercisable options, at an exercise price of US\$0.82 per share set to expire on February 17, 2016. Mr. Murray directly owns 1,120,100 common shares and has voting and dispositive control over 987,176 common shares owned in the name of Group 4 Ventures of which he is the sole shareholder.
  11. Includes 250,000 common shares issuable upon exercise of currently un-exercisable options, at an exercise price of USD \$2.04 per share set to expire on March 10, 2018.
  12. Includes 6,125,000 common shares issuable upon exercise of currently exercisable options and also includes 750,000 common shares of currently un-exercisable options.
  13. This shareholder acquired 9,433,962 of our common shares from us during our fiscal 2010 fourth quarter and an additional 5 million of our common shares from us during our fiscal 2011 fourth quarter. This shareholder also holds convertible debentures convertible into 6,887,783 of our common shares and warrants to acquire 3 million of our common shares at \$2.00 per share.
  14. This shareholder held 1,000,000 shares as of January 31, 2005, 7,200,547 as of January 31, 2006 and 9,200,547 as of January 31, 2007, January 31, 2008 and January 31, 2009.
  15. This shareholder held 8,334,920 as of January 31, 2010 and exercised 300,000 options in January 2011.
- Our shareholders who beneficially own more than 5% of our common shares outstanding do not have voting rights different from any other shareholders of common shares.

As of May 4, 2011, there were 325 holders of record of our common shares of which 249 were U.S. residents owning 27.3% of our outstanding common shares.

**B. Related Party Transactions**

We have conducted transactions with officers, directors and persons or companies related to directors and paid or accrued amounts as follows:

	2011 (in \$'000's)	2010 (in \$'000's)	2009 (in \$'000's)
Consulting fees paid to David Dreisinger, a Director of the Company	\$ 59	\$ 59	\$ 56
	\$ 59	\$ 59	\$ 56

The amounts charged to us for the services provided have been determined by negotiation among the parties. These transactions were in the normal course of operations and were measured at the exchange value, which is the amount of consideration established and agreed to by the related party.

During the year ended January 31, 2011, we paid \$59,000 (2010 - \$59,000 and 2009 - \$56,000) to Dr. Dreisinger for consulting fees primarily in connection with activities related to the processing / technical side of the NorthMet Project and related expenses (the latter were supported by invoices and receipts). The consulting fees were based on a monthly fee of Canadian \$5,500 plus general sales tax. Throughout the term of his engagement, Dr. Dreisinger has conducted in-person and telephonic meetings with Mr. William Murray, the Company's then Executive Chairman and formerly its President and Chief Executive Officer, and other members of management at which he provided both verbal and written updates on the status of test work and made recommendations for future activities. These meetings occurred approximately every two to three weeks for the past six years.

The agreement with Dr. Dreisinger was entered into at a time when our current business plans were being formulated and were month to month and oral in nature. The agreement was approved by Mr. William Murray. It was discussed with our board of directors who did not consider that formal approval and a written contract was necessary at that time. We believe that the contract was at terms at least as good as could be obtained from third parties.

**C. Interests of experts and counsel.**

Not applicable.

**ITEM 8. FINANCIAL INFORMATION****A. Consolidated Statements and Other Financial Information**

See Item 18.

**Legal Proceedings**

Neither we, nor our subsidiaries, is a party to, nor is our property or the property of our subsidiaries the subject of, any pending legal or arbitration proceeding that is material.

**Dividend Policy**

Since its incorporation, we have not declared or paid, and have no present intention to declare or to pay in the foreseeable future, any cash dividends with respect to our common shares. Earnings will be retained to finance further growth and development of our business. However, if our board of directors declares dividends, all common shares will participate equally, and, in the event of liquidation, in our net assets.



## **B. Significant Changes**

On February 2, 2011 we announced that we had simplified the proposed metallurgical process and now plan to build the project in two phases:

- Phase I: produce and market concentrates containing copper, nickel, cobalt and precious metals, and
- Phase II: process the nickel concentrate through a single autoclave, resulting in production and sale of high grade copper concentrate, value added nickel-cobalt hydroxide, and precious metals precipitate products.

Previous plans included a second autoclave and a copper solvent extraction/electro-winning ( SX-EW ) circuit to produce copper metal along with value added nickel-cobalt hydroxide and precious metals precipitate products. The changes reflect continued metallurgical process and other project improvements as well as improved environmental controls that are being incorporated into the Supplemental Draft EIS. The advantages, compared with the earlier plan, include a better return on capital investment, reduced financial risk, lower energy consumption, and reduced waste disposal and emissions at site. Approximately \$127 million of the total \$602 million capital costs estimated in the May 2008 DFS Update will not be incurred in this revised plan.

On March 10, 2011 we appointed Alan R. (Al) Hodnik and Michael M. (Mike) Sill to our Board of Directors.

In March 2011, we entered into an agreement with the State of Minnesota's Department of Natural Resources committing us to an additional \$2.8 million of environmental and permitting review work through April 1, 2012.

On April 15, 2011 we reported that we and the Lead Agencies expect to finalize detailed work plans for the Supplemental Draft EIS by early May 2011. The detailed project, which includes the simplified metallurgical process and reduction in capital costs that we announced on February 2, 2011, will then be modeled to predict environmental impacts of the project. The third party contractor hired by the lead agencies will then prepare a preliminary supplemental draft Environmental Impact Statement, which will be reviewed by the lead agencies, cooperating agencies (including the US Environmental Protection Agency and tribal governments) and us. Once that review process has been completed, the supplemental draft EIS will be finalized for publication and public comment. The lead agencies anticipate that the public comment period will commence during the fall of 2011. A final EIS will incorporate comments, after which a subsequent Adequacy Decision by the DNR and Record of Decision by the federal agencies are necessary before the land exchange can occur and various permits required to construct and operate the project can be issued.

On April 15, 2011 the Board of the IRRRB reapproved a secured loan to our wholly owned subsidiary Poly Met Mining, Inc. of up to \$4 million. The loan will be secured by the land to be acquired from proceeds of the loan, carry a fixed interest rate of 5% per annum, and will be repayable on June 30, 2016. Subject to regulatory approval, we also agreed to issue warrants giving the IRRRB the right to purchase up to 400,000 shares of our common stock at US\$2.50 per share at any time until the earlier of June 30, 2016 and one year after we receive permits. The loan is expected to close on or before 30 June, 2011.

**ITEM 9. THE OFFER AND LISTING**

**A. The Offer and Listing Details**

The following table outlines the annual high and low market prices for the five most recent fiscal years:

The following table outlines the high and low market prices for each fiscal financial quarter for the two most recent fiscal periods:

The following table outlines the high and low market prices for each of the most recent six months:

1. On January 31, 2007 we ceased trading on the TSX Venture Exchange and on February 1, 2007, we commenced trading on the Toronto Stock Exchange.
2. On June 26, 2006, we began trading on the NYSE Amex.

**B. Plan of Distribution**

Not applicable.



**C. Markets**

In April 1984, our common shares commenced trading on the TSX Venture Exchange in British Columbia, Canada under the symbol "POM. On February 1, 2007, our common shares graduated to trading on the TSX Exchange in British Columbia under the symbol POM. In August 2000, our common shares began trading on the OTCBB under the symbol POMGF. On June 26, 2006, our common shares commenced trading on the NYSE Amex (formerly the American Stock Exchange) under the symbol PLM.

**D. Selling Shareholders**

Not applicable.

**E. Dilution**

Not applicable.

**F. Expenses of the Issue**

Not applicable.

**ITEM 10. ADDITIONAL INFORMATION**

**A. Share Capital**

Not Applicable.

**B. Memorandum and Articles of Association**

***Incorporation***

We were incorporated under the name Fleck Resources Ltd. pursuant to the *Companies Act* (British Columbia) and continued under the *Business Corporations Act* (British Columbia) by registration of its memorandum in British Columbia, Canada, under Certificate of Incorporation #BC0228310 on March 4, 1981. We changed our name to PolyMet Mining Corp. on June 10, 1998. We do not have any stated objects or purposes as such that are not required by the corporate laws of the Province of British Columbia. Rather, we are, by such corporate laws, entitled to carry on any activities whatsoever that are not specifically precluded by other statutory provisions of the Province of British Columbia.

***Powers and Functions of the Directors***

The powers and functions of the directors are set forth in our Articles, the current version of which were adopted on October 6, 2004, and in the Business Corporations Act (British Columbia). They provide that:

- (a) a director who holds office or possesses any property, right, or interest that could result, directly or indirectly, in the creation of a duty of interest that materially conflicts with his duty or interest as a director must disclose the nature and extent of the conflict and abstain from voting on the approval of the proposed contract or transaction, unless all the directors have a disclosable interest, in which case the director may vote on such resolution, and moreover, may be liable to account to us for any profit that accrued under such an interest contract or transaction;
- (b) a director is not deemed to be interested in a proposed contract or transaction merely because it relates to the remuneration of a director in that capacity. The directors may, in the absence of an independent quorum, vote compensation to themselves;
- (c) there are no specific limitations on the exercise by the directors of our borrowing powers;

- (d) there are no provisions for the retirement or non-retirement of directors under an age limit, and
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(e) there is no requirement for a director to hold any shares in us.

*Rights and Restrictions Attached to the Shares*

As all of our authorized and issued shares are of one class of common shares, there are no special rights or restrictions of any nature or kind attached to any of the shares, including any dividend rights. All authorized and issued shares rank equally in respect to the declaration and receipt of dividends and rights to share in any profits or surplus upon our liquidation, dissolution or winding-up. Each share has attached to it one non-cumulative vote. Shareholders are not liable to further capital calls made by us. There is no specific sinking fund provision or any provision discriminating against any existing or prospective holder of shares as a result of such shareholder owning a substantial number of shares.

*Alteration of Share Rights*

The rights of holders of our issued common shares may be altered by special resolution, which requires the approval of the holders of two-thirds or more of the votes cast at a meeting of our shareholders called and held in accordance with applicable law.

*Annual General Meetings*

Annual General Meetings are called and scheduled upon decision by the Board of Directors. Pursuant to the *Business Corporations Act* (British Columbia), we are required to hold an annual meeting in each year, not more than 15 months after the date of the most recent annual meeting. The directors may call a meeting of the shareholders whenever they see fit. All meetings of the shareholders may be attended by registered shareholders or persons who hold powers of attorney or proxies given to them by registered shareholders.

*Foreign Ownership Limitations*

Our Articles and charter documents do not contain limitations prohibiting non-residents, foreigners or any other group from holding or voting shares.

*Change of Control*

There are no provisions in our Articles or charter documents that currently have the effect of delaying, deferring or preventing a change in the control in us, or that would operate with respect to any proposed merger, acquisition or corporate restructuring involving us or any of our subsidiaries.

*Share Ownership Reporting Obligations*

There are no provisions in our Articles requiring share ownership to be disclosed.

Securities legislation in Canada requires that shareholder ownership must be disclosed once a person owns beneficially or has control or direction over greater than 10% of the issued shares of a corporation, such as us. This threshold is higher than the 5% threshold under U.S. securities legislation at which shareholders must report their share ownership.

**C. Material Contracts**  
**Asset Purchase Agreements**

For a complete description of the acquisition of the mine site lease, see Item 4(D)(c)(i).

For a complete description of the acquisition of the Erie Plant and associated infrastructure acquired in the Asset Purchase Agreements I and II, see Item 4(D)(c)(ii).

**Purchase Agreement**

For a complete description of the purchase agreement entered into with Glencore AG, see Item 5(a).

**D. Exchange Controls**

There are no governmental laws, decrees or regulations in Canada relating to restrictions on the export or import of capital, or affecting remittance of interest, dividends or other payments to non-resident holders of our common shares. Any remittances of dividends to United States residents are, however, subject to a 15% withholding tax (5% if the shareholder is a company owning at least 10% of the outstanding common shares) pursuant to the reciprocal tax treaty between Canada and the United States. See the section of this Form 20-F entitled Taxation.

Except as provided in the Investment Canada Act (the ICA ), which has provisions which govern the acquisition of a control block of voting shares by a person who is not a Canadian resident (a non-Canadian ) of a company carrying on a Canadian business, there are no limitations specific to the rights of non-Canadians to hold or vote the common shares under the laws of Canada or the Province of British Columbia or in our charter documents.

**E. Taxation**

The following summary of the material Canadian federal income tax considerations generally applicable to our common shares reflects our opinion. The tax consequences to any particular holder of common shares will vary according to the status of that holder as an individual, trust, corporation, or member of a partnership, the jurisdiction in which that holder is subject to taxation, the place where that holder is resident and, generally, according to that holder's particular circumstances. This summary is applicable only to holders who are residents of the United States, have never been a resident of Canada, deal at arm's length with us, hold their common shares as capital property, and who will not use or hold the common shares in carrying on business in Canada. Special rules, which are not discussed in this summary, may apply to a United States holder that is an issuer that carries on business in Canada and elsewhere.

This summary is based upon the provisions of the Income Tax Act of Canada and the regulations thereunder (collectively, the Tax Act, or ITA ) and the Canada-United States Tax Convention as amended by the Protocols thereto (the Tax Convention ) as of the date of the Annual Report and the current administrative practices of Revenue Canada, Customs, Excise and Taxation. This summary does not take into account Canadian provincial income tax consequences.

This summary is not exhaustive of all possible income tax consequences. It is not intended as legal or tax advice to any particular holder of common stock and should not be so construed. Each holder should consult his own tax advisor with respect to the income tax consequences applicable to him in his own particular circumstances.

North American Free Trade Agreement (Canada). The Investment Act was amended with the North American Free Trade Agreement (NAFTA) to provide for special review thresholds for Americans (including American-controlled entities as defined in the Investment Act). Under the Investment Act, as amended, an investment in our common shares by an American would be reviewable only if it was an investment to acquire control of us and the value of our assets was equal to or greater than a specified amount (the Review Threshold ), which increases in stages. The Review Threshold is currently \$150 million.



Disposition of Common Shares. If a non-resident of Canada were to dispose of our common shares to a Canadian corporation which deals or is deemed to deal on a non-arm's length basis with the non-resident and that, and immediately after the disposition is connected with us (i.e. holds shares representing more than 10% of the voting power and more than 10% of the market value of all of our shares issued and outstanding), the amount by which the fair market value of any consideration (other than any shares of the purchaser corporation) exceeds the paid-up capital of the common shares sold will be deemed to be taxable as a dividend paid by the purchasing corporation, either immediately or eventually by means of a deduction in computing the paid-up capital of the purchasing corporation, and subject to withholding taxes as described below.

Under the Tax Act, a gain from the sale of common shares by a non-resident will not be subject to Canadian tax, provided the shareholder (and/or persons who do not deal at arm's length with the shareholder) has not held a substantial interest in us (25% or more of the shares of any class of our stock) at any time in the five years preceding the disposition. Generally, the Tax Convention will exempt from Canadian taxation any capital gain realized by a resident of the United States, provided that the value of the common shares is not derived principally from real property situated in Canada.

Dividend. In the case of any dividends paid to non-residents, we withhold the Canadian tax and remit only the net amount to the shareholder. By virtue of Article X of the Tax Convention, the rate of tax on dividends paid to residents of the United States is generally limited to 15% of the gross dividend (or 5% in the case of certain corporate shareholders owning at least 10% of our voting shares upon ratification of the Protocol amending the treaty. In the absence of the Tax Convention provisions, the rate of Canadian withholding tax imposed on non-residents is 25% of the gross dividend. Stock dividends received by nonresidents from us are taxable by Canada as ordinary dividends and therefore the withholding tax rates will be applicable.

Where a holder disposes of common shares to us (unless we acquired the common shares in the open market in the manner in which shares would normally be purchased by any member of the public), this will result in a deemed dividend to the U.S. holder equal to the amount by which the consideration we paid by exceeds the paid-up capital of such stock. The amount of such dividend will be subject to withholding tax as described above.

Capital Gains. A non-resident of Canada is not subject to tax under the ITA in respect of a capital gain realized upon the disposition of a share of a class that is listed on a prescribed stock exchange unless the share represents taxable Canadian property to the holder thereof. Our common shares will be taxable Canadian property to a non-resident holder if, at any time during the period of five years immediately preceding the disposition, the non-resident holder, persons with whom the non-resident holder did not deal at arm's length, or the non-resident holder and persons with whom he/she did not deal at arm's length owned 25% or more of our issued shares of any class or series. In the case of a non-resident holder to whom our shares represent taxable Canadian property and who is resident of the United States, no Canadian tax will be payable on a capital gain realized on such shares by reason of the Tax Convention unless the value of such shares is derived principally from real property situated in Canada or the nonresident holder previously held the shares while resident in Canada. We believe that the value of our common shares is not derived from real property situated inside Canada.

Certain United States Federal Income Tax Consequences. The following discussion is a summary of certain U.S. federal income tax consequences that may be relevant with respect to the ownership and disposition of our common shares by a U.S. Holder (as hereinafter defined). This discussion is based upon the provisions of the U.S. Internal Revenue Code of 1986, as amended (the Code), Treasury regulations promulgated thereunder, administrative rulings and judicial decisions, in each case as of the date hereof. These authorities are subject to differing interpretations and may be changed, perhaps retroactively, resulting in U.S. federal income tax consequences different from those discussed below. We have not sought any ruling from the U.S. Internal Revenue Service (IRS) with respect to the statements made and the conclusions reached in this discussion, and there can be no assurance that the IRS will agree with such statements and conclusions.



This discussion applies only to U.S. Holders who hold our common shares as capital assets within the meaning of Section 1221 of the Code. In addition, this summary does not address all U.S. federal income tax considerations that may be applicable to a U.S. Holder's particular circumstances or to U.S. Holders who may be subject to special tax rules, including, without limitation: tax-exempt organizations, qualified retirement plans, individual retirement accounts and other tax-deferred accounts, financial institutions, insurance companies, partnerships or other entities treated as partnerships for U.S. federal income tax purposes, real estate investment trusts, regulated investment companies, broker-dealers, non-resident alien individuals, U.S. Holders whose functional currency is not the U.S. dollar, persons subject to the alternative minimum tax, persons who hold our common shares as part of a straddle, hedging or conversion transaction, and persons who own, actually or constructively, 10% or more of our common shares.

For purposes of this discussion, a U.S. Holder means a holder of our common shares who is (i) a citizen or an individual resident of the U.S., (ii) a corporation, or other entity treated as a corporation for U.S. federal income tax purposes, created or organized in or under the laws of the U.S., any state thereof or the District of Columbia, (iii) an estate the income of which is subject to U.S. federal income taxation regardless of its source, or (iv) a trust if it is subject to the primary supervision of a court within the U.S. and one or more U.S. persons, as defined in the Code, have the authority to control all substantial decisions of the trust or (2) has a valid election in effect under applicable Treasury regulations to be treated as a U.S. person.

If a partnership (or any other entity treated as a partnership for U.S. federal income tax purposes) holds our common shares, the tax treatment of a partner in such partnership will generally depend on the status of the partner and the activities of the partnership. Such a partner should consult its own tax advisors as to the U.S. federal income tax consequences of being a partner in a partnership that holds or disposes of our common shares.

This discussion addresses only certain aspects of U.S. federal income taxation to U.S. Holders. U.S. Holders should consult their own tax advisors regarding the U.S. federal, state, local, non-U.S. and other tax consequences of the ownership and disposition of our common shares.

**Distributions on Our Common Shares.** Subject to the discussion below under **Passive Foreign Investment Company**, U.S. Holders receiving dividend distributions (including constructive dividends) with respect to our common shares generally are required to include in gross income for U.S. federal income tax purposes the gross amount of such distributions (without reduction for any Canadian income or other tax withheld from such distributions), equal to the U.S. dollar value of such distributions on the date of receipt (based on the exchange rate on such date), to the extent that we have current or accumulated earnings and profits (as determined for U.S. federal income tax purposes). To the extent that the amount of the distribution exceeds our current and accumulated earnings and profits, it will be treated as a return of capital to the extent of a U.S. Holder's adjusted tax basis in our common shares and thereafter as capital gain from the sale or exchange of such common shares. We do not intend to calculate our earnings and profits under U.S. federal income tax principles. Therefore, a U.S. Holder should expect that the full amount of a distribution with respect to the common shares will be treated, and reported by us, as a dividend.

For taxable years beginning before January 1, 2011, dividends received by U.S. Holders that are individuals, estates or trusts from a qualified foreign corporation, as defined in Section 1(h)(11) of the Code, generally are taxed at the same preferential tax rates applicable to long-term capital gains. A corporation that is a PFIC, as defined below under **Passive Foreign Investment Company**, for its taxable year during which it pays a dividend, or for its immediately preceding taxable year, however, is not a qualified foreign corporation. We believe we will meet the definition of a PFIC and dividends received by U.S. Holders that are individuals, estates or trusts generally will be subject to U.S. federal income tax at ordinary income tax rates (and not at the preferential tax rates applicable to long-term capital gains). Dividends paid on our common shares will not be eligible for the dividends received deduction provided to corporations receiving dividends from certain U.S. corporations.

In the case of foreign currency received as a dividend that is not converted by the recipient into U.S. dollars on the date of receipt, a U.S. Holder will have a tax basis in the foreign currency equal to its U.S. dollar value on the date of receipt. Generally any gain or loss recognized upon a subsequent sale or other disposition of the foreign currency, including the exchange for U.S. dollars, will be ordinary income or loss.

Disposition of Our Common Shares. Subject to the discussion below under Passive Foreign Investment Company, U.S. Holders will recognize gain or loss upon the sale of our common shares equal to the difference, if any, between (i) the amount of cash plus the fair market value of any property received, and (ii) the U.S. Holder's tax basis in our common shares. A U.S. Holder's tax basis in the shares generally will be equal to the amount such U.S. Holder paid for the shares, subject to adjustments. Any gain or loss on disposition of our common shares generally will be U.S. source gain or loss and will be capital gain or loss. If, at the time of the disposition, a U.S. holder is treated as holding the common shares for more than one year, such gain or loss will be a long-term capital gain or loss. Long-term capital gain recognized by a non-corporate U.S. holder is currently subject to taxation at a reduced rate. The deductibility of capital losses is subject to limitations.

Passive Foreign Investment Company. We believe that we will meet the definition of passive foreign investment company ( PFIC ) within the meaning of Sections 1291 through 1298 of the Code. A U.S. Holder who holds stock in a non-U.S. corporation during any year in which such corporation is a PFIC is subject to numerous special U.S. federal income tax rules. A non-U.S. corporation is considered to be a PFIC for any taxable year if either:

- at least 75% of its gross income is passive income (the income test ), or
- at least 50% of the value of its assets (based on an average of the quarterly values of the assets during a taxable year) is attributable to assets that produce or are held for the production of passive income (the asset test ).

For purposes of the income test and the asset test, respectively, we will be treated as earning our proportionate share of the income and owning our proportionate share of the assets of any other corporation in which we own, directly or indirectly, 25% or more (by value) of the stock. In addition, for purposes of the income test, passive income does not include any interest, dividends, rents, or royalties received or accrued by us from a related person (as defined in Section 954(d)(3) of the Code), to the extent such items are properly allocable to income of such related person that is not passive.

We must make a separate determination each year as to whether we are a PFIC. As a result, our PFIC status may change. In particular, because the total value of our assets for purposes of the asset test will be calculated using the market price of our common shares (assuming that we continue to be a publicly traded corporation for purposes of the PFIC rules), our PFIC status will depend in large part on the market price of our common shares. Accordingly, fluctuations in the market price of our common shares may result in our being a PFIC for any year. If we are a PFIC for any year during which a U.S. Holder holds our common shares, we generally will continue to be treated as a PFIC for all succeeding years during which such U.S. Holder holds the common shares, absent a special election. For instance, if we cease to be a PFIC, a U.S. Holder may avoid some of the adverse effects of the PFIC regime by making a deemed sale election with respect to our common shares pursuant to which such U.S. Holder recognizes gain (which will be taxed under the default PFIC tax rules discussed below) as if such common shares had been sold on the last day of the last taxable year for which we were a PFIC. If we are a PFIC for any taxable year and any of our non-U.S. subsidiaries is also a PFIC, a U.S. Holder would be treated as owning a proportionate amount (by value) of the shares of the lower-tier PFIC for purposes of the application of these rules. U.S. Holders are urged to consult their tax advisors about the application of the PFIC rules to any of our subsidiaries.

If we are a PFIC for any taxable year during which a U.S. Holder holds our common shares, such U.S. Holder will be subject to special tax rules with respect to any excess distribution that it receives and any gain it realizes from a sale or other disposition (including a pledge) of the common shares, unless the U.S. Holder makes a mark-to-market election, as discussed below. Distributions received by a U.S. Holder in a taxable year that are greater than 125% of the average annual distributions such U.S. Holder received during the shorter of the three preceding taxable years and its holding period for the common shares will be treated as an excess distribution. Under these special tax rules:



- the excess distribution or gain will be allocated ratably over the U.S. Holder's holding period for the common shares;
- the amount allocated to the current taxable year and any taxable year prior to the first taxable year in which we became a PFIC will be treated as ordinary income, and
- the amount allocated to each other taxable year will be subject to the highest tax rate in effect for that year and the interest charge generally applicable to underpayments of tax will be imposed on the resulting tax attributable to each such year.

The tax liability for amounts allocated to taxable years prior to the year of disposition or excess distribution cannot be offset by any net operating losses for such years, and gains (but not losses) realized on the disposition of the common shares cannot be treated as capital, even if the U.S. Holder holds the common shares as capital assets.

Alternatively, a U.S. Holder of marketable stock (as defined below) in a PFIC may make a mark-to-market election with respect to shares of a PFIC to elect out of the tax treatment discussed above. If a U.S. Holder makes a valid mark-to-market election for the common shares, the U.S. Holder will include in income each year an amount equal to the excess, if any, of the fair market value of the common shares as of the close of its taxable year over its adjusted basis in such common shares. The U.S. Holder is allowed a deduction for the excess, if any, of the adjusted basis of the common shares over their fair market value as of the close of the taxable year. However, deductions are allowable only to the extent of any net mark-to-market gains on the common shares included in the U.S. Holder's income for prior taxable years. Amounts included in a U.S. Holder's income under a mark-to-market election, as well as gain on the actual sale or other disposition of the common shares, are treated as ordinary income. Ordinary loss treatment also applies to the deductible portion of any mark-to-market loss on the common shares, as well as to any loss realized on the actual sale or disposition of the common shares, to the extent that the amount of such loss does not exceed the net mark-to-market gains previously included for such common shares. A U.S. Holder's basis in the common shares will be adjusted to reflect any such income or loss amounts. If a U.S. Holder makes such an election, the tax rules that ordinarily apply to distributions by corporations that are not PFICs would apply to distributions by us, except that the preferential tax rates applicable to long-term capital gains on dividends received from a qualified foreign corporation discussed above under Distributions on the Common Shares would not apply.

Although a U.S. Holder may be eligible to make a mark-to-market election with respect to our common shares, no such election may be made with respect to the stock of any of our non-U.S. subsidiaries that is also a PFIC and that a U.S. Holder is treated as owning, because such stock is not marketable. Hence, the mark-to-market election will not be effective to eliminate the interest charge described above with respect to deemed dispositions of subsidiary PFIC stock or distributions from a subsidiary PFIC.

The mark-to-market election is available only for marketable stock, which is stock that is traded in other than de minimis quantities on at least 15 days during each calendar quarter on a qualified exchange, including the Toronto Stock Exchange and the NYSE Amex, or other market, as defined in applicable U.S. Treasury regulations. We expect that our common shares will continue to be listed on each of the Toronto Stock Exchange and the NYSE Amex on at least 15 days during each calendar quarter and traded in other than de minimis quantities, and, consequently, the mark-to-market election would be available to U.S. Holders of common shares if we were to be a PFIC.

If a non-U.S. corporation is a PFIC, a holder of shares in that corporation can avoid taxation under the rules described above by making a qualified electing fund election to include the holder's share of the corporation's income on a current basis in gross income. However, a U.S. Holder can make a qualified electing fund election with respect to its common shares only if we furnish the U.S. Holder annually with certain tax information, and we do not intend to prepare or provide such information.

Congress recently enacted the Hiring Incentives to Restore Employment Act ( HIRE ). Under HIRE, U.S. Holders of a PFIC are required to file an annual report containing any information that may be required by the Treasury. While these information requirements have not yet been specified by the Treasury, a U.S. Holder that holds common shares

in any year in which we are a PFIC generally will be required to file IRS Form 8621 regarding distributions received on the common shares and any gain realized on the disposition of the common shares.

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U.S. Holders are urged to consult their tax advisors regarding the application of the PFIC rules to their investment in our common shares.

**Foreign Tax Credits.** Subject to certain conditions and limitations, including potential limitations under the United States-Canada treaty, Canadian taxes paid on or withheld from distributions from us and not refundable to a U.S. Holder may be, at the election of such U.S. Holder, either credited against such U.S. Holder's U.S. federal income tax liability or deducted from such U.S. Holder's taxable income. Generally, a credit will reduce a U.S. Holder's U.S. federal income tax liability on a dollar-for-dollar basis, whereas a deduction will reduce a U.S. Holder's income subject to U.S. federal income tax. This election is made on a year-by-year basis and applies to all foreign taxes paid by or withheld from a U.S. Holder that year.

Complex limitations apply to the foreign tax credit, including the general limitation that the credit cannot exceed the proportionate share of a U.S. Holder's U.S. federal income tax liability that such U.S. Holder's foreign source taxable income bears to such U.S. Holder's worldwide taxable income. In applying this limitation, a U.S. Holder's various items of income and deduction must be classified, under complex rules, as either foreign source or U.S. source. In addition, this limitation is calculated separately with respect to specific categories of income. Dividends paid by us generally will constitute foreign source income and generally will be categorized as passive category income.

Because the rules governing foreign tax credits are complex, U.S. Holders should consult their own tax advisors regarding the availability of foreign tax credits in their particular circumstances.

**Information Reporting: Backup Withholding.** In general, payments made in the U.S. or through certain U.S. related financial intermediaries with respect to the ownership and disposition of our common shares will be required to be reported to the IRS unless the U.S. Holder is a corporation or other exempt recipient and, when required, demonstrates this fact. In addition, a U.S. Holder may be subject to a backup withholding tax (currently at a rate of 28%) on such payments unless the U.S. Holder (i) is a corporation or other exempt recipient and when required, demonstrates this fact or (ii) provides a taxpayer identification number and otherwise timely complies with applicable certification requirements. U.S. Holders should consult their tax advisors regarding their qualification for an exemption from backup withholding and the procedures for obtaining such an exemption, if applicable. Backup withholding is not an additional tax. Amounts withheld as backup withholding may be credited against a U.S. Holder's U.S. federal income tax liability and such U.S. Holder may obtain a refund of any excess amounts withheld by filing the appropriate claim for refund with the IRS and furnishing any required information in a timely manner.

**THE UNITED STATES FEDERAL INCOME TAX DISCUSSION SET FORTH ABOVE IS FOR GENERAL INFORMATION PURPOSES ONLY, DOES NOT PURPORT TO BE A COMPLETE DESCRIPTION OF THE POTENTIAL TAX CONSIDERATIONS RELATING TO OUR COMMON SHARES AND IS NOT TAX ADVICE. U.S. HOLDERS ARE URGED TO CONSULT THEIR TAX ADVISORS REGARDING THE SPECIFIC TAX CONSEQUENCES TO THEM OF THE OWNERSHIP AND DISPOSITION OF OUR COMMON SHARES.**

**F. Dividends and Paying Agents**

Not Applicable.

**G. Statement by Experts**

Not Applicable.

**H. Documents on Display**

All documents referred to in this Form 20-F are available for inspection at our office, listed below, during normal office hours.

PolyMet Mining Corp.  
#390 3600 Lysander Lane  
Richmond, British Columbia  
V7B 1C3 Canada

We are subject to the informational requirements of the Exchange Act. In accordance with these requirements, we file reports and other information with the SEC. These materials, including this annual report on Form 20-F and its exhibits, may be inspected and copied at the SEC's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549 and at the SEC's regional office at 500 West Madison Street, Suite 1400, Chicago, Illinois 60661. Copies of the materials may be obtained from the Public Reference Room of the Commission at 100 F. Street, N.E., Washington, D.C. 20549 at prescribed rates. The public may obtain information on the operation of the Commission's Public Reference Room by calling the Commission in the United States at 1-800-SEC-0330.

Our reports, registration statements and other information can also be inspected on EDGAR available on the SEC's website at [www.sec.gov](http://www.sec.gov).

In Canada, additional information, including directors' and officers' remuneration and indebtedness, principal holders of our securities and securities authorized for issuance under equity compensation plans, is contained in our Management Information Circular for our most recent annual meeting of securityholders that involved the election of directors.

Additional financial information is provided in our financial statements and MD&A, copies of which can be obtained by contacting our Corporate Secretary in writing at 390 3600 Lysander Lane, Richmond, British Columbia V7B 1C3 or by e-mail at [info@polymetmining.com](mailto:info@polymetmining.com). Copies of such documents will be provided to shareholders free of charge.

Additional information relating to PolyMet may be found on the System for Electronic Document Analysis and Retrieval ( SEDAR ) at [www.sedar.com](http://www.sedar.com).

**I. Subsidiary Information**

Not Applicable

**ITEM 11. QUANTITATIVE AND QUALITATIVE DISCLOSURE ABOUT MARKET RISK**

We may be subject to foreign currency exchange rate risk, because we hold funds and financial instruments in Canadian dollars but report our financial information using the U.S. dollar. If we hold onto funds obtained from financings, currently our only means to obtain funds, in Canadian dollar accounts and the Canadian dollar depreciates in comparison to the U.S. the fair value of our funds will decrease and will be reported on our financial statements at this depressed conversion rate. If the Canadian dollar appreciates as compared to the U.S. dollar, however, fair value of any financial instruments or funds held will increase and be reported on our financial statements based on this favorable conversion rate. Our current exposure, however, is not sufficient to have a material effect on our results of operations and financial condition.



Moreover, we periodically access the capital markets with the issuance of new shares to fund operating expenses, and we do not maintain significant cash reserves over periods of time that could be materially affected by fluctuations in interest rates or foreign exchange rates.

#### **ITEM 12. DESCRIPTION OF SECURITIES OTHER THAN EQUITY SECURITIES**

Not Applicable.

#### **ITEM 13. DEFAULT, DIVIDEND ARREARAGES AND DELINQUENCIES**

None.

#### **ITEM 14. MATERIAL MODIFICATIONS TO THE RIGHT OF SECURITY HOLDERS AND USE OF PROCEEDS**

##### **Shareholder Rights Plan**

Effective May 25, 2007, the Company adopted an updated Shareholder Rights Plan ( Rights Plan ), which was approved by the Company s shareholders on June 27, 2007 and modified by the Company s shareholders on June 17, 2008. Under the Rights Plan, the Company has issued one right for no consideration in respect of each outstanding common share of the Company to all holders of record of common shares on December 4, 2003. All common shares subsequently issued by the Company during the term of the Rights Plan will have one right represented for each common share held by the shareholder of the Company. The term of the Rights Plan is 10 years, unless the rights are earlier redeemed or exchanged. The Rights issued under the Rights Plan become exercisable only if a party acquires 20% or more of the Company's common shares without complying with the Rights Plan or without the approval of the Board of Directors of the Company.

Each Right entitles the registered holder thereof to purchase from the Company on the occurrence of certain events, one common share of the Company at the price of CDN\$50 per share, subject to adjustment (the Exercise Price ). However, if a Flip-in Event (as defined in the Rights Plan) occurs, each Right would then entitle the registered holder to receive, upon payment of the Exercise Price, that number of common shares that have a market value at the date of that occurrence equal to twice the Exercise Price. The Rights are not exercisable until the Separation Time as defined in the Rights Plan.

The Shareholder Rights Plan has previously been filed as Exhibit 14.1.

#### **ITEM 15. CONTROLS AND PROCEDURES**

##### **A. Evaluation of Disclosure Controls and Procedures**

As of the end of the period covered by this Annual Report, an evaluation was performed under the supervision and with the participation of our management, including the chief executive officer and chief financial officer, of the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rule 13a-15 of the Exchange Act). Based on that evaluation, our management, including the chief executive officer and chief financial officer, concluded that at 31 January 2011 the Company s disclosure controls and procedures were effective in providing reasonable assurance that material information required to be disclosed by us in the reports that we file or submit under the Exchange Act, is recorded, processed, summarized and reported within the time periods specified in the SEC s rules and forms. In reaching this conclusion, the Company recognizes two factors that must be and are present:



- a) the Company is dependent upon its advisors and consultants (primarily legal counsel) to assist in recognizing, interpreting and understanding and complying with the various securities regulations disclosure requirements, and
- b) an active board of directors and management with open lines of communication.

#### **B. Management's Annual Report on Internal Control over Financial Reporting**

Our management is responsible for establishing and maintaining adequate internal control over financial reporting. Internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of the Consolidated Financial Statements for external reporting purposes in accordance with GAAP.

Internal control over financial reporting, no matter how well designed, has inherent limitations. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Management has assessed the effectiveness of our internal control over financial reporting as at January 31, 2011. In making its assessment, management has used the criteria established in Internal Control - Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO") to evaluate the our internal control over financial reporting.

Management identified a material weakness in our internal control over financial reporting relating to timely preparation of financial statements and key schedules for internal review. The underlying cause of the material weakness was the implementation of a new accounting and financial reporting system during the third fiscal quarter. Termination of an outsource accounting service provider and use of non-accounting personnel to undertake accounting duties exacerbated the problems of timeliness. Prior to filing its financial statements for the year ended January 31, 2011, management had taken steps to address this weakness and plans further changes to our internal controls in the light of continued problems in the year-end reporting. Based on this assessment, management has concluded that we did not maintain, in all material respects, effective internal control over financial reporting as at January 31, 2011.

#### **C. Attestation Report of the Registered Public Accounting Firm**

The attestation report of PricewaterhouseCoopers with respect to the Company's internal control over financial reporting is filed with Item 18 of this Annual Report.

#### **D. Changes in Internal Controls**

During the quarter ended October 31, 2010, we experienced difficulties moving to a new accounting and financial reporting system. These difficulties were primarily in the input and review of transactions and in particular concerned the accurate recording of foreign exchange and intercompany transactions. Termination of an outsource accounting service provider and use of non-accounting personnel to undertake accounting duties exacerbated the problems.

Management undertook a rigorous process to ensure that all transactions were recorded completely and accurately in the accounting records. As a result of these difficulties and this review process, we were unable to meet our filing deadline to provide consolidated financial statements, management's discussion and analysis and CEO and CFO certifications for its quarter ended 31 October 2010.

Management recognized the need to implement changes to our internal control over financial reporting relating to the input and review of all transactions, including foreign exchange and intercompany transactions. Since filing the third quarter interim financials, Management has been implementing changes to our internal control over financial reporting including strengthening the segregation of duties, reallocating responsibilities, and strengthening the financial reporting team. We are in the process of engaging independent advise in connection with complex accounting issues and tax,

Management has made significant progress, but implementation of the changes was not sufficiently complete during preparation of year-end financial statements and, as a consequence, we were unable to meet our filing deadline to provide consolidated financial statements, management's discussion and analysis and CEO and CFO certifications for its year ended January 31, 2011.

Management recognizes the lack of timely preparation of financial information and key schedules to be a Material Weakness in its internal control over financial reporting. Management believes that the changes described, once more fully implemented, will ensure the timely provision of financial information to our shareholders in future, in accordance with the filing deadlines established by regulators.

There have been no other changes in our internal control over financial reporting during the year ended January 31, 2011 that have materially affected, or are reasonably likely to materially affect, internal control over financial reporting.

#### **ITEM 16A. AUDIT COMMITTEE FINANCIAL EXPERT**

As of January 31, 2011, the audit committee consisted of three directors. All three members of the Audit Committee, W. Ian L. Forrest, Frank L. Sims, and Stephen Rowland meet the criteria of an Audit Committee Financial Expert under the applicable rules and regulations of the SEC, and each of their designation as an Audit Committee Financial Expert has been ratified by the Board. All three members of the Audit Committee are independent, as that term is defined in the New York Stock Exchange Amex listing standards.

#### **ITEM 16B. CODE OF ETHICS**

We have adopted Code of Ethics, effective April 5, 2006, which applies to all our employees, including our directors and executive officers, including our principal executive, financial and accounting officers, and persons performing similar functions. The Code of Ethics covers areas of professional and business conduct, and is intended to promote honest and ethical behavior, including fair dealing and the ethical handling of conflicts of interest, support full, fair, accurate, and timely disclosure in reports and documents we file with, or submit to, the SEC and other governmental authorities, and in its other public communications; deter wrongdoing; encourage compliance with applicable laws, rules, and regulations; and to ensure the protection of our legitimate business interests. We also encourage our directors, officers, employees and consultants to promptly to report any violations of the Code of Ethics.

The Code has previously been filed as Exhibit 11.1.

**ITEM 16C. PRINCIPAL ACCOUNTANT FEES AND SERVICES**

The following outlines the expenditures for accounting fees billed and paid for the last two fiscal periods ended:

<i>Financial Year Ending</i>	<i>Audit Fees</i>	<i>Audit Related Fees</i>
	\$1,741	\$67,149 \$54,461
Total Operating days		41 1,742 1,786
Average Daily Time Charter Equivalent		\$42,463 \$38,547 \$30,493

B. Capitalization and Indebtedness

Not Applicable.

C. Reasons for the Offer and Use of Proceeds

Not Applicable.

D. Risk Factors

The following risks relate principally to the industries in which we operate and our business in general. Any of the risk factors could materially and adversely affect our business, financial condition or operating results and the trading price of our common stock.

Risks Related to Our Industries

Disruptions in world financial markets and the resulting governmental action in the United States and other parts of the world could have a material adverse impact on our ability to obtain financing, our results of operations, financial condition and cash flows and could cause the market price of our common shares to decline.

Although the world economy is currently recovering from the second-worst downturn in the last 100 years, the future of this recovery still remains fragile. The effects of the downturn are still lingering as credit remains tight, demand for goods and services has not yet fully recovered and unemployment is high. Most major economies have been backing up this recovery via fiscal stimulus packages, liquidity injections and by decreasing interest rates. The credit markets in the United States and worldwide have experienced significant contraction, de-leveraging and reduced liquidity, and the United States federal government, state governments and foreign governments have implemented a broad variety of governmental action and/or new regulation of the financial markets. Securities and futures markets and the credit markets are subject to comprehensive statutes, regulations and other requirements. The Commission, other regulators, self-regulatory organizations and exchanges are authorized to take extraordinary actions in the event of market emergencies, and may effect further changes in law or interpretations of existing laws.

A number of financial institutions have experienced financial difficulties and, in some cases, have entered bankruptcy proceedings or are in regulatory enforcement actions. The uncertainty surrounding the recovery of the credit markets in the United States and the rest of the world has resulted in reduced access to credit worldwide that is especially evident in our industry, the banking institutions of which have recently been forced to record heavy losses from troubled shipping loans. These difficulties may adversely affect the financial institutions that provide our credit facilities and may impair their ability to continue to perform under their financing obligations to us, which could have an impact on our ability to fund current and future obligations.

We face risks attendant to changes in economic environments, changes in interest rates, and instability in certain securities markets, among other factors. Major market disruptions and the current adverse changes in market conditions and regulatory climate in the United States and worldwide may adversely affect our business. The current market conditions may last longer than we anticipate. These recent and developing economic and governmental factors may have a material adverse effect on our results of operations, financial condition or cash flows and could cause the price of our common shares to further decline.

The international tanker and drybulk industries are both cyclical and volatile and this may lead to reductions and volatility in our charter rates when we re-charter our vessels, vessel values and our results of operations.

The international tanker and drybulk industries in which we operate are cyclical with attendant volatility in charter hire rates, vessel values and industry profitability. For both tankers and drybulk vessels, the degree of charter rate volatility among different types of vessels has varied widely. If we enter into a charter when charter rates are low, our revenues and earnings will be adversely affected. In addition, a decline in charter hire rates likely will cause the value of our vessels to decline. In the case of two of our tanker vessels, following the expiration of their charters in 2010 we anticipated that future hires would be at lower rates due to the adverse market conditions that have been prevailing in the product tanker market for most of 2009 and the first quarter of 2010. More specifically in March 2010, one of these vessels commenced a new two-year time charter agreement at a lower gross daily rate. We do not anticipate an improvement in product tanker hire rates in the immediate future and to this end we concluded that there was a need to write down the carrying value of these two vessels to their fair values. See "Item 5 – Operating and Financial Review and Prospects – Critical Accounting Policies-Impairment of long-lived assets" for more information on impairment.

Our current fleet deployment consists mainly of long term time charters and long term bareboat charters which significantly limits our exposure to charter rate volatility and its effect on our result of operations. Additionally, changes in spot rates in the tanker sector and the drybulk sector can affect the value of respective vessels at any given time despite the existence of long term employment contracts. Our ability to re-charter our vessels on the expiration or termination of their current time and bareboat charters and the charter rates payable under any renewal or replacement charters will depend upon, among other things, economic conditions in the tanker and drybulk market.

The factors affecting the supply and demand for our vessels are outside our control and are unpredictable. The nature, timing, direction and degree of changes in tanker and drybulk industry conditions are also unpredictable. Factors that influence demand for tanker and drybulk vessel capacity include:

- demand for refined petroleum products and crude oil for tankers and drybulk commodities for drybulk vessels;
- changes in crude oil production and refining capacity as well as drybulk commodity production and resulting shifts in trade flows for crude oil, petroleum product and drybulk commodities;
- the location of regional and global crude oil refining facilities and drybulk commodities markets that affect the distance refined petroleum products and crude oil or drybulk commodities are to be moved by sea;
- global and regional economic and political conditions;
- the location of regional and global crude oil refining facilities and drybulk commodities markets that affect the distance refined petroleum products and crude oil or drybulk commodities are to be moved by sea;
- environmental and other regulatory developments;
- currency exchange rates; and
- weather.



The factors that influence the supply of oceangoing vessel capacity include:

- the number of newbuilding deliveries;
- the scrapping rate of older vessels;
- the price of steel;
- vessel casualties;
- potential conversion of vessels to alternative use;
- changes in environmental and other regulations that may limit the useful lives of vessels;
- port or canal congestion;
- the number of vessels that are out of service at a given time; and
- changes in global crude oil and drybulk commodity production.

The international tanker and drybulk shipping industries have experienced drastic downturns after experiencing historically high charter rates and vessel values in the recent past, and a continued downturn in these markets may have an adverse effect on our earnings, impair the carrying value of our vessels and affect compliance with our loan covenants.

The Baltic Drybulk Index, or BDI, a U.S. Dollar daily average of charter rates issued by the London-based Baltic Exchange (an organization providing maritime market information for the trading and settlement of physical and derivative contracts) that takes into account input from brokers around the world regarding fixtures for various routes, dry cargoes and various drybulk vessel sizes, steeply declined in 2008 but then rebounded in 2009, although not to pre-crisis levels. The BDI declined from a high of 11,793 in May 2008 to a low of 663 in December 2008, which represents a decline of 94%, but has since risen to 3,933 as of June 3, 2010. The decline in charter rates was due to various factors, including the lack of trade financing for purchases of commodities carried by sea, which resulted in a significant decline in cargo shipments, and the excess supply of iron ore in China, which resulted in falling iron ore prices and increased stockpiles in Chinese ports. The decline in charter rates in the drybulk market also affected the value of our drybulk vessels, which followed the trends of drybulk charter rates, and earnings on our charters, and similarly, affected our cash flows, liquidity and compliance with the covenants contained in our loan agreements. During 2009 and the beginning of 2010, the abovementioned factors affecting the BDI partially subsided, allowing for the recovery of rates and a recovery in drybulk vessel values.

The Baltic Dirty Tanker Index, a U.S. Dollar daily average of charter rates issued by the London based Baltic Exchange that takes into account input from brokers around the world regarding crude oil fixtures for various routes various tanker vessel sizes, after a steep decline that started in mid-2008 and lasted until the end of the third quarter 2009, has rebounded in the fourth quarter of 2009, although not to pre-crisis levels. The Baltic Dirty Tanker Index declined from a high of 2,347 in July 2008 to a low of 453 in mid-April 2009, which represents a decline of 80%, but has since risen to 911 as of June 3, 2010.

The Baltic Clean Tanker Index fell from 1,509 points as of June 19, 2008, to 345 points as of April 4, 2009, but has rebounded to 644 points as of June 3, 2010. The dramatic decline in charter rates was due to various factors, including the significant fall in demand for crude oil and petroleum products, the consequent rising inventories of crude oil and petroleum products in the United States and in other industrialized nations and the corresponding reduction in oil refining, the dramatic fall in the price of oil in 2008, and the restrictions on crude oil production that the Organization of Petroleum Exporting Countries (OPEC) and other non-OPEC oil producing countries have imposed in an effort to stabilize the price of oil. During 2009, the abovementioned factors affecting the Baltic Dirty and Clean Tanker Indices partially subsided, allowing for the recovery of rates and a stabilization of tanker vessel values.

If the charter rates in the tanker and drybulk market decline from their current levels, our future earnings may be adversely affected and we may have to record impairment adjustments to the carrying values of our fleet, and we may not be able to maintain compliance with the financial covenants in our loan agreements. We realized impairment charges of \$36.6 million during the fourth quarter of 2009. See "Item 5 – Operating and Financial Review and Prospects – Critical Accounting Policies – Impairment of long-lived assets". We are currently in discussions with our lenders in relation to covenant breaches. Our lenders' interests may be different from ours, and we may not be able to obtain our lenders' permission or waivers when needed. This may limit our ability to continue to conduct our operations, finance our future operations, make acquisitions or pursue business opportunities. A decline in charter rates could have a material adverse effect on our business, financial condition and results of operations. See "Item 5 – Operating and Financial Review and Prospects - Tabular Disclosure of Contractual Obligations – Long term debt" for relevant discussion of debt and respective covenants.

Rising fuel prices may adversely affect our business.

Fuel is a significant, if not the largest, operating expense for many of our shipping operations when our vessels are not under period charter. The price and supply of fuel is unpredictable and fluctuates based on events outside our control, including geopolitical developments, supply and demand for oil and gas, actions by OPEC and other oil and gas producers, war and unrest in oil producing countries and regions, regional production patterns and environmental concerns. Further, fuel may become much more expensive in future, which may reduce the profitability and competitiveness of our business versus other forms of transportation, such as truck or rail. Currently, all of our vessels are under period employment whereby the fuel cost is taken up by the charterer except for periods when the vessel is off-hire.

Compliance with environmental laws or regulations may adversely affect our operations.

The shipping industry in general and our business and the operation of tankers and drybulk vessels in particular, are affected by a variety of governmental regulations in the form of numerous international conventions, national, state and local laws and international, national and local regulations in force in the jurisdictions in which such tankers and drybulk vessels operate, as well as in the country or countries in which such tankers and drybulk vessels are registered. These regulations include:

- the United States Oil Pollution Act of 1990, or OPA, which imposes strict liability for the discharge of oil into the 200-mile United States exclusive economic zone, the obligation to obtain certificates of financial responsibility for vessels trading in United States waters and the requirement that newly constructed tankers that trade in United States waters be constructed with double-hulls;

- the International Convention on Civil Liability for Oil Pollution Damage of 1969, as amended in 2000, or the CLC, entered into by many countries (other than the United States) relating to strict liability for pollution damage caused by the discharge of oil;

- the International Maritime Organization, or IMO (the United Nations agency for maritime safety and the prevention of pollution by ships), International Convention for the Prevention of Pollution from Ships, 1973, as modified by the related Protocol of 1978 relating thereto, or the MARPOL Convention, which has been updated through various amendments, with respect to strict technical and operational requirements for tankers;

- the IMO International Convention for the Safety of Life at Sea, or SOLAS Convention, with respect to crew and passenger safety;

- the International Convention on Load Lines, 1966, or LL Convention, with respect to the safeguarding of life and property through limitations on load capability for vessels on international voyages;

the United States Marine Transportation Security Act of 2002, or MTSA; and

The European Union Directive 1999/32/EC of 1999 as amended by Directive 2005/33/EC of 2005, regarding reductions in emissions of sulphur dioxide resulting from the combustion of petroleum-derived liquid fuels within Member States' territory, territorial seas and exclusive economic zones or pollution control zones.

Additional laws and regulations may also be adopted that could limit our ability to do business or increase the cost of our doing business and that could have a material adverse effect on our operations. In addition, we are required by various governmental and quasi-governmental agencies to obtain certain permits, licenses, certificates and financial assurances with respect to our vessel operations. In the event of war or national emergency, our tankers and drybulk vessels may be subject to requisition by the government of the flag flown by the tanker or drybulk vessel without any guarantee of compensation for lost profits. We believe our vessels are maintained in good condition in compliance with present regulatory requirements, are operated in compliance with applicable safety/environmental laws and regulations and are insured against usual risks for such amounts as our management deems appropriate. In relation to EU and US low-sulphur requirements our vessels are currently in the process of being in full compliance. Our vessels' operating certificates and licenses are renewed periodically during each vessel's required annual survey. However, government regulation of tankers and drybulk vessels, particularly in the areas of safety and environmental impact, may change in the future and require us to incur significant capital expenditures on our ships to keep them in compliance.

Under local, national and foreign laws, as well as international treaties and conventions, we could incur material liabilities, including cleanup obligations, natural resource damages and third-party claims for personal injury or property damages, in the event that there is a release of petroleum or other hazardous substances from our vessels or otherwise in connection with our current or historic operations. We could also incur substantial penalties, fines and other civil or criminal sanctions, including in certain instances seizure or detention of our vessels, as a result of violations of or liabilities under environmental laws, regulations and other requirements.

For example, OPA affects all vessel owners shipping oil to, from or within the United States. OPA allows for potentially unlimited liability for owners, operators and bareboat charterers of vessels without regard to fault for oil pollution in United States waters. Similarly, the CLC, which has been adopted by most countries outside of the United States, imposes liability for oil pollution in international waters. OPA expressly permits individual states to impose their own liability regimes with regard to hazardous materials and oil pollution incidents occurring within their boundaries. Coastal states in the United States have enacted pollution prevention liability and response laws, many providing for unlimited liability.

Future accidents may be expected in the shipping industry, and such accidents or other events may be expected to result in the adoption of even stricter laws and regulations, which could limit our operations or our ability to do business and which could have a material adverse effect on our business and financial results.

We are subject to international safety regulations and the failure to comply with these regulations may subject us to increased liability, may adversely affect our insurance coverage and may result in a denial of access to, or detention in, certain ports.

The operation of our vessels is affected by the requirements set forth in the IMO's International Management Code for the Safe Operation of Ships and Pollution Prevention, or ISM Code. The ISM Code requires shipowners, ship managers and bareboat charterers to develop and maintain an extensive "Safety Management System" that includes the adoption of a safety and environmental protection policy setting forth instructions and procedures for safe operation and describing procedures for dealing with emergencies. The failure of a shipowner or bareboat charterer to comply with the ISM Code may subject it to increased liability, may invalidate existing insurance or decrease available insurance coverage for the affected vessels and may result in a denial of access to, or detention in, certain ports. As of the date of this Annual Report, each of our vessels is ISM code-certified.



Compliance with safety and other vessel requirements imposed by classification societies may be very costly and may adversely affect our business.

The hull and machinery of every commercial vessel must be classed by a classification society authorized by its country of registry. The classification society certifies that a vessel is safe and seaworthy in accordance with the applicable rules and regulations of the country of registry of the vessel and the Safety of Life at Sea Convention. Our vessels are currently enrolled with Lloyd's Register of Shipping, Det Norske Veritas and Bureau Veritas each of which is a member of the International Association of Classification Societies.

A vessel must undergo annual surveys, intermediate surveys and special surveys. In lieu of a special survey, a vessel's machinery may be placed on a continuous survey cycle, under which the machinery would be surveyed periodically over a five-year period. Our vessels are on special survey cycles for hull inspection and continuous survey cycles for machinery inspection.

Most vessels are also dry-docked every 30 to 36 months for inspection of the underwater parts and for repairs related to such inspections. If any defects are found, the classification surveyor will issue a "recommendation" which must be rectified by the ship owner within prescribed time limits.

If a vessel does not maintain its class and/or fails any annual survey, intermediate survey or special survey, the vessel will be unable to trade between ports and will be unemployable, which will negatively impact our revenues and results from operations.

Climate change and greenhouse gas restrictions may adversely impact our operations and markets.

Due to concern over the risk of climate change, a number of countries and the IMO have adopted, or are considering the adoption of, regulatory frameworks to reduce greenhouse gas emissions. These regulatory measures may include, among others, adoption of cap and trade regimes, carbon taxes, increased efficiency standards, and incentives or mandates for renewable energy. In addition, although the emissions of greenhouse gases from international shipping currently are not subject to the Kyoto Protocol to the United Nations Framework Convention on Climate Change, which required adopting countries to implement national programs to reduce emissions of certain gases, a new treaty may be adopted in the future that includes restrictions on shipping emissions. Compliance with changes in laws, regulations and obligations relating to climate change could increase our costs related to operating and maintaining our vessels and require us to install new emission controls, acquire allowances or pay taxes related to our greenhouse gas emissions, or administer and manage a greenhouse gas emissions program. Revenue generation and strategic growth opportunities may also be adversely affected.

Adverse effects upon the oil and gas industry relating to climate change, including growing public concern about the environmental impact of climate change, may also adversely affect demand for our services. For example, increased regulation of greenhouse gases or other concerns relating to climate change may reduce the demand for oil and gas in the future or create greater incentives for use of alternative energy sources. Any long-term material adverse effect on the oil and gas industry could have a significant financial and operational adverse impact on our business that we cannot predict with certainty at this time.

Our vessels may suffer damage due to the inherent operational risks of the seaborne transportation industry and we may experience unexpected dry-docking costs, which may adversely affect our business and financial condition.

Our vessels and their cargoes will be at risk of being damaged or lost because of events such as marine disasters, bad weather, business interruptions caused by mechanical failures, grounding, fire, explosions and collisions, human error, war, terrorism, piracy and other circumstances or events. These hazards may result in death or injury to persons, loss of revenues or property, environmental damage, higher insurance rates, damage to our customer relationships, delay or rerouting. If our vessels suffer damage, they may need to be repaired at a dry-docking facility. The costs of dry-dock repairs are unpredictable and may be substantial. We may have to pay dry-docking costs that our insurance does not cover in full. The loss of earnings while these vessels are being repaired and repositioned, as well as the actual cost of these repairs, would decrease our earnings. In addition, space at dry-docking facilities is sometimes limited and not all dry-docking facilities are conveniently located. We may be unable to find space at a suitable dry-docking facility or our vessels may be forced to travel to a dry-docking facility that is not conveniently located to our vessels' positions. The loss of earnings while these vessels are forced to wait for space or to steam to more distant dry-docking facilities would decrease our earnings.

Because the market value of our vessels may fluctuate significantly, we may incur losses when we sell vessels or we may be required to write down their carrying value, which will adversely affect our earnings.

Current market conditions have caused a decrease in the fair market value of our vessels. The fair market value of our vessels may increase and decrease depending on the following factors:

- general economic and market conditions affecting the international tanker and drybulk shipping industries;
- prevailing level of charter rates;
- competition from other shipping companies;
- types, sizes and ages of vessels;
- other modes of transportation;
- cost of newbuildings;
- price of steel;
- governmental or other regulations; and
- technological advances.

If we sell vessels at a time when vessel prices have fallen, the sale may be at less than the vessel's carrying amount in our financial statements in which case we will realize a loss. Vessel prices can fluctuate significantly, and in the case where the market value falls below the carrying amount we evaluate the asset for a potential impairment and may be required to write down the carrying amount of the vessels on our financial statements and incur a loss and a reduction in earnings, if the estimate of undiscounted cash flows, excluding interest charges, expected to be generated by the use of the asset is less than its carrying amount. Such was the case for our two oldest tankers, which resulted in an impairment charge of \$36.6 million during the fourth quarter of 2009. See "Item 5 – Operating and Financial Review and Prospects - Critical Accounting Policies" for relevant discussion and analysis.



An over-supply of drybulk carrier and/or tanker capacity may lead to reductions in charter hire rates and profitability.

The market supply of drybulk carriers has been increasing, and the number of drybulk carriers on order is near historic highs. These newbuildings were delivered in significant numbers starting at the beginning of 2006 and continuing through 2010. As of December 31, 2009, newbuilding orders had been placed for an aggregate of approximately 57% of the existing global drybulk fleet, with deliveries expected during the next 36 months.

The market supply of tankers is affected by a number of factors such as demand for energy resources, oil and petroleum products, as well as strong overall economic growth in part of the world economy, including Asia. As of December 31, 2009, newbuilding orders have been placed for an aggregate of approximately 30% of the existing global tanker fleet.

An over-supply of drybulk carrier and/or tanker capacity may result in a reduction of charter hire rates. If such a reduction occurs, we may only be able to re-charter our vessels at reduced or unprofitable rates or we may not be able to charter these vessels at all upon the expiration or termination of our vessels' current charters.

Operating results from our tankers are subject to seasonal fluctuations, which may adversely affect our operating results.

Eight of the vessels in our combined fleet are tankers. We operate our tankers in markets that have historically exhibited seasonal variations in demand and, therefore, charter rates. This seasonality may result in quarter-to-quarter volatility in our operating results. The tanker sector is typically stronger in the fall and winter months in anticipation of increased consumption of oil and petroleum products in the northern hemisphere during the winter months. As a result, our revenues from our tankers may be weaker during the fiscal quarters ended June 30 and September 30, and, conversely, revenues may be stronger in fiscal quarters ended December 31 and March 31. This seasonality could materially affect our results of operations.

Our earnings may be adversely affected if we do not successfully employ our vessels.

Given current market conditions, we seek to deploy our vessels on time and bareboat charters in a manner that will help us achieve a steady flow of earnings. As of the date of this annual report, two of our tanker vessels and four of our drybulk vessels were contractually committed to time charters, and six of our tanker vessels and one of our drybulk vessels were contractually committed to bareboat charters. Although these period charters provide relatively steady streams of revenue as well as a portion of the revenues generated by the charterer's deployment of the vessels in the spot market or otherwise, our vessels committed to period charters may not be available for spot voyages during an upturn in the tanker or drybulk industry cycle, as the case may be, when spot voyages might be more profitable. The spot market is highly competitive, and spot market charter rates may fluctuate dramatically based on the supply and demand for the major commodities carried internationally by water as well as other factors. As of the date of this annual report, we did not have any vessels that were trading in the spot market. If we cannot continue to employ our vessels on profitable time charters or trade them in the spot market profitably, our results of operations and operating cash flow may suffer if rates achieved are not sufficient to cover respective vessel operating and financial expenses.

World events could adversely affect our results of operations and financial condition.

Terrorist attacks such as the attacks on the United States on September 11, 2001, the bombings in Spain on March 11, 2004 and in London on July 7, 2005 and the continuing response of the United States to these attacks, as well as the threat of future terrorist attacks in the United States or elsewhere, continue to cause uncertainty in the world financial markets and may affect our business, operating results and financial condition. The continuing conflict in Afghanistan may lead to additional acts of terrorism and armed conflict around the world, which may contribute to further economic instability in the global financial markets. These uncertainties could also adversely affect our ability to obtain any additional financing or, if we are able to obtain additional financing, to do so on terms unfavorable to us. In the past, political conflicts have also resulted in attacks on vessels, mining of waterways and other efforts to disrupt international shipping, particularly in the Arabian Gulf region. Acts of terrorism and piracy have also affected vessels trading in regions such as the South China Sea. Any of these occurrences could have a material adverse impact on our business, financial condition and results of operations.

Acts of piracy on oceangoing vessels have recently increased in frequency, which could adversely affect our business.

Acts of piracy have historically affected oceangoing vessels trading in regions of the world such as the South China Sea and the Gulf of Aden off the coast of Somalia. Throughout 2008, 2009 and 2010, the frequency of piracy incidents against commercial shipping vessels increased significantly, particularly in the Gulf of Aden. Since the beginning of 2009, numerous tanker and drybulk vessels have fallen victim to piracy attacks off the coast of Somalia. For example, on December 28, 2009, the M/V Navios Apollon, a drybulk vessel not affiliated with us, was seized by pirates while transporting fertilizers 800 miles off the Somali coast.

If these piracy attacks result in regions in which our vessels are deployed being characterized by insurers as "war risk" zones, as the Gulf of Aden has been since May 2008, or Joint War Committee "war and strikes" listed areas, premiums payable for such insurance coverage could increase significantly and such insurance coverage may be more difficult to obtain. Crew costs, including those due to employing onboard security guards, could increase in such circumstances. In addition, while we believe the charterer remains liable for charter payments when a vessel is seized by pirates, the charterer may dispute this and withhold charter hire until the vessel is released. A charterer may also claim that a vessel seized by pirates was not "on-hire" for a certain number of days and it is therefore entitled to cancel the charter party, a claim that we would dispute. We may not be adequately insured to cover losses from these incidents, which could have a material adverse effect on us. In addition, detention hijacking as a result of an act of piracy against our vessels, or an increase in cost, or unavailability of insurance for our vessels, could have a material adverse impact on our business, financial condition, results of operations and cash flows.

Changes in the economic and political environment in China and policies adopted by the government to regulate its economy may have a material adverse effect on our business, financial condition and results of operations.

The Chinese economy differs from the economies of most countries belonging to the Organization for Economic Cooperation and Development, or OECD, in such respects as structure, government involvement, level of development, growth rate, capital reinvestment, allocation of resources, rate of inflation and balance of payments position. Prior to 1978, the Chinese economy was a planned economy. Since 1978, increasing emphasis has been placed on the utilization of market forces in the development of the Chinese economy. Annual and five-year plans, or State Plans, are adopted by the Chinese government in connection with the development of the economy. Although state-owned enterprises still account for a substantial portion of the Chinese industrial output, in general, the Chinese government is reducing the level of direct control that it exercises over the economy through State Plans and other measures. There is an increasing level of freedom and autonomy in areas such as allocation of resources, production, pricing and management and a gradual shift in emphasis to a "market economy" and enterprise reform. Limited price reforms were undertaken, with the result that prices for certain commodities are principally determined by market forces. Many of the reforms are unprecedented or experimental and may be subject to revision, change or abolition

based upon the outcome of such experiments. If the Chinese government does not continue to pursue a policy of economic reform the level of imports to and exports from China could be adversely affected by changes to these economic reforms by the Chinese government, as well as by changes in political, economic and social conditions or other relevant policies of the Chinese government, such as changes in laws, regulations or export and import restrictions, all of which could, adversely affect our business, operating results and financial condition.

A further economic slowdown in the Asia Pacific region could exacerbate the effect of recent slowdowns in the economies of the United States and the European Union and may have a material adverse effect on our business, financial condition and results of operations.

We anticipate a significant number of the port calls made mainly by our drybulk vessels will continue to involve the loading or discharging of drybulk commodities in ports in the Asia Pacific region. As a result, negative changes in economic conditions in any Asia Pacific country, particularly in China, may exacerbate the effect of recent slowdowns in the economies of the United States and the European Union and may have a material adverse effect on our business, financial position and results of operations, as well as our future prospects.

Before the global economic financial crisis that began in 2008, China had one of the world's fastest growing economies in terms of gross domestic product, or GDP, which had a significant impact on shipping demand. The economic crisis affected China as well, though to a much lesser extent, as was evidenced by the slowdown in GDP growth in the last quarter of 2008 and the first half of 2009. In 2009, the successful implementation of a \$586.0 billion stimulus package aimed in part at increasing investment and consumer spending and maintaining export growth helped propel China to pre-crisis levels of growth, as was evidenced by the fourth quarter GDP growth of 10.7% that helped raise the annual GDP growth for 2009 to 8.7%. However, fears of an overheated economy led the Chinese government to adopt restraining monetary measures, increasing the required deposits for commercial banks, in an effort to deflate a potential asset bubble. If the Chinese government keeps pursuing such restraining measures, that could impact the demand for shipping services and slow down the world recovery from the economic crisis. Our business, financial condition and, results of operations as well as our future prospects, will likely be materially and adversely affected by a further economic downturn in any of these countries.

Increased inspection procedures and tighter import and export controls could increase costs and disrupt our business.

International shipping is subject to various security and customs inspection and related procedures in countries of origin and destination. Inspection procedures can result in the seizure of, delay in the loading, offloading or delivery of, the contents of our vessels or the levying of customs duties, fines or other penalties against us. It is possible that changes to inspection procedures could impose additional financial and legal obligations on us. Furthermore, changes to inspection procedures could also impose additional costs and obligations on our customers and may, in certain cases, render the shipment of certain types of cargo uneconomical or impractical. Any such changes or developments may have a material adverse effect on our business, financial condition, and results of operations.

If our vessels call on ports located in countries that are subject to restrictions imposed by the U.S. government, that could adversely affect our reputation and the market for our common stock.

From time to time, vessels in our fleet may call on ports located in countries subject to sanctions and embargoes imposed by the U.S. government and countries identified by the U.S. government as state sponsors of terrorism. Although these sanctions and embargoes do not prevent our vessels from making calls to ports in these countries, potential investors could view such port calls negatively, which could adversely affect our reputation and the market for our common stock. In addition, certain institutional investors may have investment policies or restrictions that prevent them from holding securities of companies that have contracts with countries identified by the U.S. government as state sponsors of terrorism. The determination by these investors not to invest in or to divest our common shares may adversely affect the price at which our common shares trade. Investor perception of the value of our common stock may be adversely affected by the consequences of war, the effects of terrorism, civil unrest and governmental actions in these and surrounding countries.



## Risks Related to Our Company

We are in breach of certain loan covenants contained in our loan agreements. If we are not successful in obtaining waivers and amendments with respect to covenants breached, our lenders may declare an event of default and accelerate our outstanding indebtedness under the relevant agreement, which would impair our ability to continue to conduct our business.

Our loan agreements require that we comply with certain financial and other covenants. As a result of the significant drop of drybulk asset values beginning in the fourth quarter of 2008 and the continuous fall of tanker asset values during 2009, especially product tankers, we were not in compliance with covenants relating to vessel values such as asset cover ratio for our product tankers, adjusted net worth and net asset value covenants as of December 31, 2009. In addition, we were in breach of EBITDA and minimum liquidity covenants with certain banks. A violation of these covenants constitutes an event of default under our credit facilities, which would, unless waived by our lenders, provide our lenders with the right to require us to post additional collateral, enhance our equity and liquidity, increase our interest payments, pay down our indebtedness to a level where we are in compliance with our loan covenants, sell vessels in our fleet, reclassify our indebtedness as current liabilities and accelerate our indebtedness and foreclose their liens on our vessels, which impairs our ability to continue to conduct our business. As a result of these breaches, our total indebtedness of \$404.3 million (excluding unamortized deferred financing fees of \$5.2 million) and financial instruments of \$13.8 million are presented within current liabilities in the accompanying December 31, 2009 consolidated balance sheet. The amounts of long term debt and financial instruments that have been reclassified and presented together with current liabilities amount to \$351.2 million and \$9.9 million, respectively.

As of the date of this annual report, we have no waivers for any of these covenant breaches. We are currently in discussion with our banks in relation to these covenant breaches. For more details on loans and relevant breaches see "Item 5 – Operating and Financial Review and Prospects – Tabular Disclosure of Contractual Obligations – Long term debt".

Breach of our loan covenants, without applicable waiver, entitles our lenders to accelerate our debt. If our indebtedness is accelerated, it would be very difficult in the current financing environment for us to refinance our debt or obtain additional financing and we could lose our vessels if our lenders foreclose their liens.

Our inability to comply with loan covenants under our loan agreements raises substantial doubt about our ability to continue as a going concern.

As discussed above, we are in breach of certain loan covenants contained in our loan agreements. As a result of these loan covenant breaches, our lenders may choose to accelerate our indebtedness. We believe that as long as we are able to meet our obligations as they fall due, our lenders will not accelerate our indebtedness.

Therefore, our ability to continue as a going concern is dependent on management's ability to successfully generate revenue to meet our obligations as they become due and have the continued support of our lenders. Our independent registered public accounting firm has issued its opinion, similar to its opinion included in our 2008 annual report, with an explanatory paragraph emphasizing that we have prepared our financial statements under the going concern assumption despite our covenants breaches and working capital deficit. Our financial statements do not include any adjustments to reflect the possible future effects on the recoverability and classification of assets or the amounts and classification of liabilities that may result from the outcome of our inability to continue as a going concern. However, there is a material uncertainty related to events or conditions which raises significant doubt on our ability to continue as a going concern and, therefore, we may be unable to realize our assets and discharge our liabilities in the normal course of business.



If we need to receive waivers and/or amendments to our loan agreements in the future, our lenders may impose additional operating and financial restrictions on us and/or modify the terms of our existing loan agreements.

In connection with future waivers or amendments with our lenders, we may agree to additional restrictions on us. See "Item 5. Operating and Financial Review and Prospects – Liquidity and Capital Resources – Breach of Loan Covenants." Therefore, we may need to seek permission from our lenders in order to engage in some corporate actions. Our lenders' interests may be different from ours and we may not be able to obtain our lender's permission when needed, which could prevent us from pursuing a course of action that we deem necessary. In addition to the above restrictions, our lenders may require the payment of additional fees, require additional increase in margins, require prepayment of a portion of our indebtedness to them, or impose other conditions on the issuance of waivers, which could adversely affect our financial results and hinder our ability to raise capital.

Servicing current and future debt will limit funds available for other purposes and impair our ability to react to changes in our business.

To finance our fleet expansion program, we incurred secured indebtedness. We must dedicate a portion of our cash flow from operations to pay the principal and interest on our indebtedness. These payments limit funds otherwise available for working capital, capital expenditures and other purposes. As of December 31, 2009, we had total indebtedness of \$404.3 million (excluding unamortized deferred financing fees of \$5.2 million), and a ratio of indebtedness to total capital of approximately 62%. Our substantial level of indebtedness increases the possibility that we may be unable to generate cash sufficient to pay, when due, the principal of, interest on or other amounts due in respect of, our indebtedness. Our substantial debt could also have other significant consequences. For example, it could:

- increase our vulnerability to general economic downturns and adverse competitive and industry conditions;
- require us to dedicate a substantial portion, if not all, of our cash flow from operations to payments on our indebtedness, thereby reducing the availability of our cash flow to fund working capital, capital expenditures and other general corporate purposes;
- limit our flexibility in planning for, or reacting to, changes in our business and the industry in which we operate;
- place us at a competitive disadvantage compared to competitors that have less debt or better access to capital;
- limit our ability to raise additional financing on satisfactory terms or at all; and
- adversely impact our ability to comply with the financial and other restrictive covenants in the indenture governing the notes and the credit agreements governing the debts of our subsidiaries, which could result in an event of default under such agreements.

Furthermore, our interest expense could increase if interest rates increase because most of our debt and all the debt under the credit facilities of our subsidiaries is variable rate debt. If we do not have sufficient earnings, we may be required to refinance all or part of our existing debt, sell assets, borrow more money or sell more securities, none of which we can guarantee we will be able to do.

Our loan agreements contain restrictive covenants that may limit our liquidity and corporate activities.

Our loan agreements impose operating and financial restrictions on us. These restrictions may limit our ability to:

- incur additional indebtedness;
- create liens on our assets;
- sell capital stock of our subsidiaries;
- engage in mergers or acquisitions;
- pay dividends;
- make capital expenditures or other investments;
- charter our vessels;
- change the management of our vessels or terminate or materially amend the management agreement relating to each vessel; and;
- sell our vessels.

Therefore, we may need to seek permission from our lenders in order to engage in some corporate actions. This may prevent us from taking actions that are in our best interest.

If we fail to manage our planned growth properly, we may not be able to successfully expand our market share.

We intend to continue to grow our fleet in the future. Our growth will depend on:

- our ability to generate excess cash flow so that we can invest without jeopardizing our ability to cover current and foreseeable working capital needs (including debt service);
- obtaining required financing;
- locating and acquiring suitable vessels;
- identifying and consummating acquisitions or joint ventures;
- integrating any acquired business successfully with our existing operations;
- enhancing our customer base; and
- managing expansion.

Growing any business by acquisition presents numerous risks such as undisclosed liabilities and obligations, difficulty in obtaining additional qualified personnel, managing relationships with customers and suppliers and integrating newly acquired operations into existing infrastructures. We may not be successful in executing our growth plans and we may incur significant additional expenses and losses in connection therewith.



The derivative contracts we have entered into to hedge our exposure to fluctuations in interest rates could result in higher-than-market interest rates and charges against our income.

As of December 31, 2009, we have twelve interest rate swaps for purposes of managing our exposure to fluctuations in interest rates applicable to indebtedness under our credit facilities. Our hedging strategies, however, may not be effective and we may incur substantial losses if interest rates move materially differently from our expectations. Since our existing interest rate swaps do not, and future derivative contracts may not, qualify for treatment as hedges for accounting purposes, we recognize fluctuations in the fair value of such contracts in our statement of operations. In addition, our financial condition could be materially adversely affected to the extent we do not fully hedge our exposure to interest rate fluctuations under our financing arrangements.

Any hedging activities we engage in may not effectively manage our interest rate exposure or have the desired impact on our financial conditions or results of operations. During the year ended December 31, 2009, the change in fair value of our interest rate swaps was an unrealized gain of \$2.6 million. See Note 21 to our December 31, 2009 consolidated financial statements included herein.

Due to the decline in interest rates since December 31, 2009, the fair value of our interest rate swaps as of March 31, 2010, which is the most recent date for which the Company has received a fair value estimate, was an unrealized gain of \$0.04 million.

Our ability to obtain additional debt financing may be dependent on the performance of our then existing charters and the creditworthiness of our charterers.

The actual or perceived credit quality of our charterers, and any defaults by them, may materially affect our ability to obtain the additional capital resources that we will require to purchase additional vessels or may significantly increase our costs of obtaining such capital. Our inability to obtain additional financing at all or at a higher than anticipated cost may materially affect our results of operation and our ability to implement our business strategy.

We may not be able to renew our time charters when they expire.

We might not be able to renew our existing time charters or, if renewed, they might not be at favorable rates. If, upon expiration of the existing time charters, we are unable to obtain time charters or voyage charters at desirable rates, our profitability may be adversely affected.

In the case of two of our tanker vessels, we anticipated that future hires would be at lower rates following the expiration of their charters in 2010, due to the adverse market conditions that have been prevailing in the product tanker market for most of 2009 and the first quarter of 2010. More specifically, in March 2010, one of these vessels commenced a new two-year time charter agreement, at a lower gross daily rate. We do not anticipate an improvement in product tanker hire rates in the immediate future and to this end we concluded that there was a need to write down the carrying value of these two vessels to their fair values. See "Item 5 – Operating and Financial Review and Prospects – Critical Accounting Policies – Impairment of long-lived assets" for more information on impairment.

In the highly competitive international tanker and drybulk shipping markets, we may not be able to compete for charters with new entrants or established companies with greater resources.

We employ our vessels in a highly competitive market that is capital intensive and highly fragmented. The operation of tanker and drybulk vessels and the transportation of cargoes shipped in these vessels, as well as the shipping industry in general, is extremely competitive. Competition arises primarily from other vessel owners, including major oil companies as well as independent tanker and drybulk shipping companies, some of whom have substantially greater resources than we do. Competition for the transportation of oil and refined petroleum products and drybulk cargoes can be intense and depends on price, location, size, age, condition and the acceptability of the vessel and its operators to the charterers. Due in part to the highly fragmented market, competitors with greater resources could enter and operate larger fleets through consolidations or acquisitions that may be able to offer better prices and fleets than us.

We depend upon a few significant customers for a large part of our revenues. The loss of one or more of these customers could adversely affect our financial performance.

We have historically derived a significant part of our revenue from a small number of charterers. In 2008, approximately 26% of our revenue was derived from two charterers. These two charterers, Glencore and PDVSA, respectively provided 17% and 9% of our revenues in 2008. In 2009, approximately 54% of our revenue was derived from three charterers. These three charterers, Glencore, Hanjin and Cosco, provided 22%, 18% and 14% of our revenues in 2009, respectively. If one or more of these customers is unable to perform under one or more charters with us and we are not able to find a replacement charter, or if a customer exercises certain rights to terminate the charter, we could suffer a loss of revenues that could materially adversely affect our business, financial condition and results of operations.

We could lose a customer or the benefits of a charter if, among other things:

- the customer fails to make charter payments because of its financial inability, disagreements with us or otherwise;
- the customer terminates the charter because we fail to deliver the vessel within a fixed period of time, the vessel is lost or damaged beyond repair, there are serious deficiencies in the vessel or prolonged periods of off-hire, or if we are otherwise in default under the charter; or
- the customer terminates the charter because the vessel has been subject to seizure for more than a specified number of days.

If we lose a key customer, we may be unable to obtain charters on comparable terms or may become subject to the volatile spot market, which is highly competitive and subject to significant price fluctuations. The charters on which we deploy 10 of our vessels as of May 21, 2010, provide for charter rates that are significantly above current market rates, particularly spot market rates that most directly reflect the current levels of the drybulk and product tanker charter markets. If it were necessary to secure substitute employment, in the spot market or on charters, for any of these vessels due to the loss of a customer in these market conditions, such employment would be at a significantly lower charter rate than currently generated by such vessel, resulting in a significant reduction in revenues. The loss of any of our customers, charters or vessels, or a decline in payments under our charters, could have a material adverse effect on our business, results of operations and financial condition.

We may be unable to attract and retain key management personnel and other employees in the international tanker and drybulk shipping industries, which may negatively impact the effectiveness of our management and our results of operations.

Our success depends to a significant extent upon the abilities and efforts of our management team. We have entered into employment contracts with our President, Chief Executive Officer, and Director, Evangelos Pistiolis, our Chief Financial Officer and Director, Alexandros Tsirikos, our Executive Vice President, Chairman and Director, Vangelis Ikonomidou and our Vice President Demetris Souroullas. Our success will depend upon our ability to hire and retain key members of our management team. The loss of any of these individuals could adversely affect our business prospects and financial condition. Difficulty in hiring and retaining personnel could adversely affect our results of operations. We do not maintain "key man" life insurance on any of our officers.

As we expand our business, we will need to improve our operations and financial systems and staff; if we cannot improve these systems or recruit suitable employees, our performance may be adversely affected.

Our current operating and financial systems may not be adequate as we implement our plan to expand the size of our fleet, and our attempts to improve those systems may be ineffective. If we are unable to operate our financial and operations systems effectively or to recruit suitable employees as we expand our fleet, our performance may be adversely affected.

Risks involved with operating oceangoing vessels could affect our business and reputation, which would adversely affect our revenues and stock price.

The operation of an oceangoing vessel carries inherent risks. These risks include the possibility of:

• marine disaster;

• piracy;

• environmental accidents;

• cargo and property losses or damage; and

• mechanical failure, human error, war, terrorism, political action in various countries, labor strikes or adverse weather conditions.

Any of these circumstances or events could result in death or injury to persons, loss of revenues or property, environmental damage, higher insurance rates, damage to our customer relationships, delay or rerouting, and could increase our costs or lower our revenues. The involvement of our vessels in an oil spill or other environmental disaster may harm our reputation as a safe and reliable vessel operator. If one of our vessels were involved in an accident with the potential risk of environmental contamination, the resulting media coverage could have a material adverse effect on our business, results of operations, cash flows and financial condition.

Our vessels may suffer damage and we may face unexpected dry-docking costs, which could affect our cash flow and financial condition.

If our vessels suffer damage, they may need to be repaired at a dry-docking facility, resulting in vessel downtime. The costs of dry-dock repairs are unpredictable and can be substantial. We may have to pay dry-docking costs that our insurance does not cover. The inactivity of these vessels while they are being repaired and repositioned, as well as the

actual cost of these repairs, would decrease our earnings. In addition, space at dry-docking facilities is sometimes limited and not all dry-docking facilities are conveniently located. We may be unable to find space at a suitable dry-docking facility or we may be forced to move to a dry-docking facility that is not conveniently located to our vessels' positions. The loss of earnings while our vessels are forced to wait for space or the cost to relocate the vessel to dry-docking facilities that are farther away from the routes on which our vessels trade would have a negative effect on our results of operations.

The operation of drybulk carriers and tankers each involve certain unique operational risks.

The operation of drybulk carriers has certain unique operational risks. With a drybulk carrier, the cargo itself and its interaction with the ship can be a risk factor. By their nature, drybulk cargoes are often heavy, dense, easily shifted, and react badly to water exposure. In addition, drybulk carriers are often subjected to battering treatment during unloading operations with grabs, jackhammers (to pry encrusted cargoes out of the hold), and small bulldozers. This treatment may cause damage to the drybulk carrier. Drybulk carriers damaged due to treatment during unloading procedures may be more susceptible to a breach to the sea. Hull breaches in drybulk carriers may lead to the flooding of their holds. If a drybulk carrier suffers flooding in its forward holds, the bulk cargo may become so dense and waterlogged that its pressure may buckle the drybulk carrier's bulkheads leading to the loss of the drybulk carrier.

The operation of tankers has unique operational risks associated with the transportation of oil. An oil spill may cause significant environmental damage, and a catastrophic spill could exceed the insurance coverage available. Compared to other types of vessels, tankers are exposed to a higher risk of damage and loss by fire, whether ignited by a terrorist attack, collision, or other cause, due to the high flammability and high volume of the oil transported in tankers.

If we are unable to adequately maintain or safeguard our vessels we may be unable to prevent these events. Any of these circumstances or events could negatively impact our business, results of operations and financial condition. In addition, the loss of any of our vessels could harm our reputation as a safe and reliable vessel owner and operator.

A drop in spot charter rates may provide an incentive for some charterers to default on their charters, which could affect our cash flow and financial condition.

During August 2009, we announced that the bareboat charterer of the M/V Papillon (ex VOC Gallant) had notified us of its intention to pay a reduced charterhire rate of \$18,000 per day for the month of August rather than \$24,000 per day on a bareboat basis as is set forth in the charterparty. The dispute was resolved and the charterer has paid the full amount of charterhire as required under the charter agreements.

On January 11, 2010, we announced that we had received from the bareboat charterer of the M/T Ionian Wave and the M/T Tyrrhenian Wave a reduced charter hire rate of \$10,000 per day rather than the \$14,300 per day on a bareboat basis that is set forth in the charter agreement. We have been examining this unilateral reduction and intend to take all necessary steps to recover the amounts owed since the said charterer is considered to be in breach of the charter. We may not be able to recover these amounts, which would result in lower-than-expected cash flows.

When we enter into a time or bareboat charter, charter rates under that charter are fixed for the term of the charter. If the spot charter rates in the tanker or drybulk shipping industry, as applicable, become significantly lower than the time charter equivalent rates that some of our charterers are obligated to pay us under our existing charters, the charterers may have incentive to default under that charter or attempt to renegotiate the charter. If our charterers fail to pay their obligations, we would have to attempt to re-charter our vessels at lower charter rates, and as a result we could sustain significant losses which could have a material adverse effect on our cash flow and financial condition, which would affect our ability to meet our loan repayment obligations in which case our lenders could choose to accelerate our indebtedness and foreclose their liens, and we could be required to sell vessels in our fleet and our ability to continue to conduct our business would be impaired.

The aging of our fleet may result in increased operating costs in the future, which could adversely affect our earnings.

In general, the cost of maintaining a vessel in good operating condition increases with the age of the vessel. Our current operating fleet has an average age of approximately five years. As our fleet ages, we will incur increased costs. Older vessels are typically less fuel efficient and more costly to maintain than more recently constructed vessels due to improvements in engine technology. Cargo insurance rates also increase with the age of a vessel, making older vessels less desirable to charterers. Governmental regulations, including environmental regulations, safety or other equipment standards related to the age of vessels may require expenditures for alterations, or the addition of new equipment, to our vessels and may restrict the type of activities in which our vessels may engage. As our vessels age, market conditions might not justify those expenditures or enable us to operate our vessels profitably during the remainder of their useful lives.

Unless we set aside reserves or are able to borrow funds for vessel replacement, at the end of a vessel's useful life our revenue will decline, which would adversely affect our business, results of operations and financial condition.

Unless we maintain reserves or are able to borrow or raise funds for vessel replacement we will be unable to replace the vessels in our fleet upon the expiration of their remaining useful lives, which we estimate to be 25 years from the date of initial delivery from the shipyard. Our cash flows and income are dependent on the revenues earned by the chartering of our vessels to customers. If we are unable to replace the vessels in our fleet upon the expiration of their useful lives, our business, results of operations and financial condition will be materially and adversely affected.

Purchasing and operating previously owned, or secondhand, vessels may result in increased operating costs and vessels off-hire, which could adversely affect our earnings.

While we rigorously inspect previously owned, or secondhand vessels prior to purchase, this does not normally provide us with the same knowledge about their condition and cost of any required (or anticipated) repairs that we would have had if these vessels had been built for and operated exclusively by us. Also, we do not receive the benefit of warranties from the builders if the vessels we buy are older than one year. In general, the costs to maintain a vessel in good operating condition increase with the age of the vessel.

We may not have adequate insurance to compensate us if we lose our vessels.

We procure insurance for our fleet against those types of risks commonly insured against by vessel owners and operators. These insurances include hull and machinery insurance, protection and indemnity insurance, which includes environmental damage and pollution insurance coverage, war risk insurance and insurance against loss of hire, which covers business interruptions that result in the loss of use of a vessel. In addition, we currently have loss of hire insurance that covers, subject to annual coverage limits, vessels M/V Cyclades, M/V Pepito, M/T Ioannis P, M/T Ionian Wave and M/T Hongbo. In the future, we may not be able to obtain adequate insurance coverage at reasonable rates for our fleet. The insurers may not pay particular claims. Our insurance policies contain deductibles for which we will be responsible as well as, limitations and exclusions which may nevertheless increase our costs or lower our revenue.

We may be subject to calls because we obtain some of our insurance through protection and indemnity associations.

We may be subject to increased premium payments, or calls, in amounts based on our claim records and the claim records of our fleet managers as well as the claim records of other members of the protection and indemnity associations through which we receive insurance coverage for tort liability, including pollution-related liability. In addition, our protection and indemnity associations may not have enough resources to cover claims made against them. Our payment of these calls could result in significant expense to us, which could have a material adverse effect on our business, results of operations and financial condition.

Maritime claimants could arrest our vessels, which could interrupt our cash flow.

Crew members, suppliers of goods and services to a vessel, shippers of cargo and other parties may be entitled to a maritime lien against that vessel for unsatisfied debts, claims or damages. In many jurisdictions, a maritime lienholder may enforce its lien by arresting a vessel through foreclosure proceedings. The arrest or attachment of one or more of our vessels could interrupt our cash flow and require us to pay large sums of money to have the arrest lifted. In addition, in some jurisdictions, such as South Africa, under the "sister ship" theory of liability, a claimant may arrest both the vessel which is subject to the claimant's maritime lien and any "associated" vessel, which is any vessel owned or controlled by the same owner. Claimants could try to assert "sister ship" liability against one vessel in our fleet for claims relating to another of our ships.

Governments could requisition our vessels during a period of war or emergency, resulting in loss of earnings.

A government could requisition for title or seize our vessels. Requisition for title occurs when a government takes control of a vessel and becomes her owner. Also, a government could requisition our vessels for hire. Requisition for hire occurs when a government takes control of a vessel and effectively becomes her charterer at dictated charter rates. Generally, requisitions occur during a period of war or emergency. Government requisition of one or more of our vessels could negatively impact our revenues should we not receive adequate compensation.

Certain existing stockholders, who hold approximately 32.38% of our common stock, may have the power to exert control over us, which may limit your ability to influence our actions.

As of June 15, 2010, Sovereign Holdings Inc., or Sovereign Holdings, a company that is wholly owned by our President, Chief Executive Officer and Director, Evangelos J. Pistiolis, and Kingdom Holdings Inc., or Kingdom Holdings, a company owned primarily by adult relatives of Mr. Pistiolis, own, directly or indirectly, approximately 13.34% of the outstanding shares of our common stock. In addition, Sphinx Investment Corp., Maryport Navigation Corp. and Mr. George Economou through Sphinx Investment Corp. and Maryport Navigation Corp. beneficially owns 12.56% of the outstanding shares of our common stock. QVT Financial LP, QVT Financial GP LLC and QVT Associates GP LLC own 6.48% of the outstanding shares of our common stock. Sphinx Investment Corp., Maryport Navigation Corp., QVT Financial LP, QVT Financial GP LLC and QVT Associates GP LLC are entities owned and controlled by unaffiliated third parties. Together, these existing shareholders own 32.38% of our common stock. While these shareholders have no agreement, arrangement or understanding relating to the voting of their shares of common stock, due to the number of shares of our common stock they own, they have the power to exert considerable influence over our actions.

Our President, Chief Executive Officer, and Director, Mr. Evangelos Pistiolis, has affiliations with a private shipping company which could create conflicts of interest.

The family of our President, Chief Executive Officer, and Director, Mr. Evangelos Pistiolis, owns a private shipping company. This relationship could create conflicts of interest between us, on the one hand, and this private shipping company, on the other hand. These conflicts may arise in connection with the chartering, purchase, sale and operations of the vessels in our fleet versus tankers and drybulk vessels managed by this private shipping company. For example, Mr. Pistiolis may give preferential treatment to vessels that are beneficially owned by this private shipping company because Mr. Pistiolis and members of his family may receive greater economic benefits.

We may have to pay tax on U.S. source income, which would reduce our earnings.

Under the U.S. Internal Revenue Code of 1986, or the Code, 50% of the gross shipping income of a vessel owning or chartering corporation, such as ourselves and our subsidiaries, that is attributable to transportation that begins or ends, but that does not begin and end, in the U.S. is characterized as United States source shipping income and such income is subject to a 4% U.S. federal income tax without allowance for deduction, unless that corporation qualifies for exemption from tax under Section 883 of the Code. We expect that we and each of our subsidiaries will qualify for this statutory tax exemption and we have taken this position for U.S. federal income tax return reporting purposes. However, there are factual circumstances beyond our control that could cause us to lose the benefit of this tax exemption and thereby become subject to U.S. federal income tax on our U.S. source income. Therefore, we can give no assurances on our tax-exempt status or that of any of our subsidiaries. If we or our subsidiaries are not entitled to this exemption under Section 883 for any taxable year, we or our subsidiaries would be subject for those years to a 4% U.S. federal income tax on our U.S. source shipping income. The imposition of this taxation could have a negative effect on our business.

We are likely to be treated as a "passive foreign investment company," which could have adverse U.S. federal income tax consequences to U.S. holders.

A foreign corporation will be treated as a "passive foreign investment company," or PFIC, for U.S. federal income tax purposes if either (1) at least 75% of its gross income for any taxable year consists of certain types of "passive income" or (2) at least 50% of the average value of the corporation's assets produce or are held for the production of those types of "passive income." For purposes of these tests, "passive income" includes dividends, interest, and gains from the sale or exchange of investment property and rents and royalties other than rents and royalties which are received from unrelated parties in connection with the active conduct of a trade or business; income derived from the performance of services does not constitute "passive income." U.S. shareholders of a PFIC are subject to a disadvantageous United States federal income tax regime with respect to the income derived by the PFIC, the distributions they receive from the PFIC and the gain, if any, they derive from the sale or other disposition of their shares in the PFIC.

In general, income derived from the bareboat charter of a vessel will be treated as "passive income" for this purpose and such vessels will be treated as assets which produce "passive income." On the other hand, income derived from the time charter of a vessel will not be treated as "passive income" for this purpose, but rather will be treated as services income; likewise, time chartered vessels will generally not be treated as assets which produce "passive income."

For our 2009 taxable year, we believe that at least 50% of the average value of our assets consisted of vessels which are bareboat chartered. Therefore, we expect to be treated as a PFIC for our 2009 taxable year. We intend to take necessary steps in order to avoid being classified as a PFIC for 2010 and future taxable years, such as expanding our

fleet through the purchase of non-passive income producing assets. However, there can be no assurance that such remedial measures will be effective to avoid PFIC status for 2010 or any future taxable year.

Our U.S. shareholders may face adverse U.S. federal income tax consequences and certain information reporting obligations as a result of us being treated as a PFIC. Under the PFIC rules, unless those shareholders make an election available under the Code (which election could itself have adverse consequences for such shareholders, as discussed below under "Taxation— U.S. Federal Income Taxation – U.S. Federal Income Taxation of U.S. Holders"), such shareholders would be liable to pay U.S. federal income tax at the then prevailing income tax rates on ordinary income plus interest upon excess distributions and upon any gain from the disposition of their common shares, as if the excess distribution or gain had been recognized ratably over the shareholder's holding period of the common shares. See "Taxation – U.S. Federal Income Taxation – U.S. Federal Income Taxation of U.S. Holders" for a more comprehensive discussion of the U.S. federal income tax consequences to U.S. shareholders as a result of our status as a PFIC. In addition, as a result of being treated as a PFIC for the 2009 taxable year, any dividends paid by us during 2009 and 2010 will not be eligible to be treated as "qualified dividend income," which may otherwise be eligible for preferential tax rates in the hands of non-corporate U.S. shareholders.

Because we generate all of our revenues in U.S. Dollars but incur a portion of our expenses in other currencies, exchange rate fluctuations could hurt our results of operations.

We generate all of our revenues in U.S. Dollars but incur certain expenses in currencies other than U.S. Dollars, mainly Euros. During 2009, approximately 2% of our expenses were in other currencies and 19% were in Euros. This difference could lead to fluctuations in net income due to changes in the value of the U.S. Dollar relative to the other currencies, in particular, the Euro. Should the Euro further appreciate relative to the U.S. Dollar in future periods, our expenses will increase in U.S. Dollar terms, thereby decreasing our net income. Specifically, during 2009, the average exchange rate was 1.3912 U.S. Dollars to 1 Euro. We have not hedged these risks. Our operating results could suffer as a result.

#### Risks Relating to Our Common Shares

Our share price may continue to be highly volatile, which could lead to a further loss of all or part of an investor's investment.

The market price of our common shares has fluctuated widely since our common shares began trading in July of 2004 on the Nasdaq National Market, now the Nasdaq Global Select Market. Over the last year and a half, the stock market has experienced extreme price and volume fluctuations. This volatility has sometimes been unrelated to the operating performance of particular companies. During 2009, the closing price of our common shares experienced a high of \$3.52 and a low of \$0.77. In addition, because the market price of our common shares has dropped below \$5.00 per share, brokers generally prohibit shareholders from using such shares as collateral for borrowing in margin accounts. This inability to continue to use our common shares as collateral may lead to sales of such shares creating downward pressure on and increased volatility in the market price of our common shares. Furthermore, if the volatility in the market continues or worsens, it could have a further adverse affect on the market price of our common shares, regardless of our operating performance.

The market price of our common shares is due to a variety of factors, including:

- fluctuations in interest rates;
- fluctuations in the availability or the price of oil;
- fluctuations in foreign currency exchange rates;

announcements by us or our competitors;

changes in our relationships with customers or suppliers;

- actual or anticipated fluctuations in our quarterly and annual results and those of other public companies in our industry;
- changes in United States or foreign tax laws;
- actual or anticipated fluctuations in our operating results from period to period;
- shortfalls in our operating results from levels forecast by securities analysts;
- market conditions in the drybulk shipping industry and the general state of the securities markets;
- mergers and strategic alliances in the drybulk shipping industry;
- changes in government regulation;
- a general or industry-specific decline in the demand for, and price of, shares of our common stock resulting from capital market conditions independent of our operating performance;
- the loss of any of our key management personnel; and
- our failure to successfully implement our business plan.

There may not be a continuing public market for you to resell our common shares.

Our common shares and warrants began trading in July of 2004 on the Nasdaq National Market, now the Nasdaq Global Select Market. An active and liquid public market for our common shares may not continue. You may not be able to sell your common shares in the future at the price that you paid for them or at all. In addition, if the price of our common shares remains below \$1.00 for a period of 30 consecutive business days and we are unable to comply with the minimum bid price requirements of the Nasdaq Global Select Market, including any applicable cure period, we may be involuntarily delisted from the Nasdaq Global Select Market.

Investors may experience significant dilution as a result of the offering pursuant to our Standby Equity Distribution Agreement, or SEDA, future offerings and any other future issuances of shares if sold at prices significantly below the price at which they invested.

On July 1, 2009, we entered into the SEDA with Yorkville Advisors Master SPV Ltd, or YA Global. Pursuant to the SEDA, we may offer and sell such number of common shares the proceeds of which equal to \$200 million. See also Note 15 to our consolidated financial statements included herein. On July 1, 2009, we filed a shelf registration statement on Form F-3, which was declared effective on August 13, 2009. Under this registration statement, we registered 57,949,900 shares for resale by YA Global as part of the SEDA limited by our then authorized share capital. As of the date of this Annual Report, we have issued and sold an aggregate of 2,230,000 common shares pursuant to the SEDA resulting in net proceeds of \$2.9 million. The last share sales under the SEDA took place on October 21, 2009. If we sell the remaining U.S. Dollar amount of our common shares offered pursuant to the SEDA of \$197.1 million at an average price equal to \$1.11 per share, which was the last reported closing sale price for our common shares on The Nasdaq Global Select Market on June 3, 2010, we would have approximately 88,613,930 million common shares outstanding, which would represent an increase of 169.39% in our issued and outstanding common shares from December 31, 2009.

Under our registration statement filed on Form F-3, we may also sell up to \$500 million of an undeterminable number of common shares, preferred shares and warrants; provided that we meet all eligibility requirements for sales of securities pursuant to the From F-3 registration statement. Due to the fact that sales pursuant to related prospectus supplements will be made at market prices or prices related to such market prices, the prices at which we sell these shares will vary and these variations may be significant. Purchasers of the shares we sell, as well as our existing shareholders, will experience significant dilution if we sell shares at prices significantly below the price at which they invested. We may have to attempt to sell additional shares in the future in order to satisfy our capital needs. Lenders may be unwilling to provide future financing or will provide future financing at significantly increased rates. If we are able to sell shares in the future, the prices at which we sell these future shares will vary, and these variations may be significant.

In addition, we may issue additional shares pursuant to our loan facility with DVB. On July 31, 2009, we entered into a bridge loan facility of \$12.5 million with DVB in order to take delivery of our last newbuilding vessel, the M/T Hongbo. In connection with this loan, we issued 12,512,400 common shares to Hongbo Shipping Company Limited, our wholly owned subsidiary, who pledged these shares in favor of DVB as security in case our subsidiary is not able to repay the bridge loan as of the due date of July 31, 2010. This pledge must remain in an amount equal to 180% of the outstanding bridge loan, which amount will be tested at the end of each quarter. We also agreed to file a registration statement for the resale of such shares and use our best efforts to keep the registration statement effective during the security period under the loan documentation. As of the date of this annual report, and based on fair value of our common stock and outstanding balance of the loan measured at March 31, 2010, we are required to issue and pledge 9,756,488 additional shares of common stock. If our subsidiary is not able to repay the bridge loan to DVB bank, the lender may enforce its right to take possession of the pledged shares.

Furthermore, we may issue additional shares pursuant to our equity incentive plan. As of the date of this annual report, we have issued a total of 4,135,604 common shares under our equity incentive plan out of a total of 12,000,000 reserved for issuance thereunder.

Our existing shareholders will experience significant dilution if we issue shares in the future, including the potential issuances described above, at prices significantly below the price at which previous shareholders invested.

Future sales of our common shares could cause the market price of our common shares to decline.

Sales of a substantial number of our common shares in the public market, or the perception that these sales could occur, may depress the market price for our common shares. These sales could also impair our ability to raise additional capital through the sale of our equity securities in the future.

Lack of volume in our stock may affect investors' ability to sell their shares.

Our common shares have been experiencing low daily trading volumes in the market. As a result, an investor may be unable to sell all of such investor's shares in the desired time period, or may only be able to sell such shares at a significant discount to the previous closing price.

We are incorporated in the Republic of the Marshall Islands, which does not have a well-developed body of corporate law and as a result, shareholders may have fewer rights and protections under Marshall Islands law than under a typical jurisdiction in the United States.

Our corporate affairs are governed by our Amended and Restated Articles of Incorporation and By-laws and by the Marshall Islands Business Corporations Act, or BCA. The provisions of the BCA resemble provisions of the corporation laws of a number of states in the United States. However, there have been few judicial cases in the Republic of the Marshall Islands interpreting the BCA. The rights and fiduciary responsibilities of directors under the law of the Republic of the Marshall Islands are not as clearly established as the rights and fiduciary responsibilities of directors under statutes or judicial precedent in existence in certain United States jurisdictions. Shareholder rights may differ as well. While the BCA does specifically incorporate the non-statutory law, or judicial case law, of the State of Delaware and other states with substantially similar legislative provisions, our public shareholders may have more difficulty in protecting their interests in the face of actions by the management, directors or controlling shareholders than would shareholders of a corporation incorporated in a United States jurisdiction.

It may not be possible for investors to enforce U.S. judgments against us.

We and all of our subsidiaries are incorporated in jurisdictions outside the U.S. and substantially all of our assets and those of our subsidiaries are located outside the U.S. In addition, most of our directors and officers are non-residents of the U.S., and all or a substantial portion of the assets of these non-residents are located outside the U.S. As a result, it may be difficult or impossible for U.S. investors to serve process within the U.S. upon us, our subsidiaries or our directors and officers or to enforce a judgment against us for civil liabilities in U.S. courts. In addition, you should not assume that courts in the countries in which we or our subsidiaries are incorporated or where our assets or the assets of our subsidiaries are located (1) would enforce judgments of U.S. courts obtained in actions against us or our subsidiaries based upon the civil liability provisions of applicable U.S. federal and state securities laws or (2) would enforce, in original actions, liabilities against us or our subsidiaries based on those laws.

We may be subject to litigation that, if not resolved in our favor and not sufficiently insured against, could have a material adverse effect on us.

We may be, from time to time, involved in various litigation matters. These matters may include, among other things, contract disputes, personal injury claims, environmental claims or proceedings, asbestos and other toxic tort claims, employment matters, governmental claims for taxes or duties, and other litigation that arises in the ordinary course of our business. Although we intend to defend these matters vigorously, we cannot predict with certainty the outcome or effect of any claim or other litigation matter, and the ultimate outcome of any litigation or the potential costs to resolve them may have a material adverse effect on us. Insurance may not be applicable or sufficient in all cases and/or insurers may not remain solvent which may have a material adverse effect on our financial condition.

A small number of our stockholders effectively control the outcome of matters on which our stockholders are entitled to vote.

Entities affiliated with Mr. Evangelos Pistiolis, our Chief Executive Officer, currently own, directly or indirectly, approximately 10.11% of our outstanding common stock as of June 15, 2010. In addition, entities affiliated with Mr. George Economou currently own, directly or indirectly, approximately 12.56% of our outstanding common stock as of June 15, 2010. While, as far as we are aware, those stockholders have no agreement, arrangement or understanding relating to the voting of their shares of our common stock, they will effectively control the outcome of matters on which our stockholders are entitled to vote, including the election of directors and other significant corporate actions. The interests of these stockholders may be different from your interests.

Anti-takeover provisions in our organizational documents could have the effect of discouraging, delaying or preventing a merger, amalgamation or acquisition, which could reduce the market price of our common shares.

Several provisions of our Amended and Restated Articles of Incorporation and our Amended and Restated Bylaws could make it difficult for our shareholders to change the composition of our Board of Directors in any one year, preventing them from changing the composition of management. In addition, the same provisions may discourage, delay or prevent a merger or acquisition that shareholders may consider favorable.

These provisions include:

- authorizing our Board of Directors to issue "blank check" preferred stock without shareholder approval;

providing for a classified Board of Directors with staggered, three-year terms;

prohibiting cumulative voting in the election of directors;

authorizing the removal of directors only for cause and only upon the affirmative vote of the holders of at least 80% of the outstanding shares of our capital stock entitled to vote for the directors;

prohibiting shareholder action by written consent unless the written consent is signed by all shareholders entitled to vote on the action;

limiting the persons who may call special meetings of shareholders; and

establishing advance notice requirements for nominations for election to our Board of Directors or for proposing matters that can be acted on by shareholders at shareholder meetings.

In addition, we have entered into a Stockholder Rights Agreement that will make it more difficult for a third party to acquire us without the support of our Board of Directors and principal shareholders. These anti-takeover provisions could substantially impede the ability of public shareholders to benefit from a change in control and, as a result, may reduce the market price of our common stock and your ability to realize any potential change of control premium.

ITEM 4. INFORMATION ON THE COMPANY

A. History and Development of the Company

Our predecessor, Ocean Holdings Inc., was formed as a corporation in January 2000 under the laws of the Republic of the Marshall Islands and renamed TOP TANKERS INC. in May 2004. In December 2007, TOP TANKERS INC. was renamed TOP SHIPS INC. Our common stock is currently listed on the NASDAQ Global Select Market under the symbol "TOPS". The current address of our principal executive office is 1 Vas. Sofias and Meg. Alexandrou Str, 15124 Maroussi, Greece. The telephone number of our registered office is +30 210 812 8000.

On July 23, 2004, we completed our initial public offering. The net proceeds of our initial public offering, approximately \$124.6 million, were primarily used to finance the acquisition of 10 vessels, comprising of eight Ice-class double-hull Handymax tankers and two double-hull Suezmax tankers. The total cost of the acquisition was approximately \$251.3 million.

On November 5, 2004, we completed a follow-on offering of our common stock. The net proceeds of our follow-on offering, approximately \$139.5 million, were used primarily to finance the acquisition of five double-hull Suezmax tankers. The total cost of the acquisition was approximately \$249.3 million.

During 2005, we acquired five double-hull Handymax and four double-hull Suezmax tankers at a total cost of \$453.4 million and sold one double-hull Handymax and our last single-hull Handysize tanker. We sold and leased-back five double-hull Handymax tankers for a period of seven years.

From April 2006, until July 2006, we issued through a "controlled equity offering" 1,302,454 shares of common stock, par value \$0.01. The net proceeds totaled \$26.9 million.

During 2006, we sold and leased-back on a fixed charter basis four double-hull Handymax, four double-hull Suezmax and five double-hull Suezmax tankers for periods of five years, five years and seven years, respectively. Additionally, we sold three double-hull Handymax tankers, and we entered into an agreement with SPP Shipbuilding Co., Ltd. of the Republic of Korea, or SPP, for the construction of six product/chemical tankers.

In May 2007, we re-acquired four Suezmax tankers that we sold in 2006 in an earlier sale and leaseback transaction and terminated the respective bareboat charters. The re-acquisition price was \$208.0 million and was partially financed by the early redemption of the seller's credit of \$20.6 million associated with the 2006 sales and leaseback transactions, along with secured debt financing and cash from operations.

From June 2007 until July 2007, we issued through a "controlled equity offering" 1,435,874 shares of common stock, par value \$0.01. The net proceeds totaled \$29.4 million.

During July and August 2007, we agreed to acquire one Supramax, one Handymax and four Panamax drybulk vessels at a total cost of \$370.1 million. The Handymax and two of the four Panamax drybulk vessels were delivered to us during the fourth quarter of 2007. The Supramax and the remaining two Panamax drybulk vessels were delivered to us during the first two quarters of 2008.

In December 2007, we completed a follow-on offering of our common stock. The net proceeds of this follow-on offering, approximately \$68.9 million, were used primarily to repay outstanding secured debt and to partially finance the acquisition of the six drybulk vessels mentioned above, one of which we have since sold.



During 2007 we sold one Suezmax tanker, we agreed to sell one Suezmax tanker that we later delivered in January 2008 to its new owners, and we terminated the bareboat charters on three Handymax tankers that we sold in 2006 in sale and leaseback transactions, due to the sale of the vessels by their owners to third parties.

During 2008, we took delivery of one Supramax drybulk vessel and two Panamax drybulk vessels, which we had agreed to acquire in 2007 as mentioned above. Additionally, during 2008, we sold seven owned Suezmax tankers and one Panamax drybulk vessel and we arranged the sale of six chartered-in vessels, under bareboat charters, and terminated the respective charters.

On March 20, 2008, we effected a three-for-one reverse stock split of our common stock. There was no change in the number of authorized common shares. As a result of the reverse stock split, the number of outstanding shares as of March 20, 2008 decreased to 20,705,380, while the par value of our common shares remained unchanged at \$0.01 per share.

In April 2008, we privately placed with various investors 7.3 million unregistered shares of common stock, par value \$0.01, for aggregate proceeds of approximately \$51.0 million. The 7.3 million shares were sold for \$7.00 per share, which represents a discount of 15.5 percent based on the closing share price of \$8.28 on April 23, 2008. In July 2008, we filed a registration statement on Form F-3, with respect to these 7.3 million shares.

During the fourth quarter of 2008, the Board of Directors authorized a share repurchase program up to \$20 million for a share price of not more than \$2.50 per share for the duration of one year. We began the share repurchases during the fourth quarter of 2008 and the transactions were made in the open market on NASDAQ under Rule 10b-18 of the Exchange Act. As at December 31, 2008, we repurchased and cancelled an amount of 396,949 shares from the open market. We continued our repurchase program until February 3, 2009. During the first two months of 2009, we repurchased an amount of 358,601 shares from the open market. All the outstanding shares that have been repurchased under this program were held initially as treasury stock and were subsequently cancelled. Consequently, the outstanding amount of 358,601 shares was cancelled effective as of February 25, 2009.

In February 2009, we took delivery of M/T Miss Marilena and M/T Lichtenstein from SPP. M/T Miss Marilena and M/T Lichtenstein are two out of six 50,000 dwt product / chemical tankers delivered in 2009. M/T Miss Marilena and M/T Lichtenstein entered into bareboat time-charter employment for a period of 10 years at a daily rate of \$14,400 and \$14,550, respectively.

In March 2009, we took delivery of M/T Ionian Wave and M/T Tyrrhenian Wave from SPP. M/T Ionian Wave and M/T Tyrrhenian Wave are the third and fourth out of the six 50,000 dwt product / chemical tankers discussed above. M/T Ionian Wave and M/T Tyrrhenian Wave entered into bareboat time-charter employment for a period of seven years at a daily rate of \$14,300, with three successive one-year options at a higher daily rate.

In April 2009, we agreed with the owners of the M/T Relentless to terminate the bareboat charter initially entered into as part of the sale and leaseback deal in 2005. Under this agreement, we redelivered the vessel to its owners and paid a termination fee of \$2.5 million during the third quarter of 2009. The bareboat charter would have expired in 2012.

On May 22, 2009, we took delivery of M/T Britto from SPP. M/T Britto is the fifth out of the six 50,000 dwt newbuilding product / chemical tankers delivered in 2009. M/T Britto entered into bareboat time-charter employment for a period of ten years at a daily rate of \$14,550.

On June 24, 2009, we terminated the bareboat charters, initially entered into as part of the sale and leaseback deal in 2006, and redelivered the vessels M/T Faithful, the M/T Doubtless, the M/T Spotless and the M/T Vanguard to their owners after paying \$11.8 million in termination fees and expenses. In addition to the termination fees and expenses, we forfeited our right to receive the seller's credit of \$10.0 million from the initial sale of the vessels, which would have been received upon the expiration of the bareboat charters, and we paid for the dry-dock of the M/T Spotless which was completed during July 2009. The bareboat charters were set to expire in 2011. We remained the managers of M/T Faithful until April 30, 2010, which was shortly after the expiration of its time charter, and we were reimbursed by the owners for all expenses incurred.

On July 3, 2009, we redelivered the M/T Relentless to its owners and paid the termination fee of \$2.5 million as part of a termination agreement signed in April 2009 to terminate the bareboat charter initially entered into as part of the sale and leaseback deal in 2005. In addition to the termination fee, we had undertaken to perform certain works on the vessel prior to its redelivery which involved additional costs. From the date of the agreement until the date of redelivery, the bareboat hire had been set at \$7,000 per day. This was the last leased vessel in our fleet.

On July 1, 2009, we entered into a Standby Equity Distribution Agreement, or the SEDA, with YA Global Master SPV LTD., or YA Global, pursuant to which we may offer and sell up to \$200 million worth of our common shares to YA Global. The SEDA has a duration of three years. We made initial sales under the SEDA on August 13, 2009 and as of December 31, 2009, 2,230,000 shares had been sold with net proceeds amounting to approximately \$2.9 million. During the period from October 21, 2009 to the date of this report, no shares have been sold to YA Global under the SEDA.

On August 3, 2009, we took delivery of M/T Hongbo from SSP. M/T Hongbo is the last out of the six 50,000 dwt newbuilding product / chemical tankers delivered in 2009. M/T Hongbo entered into bareboat time-charter employment for a period of ten years at a daily rate of \$14,550.

As of December 31, 2009, our fleet consisted of thirteen owned vessels – eight Handymax tankers, one Supramax drybulk vessel, one Handymax drybulk vessel, and three Panamax drybulk vessels, with total carrying capacity of 0.7 million dwt, as compared to twelve vessels, with total carrying capacity of 0.7 million dwt (including five tankers sold and leased back), as of December 31, 2008.

## B. Business Overview

### Business Strategy

We are a provider of international seaborne transportation services, carrying petroleum products, crude oil for the oil industry and drybulk commodities for the steel, electric utility, construction and agriculture-food industries. As of the date of this annual report, our fleet consists of thirteen owned vessels (eight tankers and five drybulk vessels).

Two of our tankers and four of our drybulk vessels are currently employed on time charters and six of our tankers and one of our drybulk vessels are employed on bareboat charters. We actively manage the deployment of our fleet between time charters and bareboat charters, which last from several months to several years. 63% of our fleet by dwt are sister ships, which enhances the revenue generating potential of our fleet by providing us with operational and scheduling flexibility. Sister ships also increase our operating efficiencies because technical knowledge can be applied to all vessels in a series and create cost efficiencies and economies of scale when ordering spare parts, supplying and crewing these vessels.

During 2006, we ordered six newbuilding product tankers in the SPP shipyard in the Republic of Korea in order to modernize our tanker fleet. All of these tankers were delivered to us during 2009.



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In addition, during 2007 we diversified our fleet portfolio by acquiring drybulk vessels, beginning with the acquisition of six drybulk vessels, one of which we subsequently sold.

We intend to continue to review the market for tanker and drybulk vessels to continue our program of acquiring suitable vessels on accretive terms.

We believe we have established a reputation in the international ocean transport industry for operating and maintaining our fleet with high standards of performance, reliability and safety. We have assembled a management team comprised of executives who have extensive experience operating large and diversified fleets of tankers and drybulk vessels, and who have strong ties to a number of national, regional and international oil companies, charterers and traders.

Our Fleet

The following table presents our fleet list and employment as of the date of this annual report:

	Dwt	Year Built	Charter Type	Expiry	Daily Base Rate	Profit Sharing Above Base Rate (2009)
Eight Tanker Vessels						
Dauntless	46,168	1999	Time Charter	Q1-2/2012	\$10,500	50%
Ioannis P	46,346	2003	Time Charter	Q4/2010	\$18,000	100% first \$1,000 + 50% thereafter
Miss Marilena	50,000	2009	Bareboat Charter	Q1-2/2019	\$14,400	None
Lichtenstein	50,000	2009	Bareboat Charter	Q1-2/2019	\$14,550	None
Ionian Wave	50,000	2009	Bareboat Charter	Q1-2/2016	\$14,300A	None
Thyrrhenian Wave	50,000	2009	Bareboat Charter	Q1-2/2016	\$14,300A	None
Britto	50,000	2009	Bareboat Charter	Q1-2/2019	\$14,550	None
Hongbo	50,000	2009	Bareboat Charter	Q1-2/2019	\$14,550	None
Total Tanker dwt	392,514					
Five Drybulk Vessels						
Cyclades	75,681	2000	Time Charter	Q2/2011	\$54,250	None
Amalfi	45,526	2000	Time Charter	Q4/2011-Q1/2012	\$14,000	None
Papillon (ex Voc Gallant))	51,200	2002	Bareboat Charter	Q1-3/2012	\$24,000	None
Pepito	75,928	2001	Time Charter	Q1-2/2013	\$41,000	None
Astrale	75,933	2000	Time Charter	Q3-4/2011	\$18,000	None
Total Drybulk dwt	324,268					
TOTAL DWT	716,782					

A. On January 11, 2010, we announced that we received from the bareboat charterer of the M/T Ionian Wave and the M/T Tyrrhenian Wave, a reduced charter hire rate of \$10,000 per day rather than the \$14,300 per day on a bareboat basis that is set forth in the charter agreement. We are currently examining this unilateral reduction and intend to take all necessary steps to recover the amounts owed since the said charterer is considered to be in breach of the charter.

## Management of the Fleet

Since July 1, 2004, TOP Tanker Management Inc., or TOP Tanker Management, our wholly-owned subsidiary, has been responsible for all of the chartering, operational and technical management of our fleet, including crewing, maintenance, repair, capital expenditures, dry-docking, vessel taxes, maintaining insurance and vessel operating expenses under management agreements with our vessel owning subsidiaries. TOP Tanker Management has built a management team with significant experience in operating large and diversified fleets of tankers and drybulk vessels and has expertise in all aspects of commercial, technical, management and financial areas of our business. Prior to July 1, 2004, the operations of our fleet were managed by Primal Tankers Inc., which was wholly-owned by the father of our Chief Executive Officer.

From January 1, 2009 to December 31, 2009, TOP Tanker Management subcontracted the technical management and crewing of one Handymax tanker and the crewing of another Handymax tanker to V. Ships Management Limited, or V. Ships, for monthly fees of \$12,400 and \$3,550, respectively. For the period from January 2010 to the date of this annual report, the monthly fee to V. Ships for the technical management and crewing of the one Handymax tanker increased to \$12,900. In January 2010, we transferred the crewing of the other Handymax tanker to Interorient Maritime Enterprises Inc., or Interorient, for a fee of \$1,700 per month.

From January 1, 2009 to December 31, 2009, TOP Tanker Management subcontracted the crewing of four drybulk carriers to Interorient for a monthly fee of \$1,700 per vessel.

On April 6, 2010, we provided V. Ships approximately two months' notice of termination of our agreement with it for the technical management and crewing of the one Handymax tanker. The change of both crew and technical Management is to take place during the last week of June 2010, always subject to the vessel's schedule.

On May 12, 2010, our Board of Directors agreed to outsource all of the commercial and technical management of the Company's vessels to Central Mare Inc., or Central Mare, a related party controlled by the family of the Company's Chief Executive Officer, on a timeline to be determined by its executive officers in consideration of the vessels' schedule.

## Crewing and Employees

During 2007, 2008 and 2009, TOP SHIPS INC. had four employees, while our wholly-owned subsidiary, TOP Tanker Management, employed on average 82, 88 and 55 employees respectively, all of whom are shore-based. During 2009, V. Ships Management Limited and Interorient Maritime Enterprises Inc, were responsible for the crewing of the fleet. Such responsibilities include training, transportation, compensation and insurance of the crew.

TOP Tanker Management ensures that all seamen have the qualifications and licenses required to comply with international regulations and shipping conventions, and that our vessels employ experienced and competent personnel.

All of the employees of TOP Tanker Management are subject to a general collective bargaining agreement covering employees of shipping agents in Greece. These agreements set industry-wide minimum standards. We have not had any labor problems with our employees under this collective bargaining agreement and consider our workplace and labor union relations to be good.

## The Industry - Tankers

The international tanker industry represents, we believe, the most efficient and safest method of transporting large volumes of crude oil and refined petroleum products such as gasoline, diesel, fuel oil, gas oil and jet fuel, as well as edible oils and chemicals.

Freight rates in the tanker shipping industry are determined by the supply of product tankers and the demand for crude oil and refined petroleum products transportation. Factors that affect the supply of product tankers and the demand for transportation of crude oil and refined petroleum products include:

### Demand

• general economic conditions, including increases and decreases in industrial production and transportation, in which China has played a significant role since it joined the World Trade Organization.

• oil prices;

• environmental issues or concerns;

• climate;

• competition from alternative energy sources; and

• regulatory environment.

### Supply

• the number of combined carriers, or vessels capable of carrying oil or drybulk cargoes, carrying oil cargoes;

• the number of newbuildings on order and being delivered;

• the number of tankers in lay-up, which refers to vessels that are in storage, dry-docked, awaiting repairs or otherwise not available or out of commission; and

• the number of tankers scrapped for obsolescence or subject to casualties;

• prevailing and expected future charterhire rates;

• costs of bunkers, fuel oil, and other operating costs;

• the efficiency and age of the world tanker fleet;

• current shipyard capacity; and

• government and industry regulation of maritime transportation practices, particularly environmental protection laws and regulations.



## Developments in the International Tanker Market

The Baltic Dirty Tanker Index, a U.S. Dollar daily average of charter rates issued by the London based Baltic Exchange (an organization providing maritime market information for the trading and settlement of physical and derivative contracts) which takes into account input from brokers around the world regarding crude oil fixtures for various routes various tanker vessel sizes, after a steep decline that started in mid-2008 and lasted until the end of the third quarter of 2009, has rebounded in the fourth quarter of 2009, although not to pre-crisis levels. The Baltic Dirty Tanker Index declined from a high of 2,347 in July 2008 to a low of 453 in mid-April 2009, which represents a decline of 80%, but has since rebounded to 911 as of June 3, 2010. The Baltic Clean Tanker Index fell from 1,509 points as of June 19, 2008, to 345 points as of April 4, 2009, but has rebounded to 644 points as of June 3, 2010. The dramatic decline in charter rates was due to various factors, including the significant fall in demand for crude oil and petroleum products, the consequent rising inventories of crude oil and petroleum products in the United States and in other industrialized nations and the corresponding reduction in oil refining, the dramatic fall in the price of oil in 2008, and the restrictions on crude oil production that the Organization of Petroleum Exporting Countries (OPEC) and other non-OPEC oil producing countries have imposed in an effort to stabilize the price of oil. During 2009, the above factors affecting the Baltic Dirty and Clean Tanker Indices have partially subsided, allowing for the recovery of rates and a stabilization of tanker vessel values.

The price of crude oil after reaching historical highs in the summer of 2008 declined sharply as a result of the deterioration in the world economy, the collapse of financial markets, declining oil demand and bearish market sentiment. In 2009, oil prices started rising again amidst a growing demand for oil leading to a price of approximately \$72.88 per barrel as of June 3, 2010.

## The Industry – Drybulk Vessels

Drybulk cargo is cargo that is shipped in quantities and can be easily stowed in a single hold with little risk of cargo damage. The demand for drybulk vessel capacity is determined by the underlying demand for commodities transported in drybulk vessels, which in turn is influenced by trends in the global economy. Between 2000 and 2009, trade in all drybulk commodities increased from 2.3 billion tons to 3.03 billion tons, representing a CAGR (compound average growth rate) of 4.7 %. One of the main reasons for that increase in drybulk trade was the growth in imports by China of iron ore, coal and steel products since 2000. Chinese imports of iron ore alone increased from 92.2 million tons in 2001 to approximately 630 million tons in 2009.

The supply of drybulk vessels is dependent on the delivery of new vessels and the removal of vessels from the global fleet, either through scrapping or loss. The orderbook of new drybulk vessels scheduled to be delivered until 2012 represents approximately 57% of the world drybulk fleet. The level of scrapping activity is generally a function of scrapping prices in relation to current and prospective charter market conditions, as well as operating, repair and survey costs. Drybulk vessels at or over 25 years old are considered to be scrapping candidate vessels.

## Developments in the International Drybulk Shipping Industry

The Baltic Drybulk Index, or BDI, a U.S. Dollar daily average of charter rates issued by the London based Baltic Exchange which takes into account input from brokers around the world regarding fixtures for various routes, dry cargoes and various drybulk vessel sizes, declined from a high of 11,793 in May 2008 to a low of 663 in December 2008, which represents a decline of 94%, but has since risen to 3,933 as of June 3, 2010. The decline in charter rates was due to various factors, including the lack of trade financing for purchases of commodities carried by sea, which has resulted in a significant decline in cargo shipments, and the excess supply of iron ore in China, which has resulted in falling iron ore prices and increased stockpiles in Chinese ports. The decline in charter rates in the drybulk market also affected the value of our drybulk vessels, which followed the trends of drybulk charter rates, and earnings on our

charters, and similarly, affected our cash flows, liquidity and compliance with the covenants contained in our loan agreements. During 2009, the abovementioned factors affecting the BDI have partially subsided, allowing for the recovery of rates and a recovery in drybulk vessel values.

## Environmental and Other Regulations

Government regulations and laws significantly affect the ownership and operation of our vessels. We are subject to international conventions, national, state and local laws and regulations in force in the countries in which our vessels may operate or are registered and compliance with such laws, regulations and other requirements may entail significant expense.

Our vessels are subject to both scheduled and unscheduled inspections by a variety of government, quasi-governmental and private organizations including the local port authorities, national authorities, harbor masters or equivalent, classification societies, flag state administrations (countries of registry) and charterers. Our failure to maintain permits, licenses, certificates or other approvals required by some of these entities could require us to incur substantial costs or temporarily suspend operation of one or more of our vessels.

We believe that the heightened levels of environmental and quality concerns among insurance underwriters, regulators and charterers have led to greater inspection and safety requirements on all vessels and may accelerate the scrapping of older vessels throughout the industry. Increasing environmental concerns have created a demand for vessels that conform to stricter environmental standards.

We believe that the operation of our vessels is in substantial compliance with applicable environmental laws and regulations and that our vessels have all material permits, licenses, certificates or other authorizations necessary for the conduct of our operations; however, because such laws and regulations are frequently changed and may impose increasingly stricter requirements, we cannot predict the ultimate cost of complying with these requirements, or the impact of these requirements on the resale value or useful lives of our vessels. In addition, additional legislation or regulation applicable to the operation of our vessels that may be implemented in the future could negatively affect our profitability.

## International Maritime Organization

The International Maritime Organization, or the IMO, the United Nations agency for maritime safety and the prevention of pollution by ships, has adopted several international conventions that regulate the international shipping industry, including the International Convention on Civil Liability for Oil Pollution Damage, the International Convention on Civil Liability for Bunker Oil Pollution Damage, and the International Convention for the Prevention of Pollution from Ships, or the MARPOL Convention. The MARPOL Convention establishes environmental standards relating to oil leakage or spilling, garbage management, sewage, air emissions, handling and disposal of noxious liquids and the handling of harmful substances in packaged form.

In September 1997, the IMO adopted Annex VI to MARPOL to address air pollution from ships. Annex VI came into force on May 19, 2005. It sets limits on sulfur oxide and nitrogen oxide emissions from ship exhausts and prohibits deliberate emissions of ozone depleting substances, such as chlorofluorocarbons. Annex VI also includes a global cap on the sulfur content of fuel oil and allows for special areas to be established with more stringent controls on sulfur emissions. Annex VI has been ratified by some, but not all IMO member states. In October 2008, the Marine Environment Protection Committee, or MEPC, of the IMO approved amendments to Annex VI regarding particulate matter, nitrogen oxide and sulfur oxide emissions standards. These amendments will enter into force in July 2010. They seek to reduce air pollution from vessels by establishing a series of progressive standards to further limit the sulfur content in fuel oil, which would be phased in by 2020, and by establishing new tiers of nitrogen oxide emission standards for new marine diesel engines, depending on their date of installation. Additionally, more stringent emission standards could apply in coastal areas designated as Emission Control Areas ("ECAs"). Please see "United States – the U.S. Clean Air Act" below for information on the ECA designated in North America and the Hawaiian Islands. We

have obtained International Air Pollution Prevention certificates evidencing compliance with Annex VI requirements for all of our vessels.

Although the United States is not a party, many countries have ratified the International Convention on Civil Liability for Oil Pollution Damage of 1969, as amended in 2000, or the CLC. Under this convention and depending on whether the country in which the damage results is a party to the 1992 Protocol to the CLC, a vessel's registered owner is strictly liable for pollution damage caused in the territorial waters of a contracting state by discharge of persistent oil, subject under certain circumstances to certain defenses and limitations. Vessels trading to states that are parties to these conventions must provide evidence of insurance covering the liability of the owner. In jurisdictions where the CLC has not been adopted, various legislative schemes or common law govern, and liability is imposed either on the basis of fault or in a manner similar to the CLC.

The IMO also has adopted the International Convention on Civil Liability for Bunker Oil Pollution Damage, or the Bunker Convention, which imposes strict liability on ship owners for pollution damage in jurisdictional waters of ratifying states caused by discharges of bunker fuel and requires registered owners of ships over 1,000 gross tons to maintain insurance for pollution damage in an amount equal to the limits of liability under the applicable national or international limitation regime.

The operation of our vessels is also affected by the requirements contained in the International Safety Management Code for the Safe Operation of Ships and for Pollution Prevention, or ISM Code, promulgated by the IMO under the International Convention for the Safety of Life at Sea, or SOLAS. The ISM Code requires the party with operational control of a vessel to develop an extensive safety management system that includes, among other things, the adoption of a safety and environmental protection policy setting forth instructions and procedures for operating its vessels safely and describing procedures for responding to emergencies. We intend to rely upon the safety management system that our appointed ship managers have developed.

Noncompliance with the ISM Code or with other IMO regulations may subject a shipowner or bareboat charterer to increased liability, may lead to decreases in available insurance coverage for affected vessels and may result in the denial of access to, or detention in, some ports including United States and European Union ports.

#### United States

The U.S. Oil Pollution Act of 1990 and the Comprehensive Environmental Response, Compensation and Liability Act

The U.S. Oil Pollution Act of 1990, or OPA, is an extensive regulatory and liability regime for environmental protection and cleanup of oil spills. OPA affects all owners and operators whose vessels trade with the United States or its territories or possessions, or whose vessels operate in the waters of the United States, which include the U.S. territorial sea and the 200 nautical mile exclusive economic zone around the United States. The Comprehensive Environmental Response, Compensation and Liability Act, or CERCLA, imposes liability for cleanup and natural resource damage from the release of hazardous substances (other than oil) whether on land or at sea. Both OPA and CERCLA impact our operations.

Under OPA, vessel owners, operators and bareboat charterers are responsible parties who are jointly, severally and strictly liable (unless the spill results solely from the act or omission of a third party, an act of God or an act of war) for all containment and clean-up costs and other damages arising from oil spills from their vessels. OPA limits the liability of responsible parties with respect to tankers over 3,000 gross tons to the greater of \$3,200 per gross tons or \$23,496,000 per single hull tanker, \$2,000 per gross ton or \$17,088,000 per double hull tanker, and \$1,000 per gross ton or \$854,400 for any non-tank vessel respectively, and permits individual states to impose their own liability regimes with regard to oil pollution incidents occurring within their boundaries. Some states have enacted legislation providing for unlimited liability for discharge of pollutants within their waters, however, in some cases, states which have enacted this type of legislation have not yet issued implementing regulations defining tanker owners' responsibilities under these laws. CERCLA, which applies to owners and operators of vessels, contains a similar liability regime and provides for cleanup, removal and natural resource damages. Liability under CERCLA is limited to the greater of \$300 per gross ton or \$5.0 million for vessels carrying a hazardous substance as cargo and the greater of \$300 per gross ton or \$0.5 million for any other vessel.

These limits of liability do not apply, however, where the incident is caused by violation of applicable U.S. federal safety, construction or operating regulations, or by the responsible party's gross negligence or willful misconduct. These limits also do not apply if the responsible party fails or refuses to report the incident or to cooperate and assist in connection with the substance removal activities. OPA and CERCLA each preserve the right to recover damages under existing law, including maritime tort law. We believe that we are in substantial compliance with OPA, CERCLA and all applicable state regulations in the ports where our vessels call.

OPA also requires owners and operators of vessels to establish and maintain with the U.S. Coast Guard evidence of financial responsibility sufficient to meet the limit of their potential strict liability under the act. Under the regulations, evidence of financial responsibility may be demonstrated by insurance, surety bond, self-insurance or guaranty. Under OPA regulations, an owner or operator of more than one tanker is required to demonstrate evidence of financial responsibility for the entire fleet in an amount equal only to the financial responsibility requirement of the tanker having the greatest maximum strict liability under OPA and CERCLA. We have provided such evidence and received certificates of financial responsibility from the U.S. Coast Guard for each of our vessels required to have one.

OPA specifically permits individual U.S. coastal states to impose their own liability regimes with regard to oil pollution incidents occurring within their boundaries, and some states have enacted legislation providing for unlimited liability for oil spills.

#### The U.S. Clean Water Act

The U.S. Clean Water Act of 1972, or CWA, prohibits the discharge of oil, hazardous substances, and ballast water in U.S. navigable waters unless authorized by a duly-issued permit or exemption, and imposes strict liability in the form of penalties for any unauthorized discharges. The CWA also imposes substantial liability for the costs of removal, remediation and damages and complements the remedies available under OPA and CERCLA. Furthermore, most U.S. states that border a navigable waterway have enacted environmental pollution laws that impose strict liability on a person for removal costs and damages resulting from a discharge of oil or a release of a hazardous substance. These laws may be more stringent than U.S. federal law.

The United States Environmental Protection Agency, or EPA, has enacted rules requiring a permit regulating ballast water discharges and other discharges incidental to the normal operation of certain vessels within United States waters under the Vessel General Permit for Discharges Incidental to the Normal Operation of Vessels, or VGP. To be covered by the VGP, owners of certain vessels must submit a Notice of Intent, or NOI, at least 30 days before the vessel operates in United States waters. Compliance with the VGP could require the installation of equipment on our vessels to treat ballast water before it is discharged or the implementation of other disposal arrangements, and/or

otherwise restrict our vessels from entering United States waters. In addition, certain states have enacted more stringent discharge standards as conditions to their required certification of the VGP. We have submitted NOIs for our vessels where required and do not believe that the costs associated with obtaining and complying with the VGP will have a material impact on our operations.

## The U.S. Clean Air Act

The U.S. Clean Air Act of 1970, as amended by the Clean Air Act Amendments of 1977 and 1990, or the CAA, requires the EPA to promulgate standards applicable to emissions of volatile organic compounds and other air contaminants. Our vessels are subject to vapor control and recovery requirements for certain cargoes when loading, unloading, ballasting, cleaning and conducting other operations in regulated port areas and emission standards for so-called "Category 3" marine diesel engines operating in U.S. waters. The marine diesel engine emission standards are currently limited to new engines beginning with the 2004 model year. On December 22, 2009, the EPA announced final emission standards for Category 3 marine diesel engines equivalent to those adopted in the amendments to Annex VI to MARPOL. The emission standards apply in two stages: near-term standards for newly-built engines will apply from 2011, and long-term standards requiring an 80% reduction in nitrogen dioxides (NOx) will apply from 2016. Compliance with these standards may cause us to incur costs to install control equipment on our vessels.

The CAA also requires states to draft State Implementation Plans, or SIPs, designed to attain national health-based air quality standards in primarily major metropolitan and/or industrial areas. Several SIPs regulate emissions resulting from vessel loading and unloading operations by requiring the installation of vapor control equipment. As indicated above, our vessels operating in covered port areas are already equipped with vapor recovery systems that satisfy these existing requirements. Vessels sailing within 24 miles of the California coastline whose itineraries call for them to enter any California ports, terminal facilities, or internal or estuarine waters must use marine gas oil at or below 1.5% sulfur and marine diesel oil at or below 0.5% sulfur and, effective January 1, 2012, marine fuels with a sulfur content at or below 0.1% (1,000 ppm) sulfur.

The MEPC has designated the area extending 200 miles from the territorial sea baseline adjacent to the Atlantic/Gulf and Pacific coasts and the eight main Hawaiian Islands as an ECA under the Annex VI amendments. The new ECA will enter into force in August 2012, whereupon fuel used by all vessels operating in the ECA cannot exceed 1.0% sulfur, dropping to 0.1% sulfur in 2015. From 2016, NOx after-treatment requirements will also apply. If other ECAs are approved by the IMO or other new or more stringent requirements relating to emissions from marine diesel engines or port operations by vessels are adopted by the EPA or the states where we operate, compliance with these regulations could entail significant capital expenditures or otherwise increase the costs of our operations.

## European Union

The European Union has adopted legislation that would: (1) ban manifestly sub-standard vessels (defined as those over 15 years old that have been detained by port authorities at least twice in a six month period) from European waters and create an obligation of port states to inspect vessels posing a high risk to maritime safety or the marine environment; and (2) provide the European Union with greater authority and control over classification societies, including the ability to seek to suspend or revoke the authority of negligent societies. In addition, European Union regulations enacted in 2003 now prohibit all single hull tankers from entering into its ports or offshore terminals.

In October 2009, the European Union amended a previously adopted Directive to impose criminal sanctions for illicit ship-source discharges of polluting substances, including minor discharges, if committed with intent, recklessly or with serious negligence and the discharges individually or in the aggregate result in deterioration of the quality of water. Criminal liability for pollution may result in substantial penalties or fines and increased civil liability claims.

The European Union has also adopted a Directive to limit the sulphur content of marine fuels in order to reduce sulphur dioxide emissions from ships.

The sinking of the oil tanker Prestige in 2002 has led to the adoption of other environmental regulations by certain European Union Member States. It is difficult to predict what legislation or additional regulations, if any, may be promulgated by the European Union in the future.

#### Other Environmental Initiatives

U.S. Coast Guard regulations adopted and proposed for adoption under the U.S. National Invasive Species Act, or NISA, impose mandatory ballast water management practices for all vessels equipped with ballast water tanks entering U.S. waters, which could require the installation of equipment on our vessels to treat ballast water before it is discharged or the implementation of other port facility disposal arrangements or procedures, and/or otherwise restrict our vessels from entering U.S. waters.

At the international level, the IMO adopted an International Convention for the Control and Management of Ships' Ballast Water and Sediments in February 2004 (the "BWM Convention"). The Convention's implementing regulations call for a phased introduction of mandatory ballast water exchange requirements, to be replaced in time with mandatory concentration limits. The BWM Convention will not enter into force until 12 months after it has been adopted by 30 states, the combined merchant fleets of which represent not less than 35% of the gross tonnage of the world's merchant shipping. As of April 30, 2010 the BWM Convention has been adopted by 24 states, representing 23.29% of world tonnage.

If mid-ocean ballast exchange is made mandatory throughout the United States or at the international level, or if ballast water treatment requirements or options are instituted, the cost of compliance could increase for ocean carriers. Although we do not believe that the costs of compliance with a mandatory mid-ocean ballast exchange would be material, it is difficult to predict the overall impact of such a requirement on our operations.

#### Greenhouse Gas Regulation

The IMO is evaluating mandatory measures to reduce greenhouse gas emissions from international shipping, which may include market-based instruments or a carbon tax. The European Union has indicated that it intends to propose an expansion of the existing European Union emissions trading scheme to include emissions of greenhouse gases from marine vessel. In the United States, the EPA has issued a proposed finding that greenhouse gases threaten the public health and safety. In addition, climate change initiatives are being considered in the U.S. Congress. Any passage of climate control legislation or other regulatory initiatives by the IMO, EU, the U.S. or other countries where we operate, or any treaty adopted at the international level to succeed the Kyoto Protocol, that restrict emissions of greenhouse gases could require us to make significant financial expenditures that we cannot predict with certainty at this time.

#### Vessel Security Regulations

Since the terrorist attacks of September 11, 2001, there have been a variety of initiatives intended to enhance vessel security. On November 25, 2002, the U.S. Maritime Transportation Security Act of 2002, or the MTSA, came into effect. To implement certain portions of the MTSA, in July 2003, the U.S. Coast Guard issued regulations requiring the implementation of certain security requirements aboard vessels operating in waters subject to the jurisdiction of the United States. Similarly, in December 2002, amendments to SOLAS created a new chapter of the convention dealing specifically with maritime security. The new chapter became effective in July 2004 and imposes various detailed security obligations on vessels and port authorities, most of which are contained in the International Ship and

Port Facilities Security Code, or the ISPS Code. The ISPS Code is designed to protect ports and international shipping against terrorism. After July 1, 2004, to trade internationally, a vessel must attain an International Ship Security Certificate from a recognized security organization approved by the vessel's flag state. Among the various requirements are:

- on-board installation of automatic identification systems to provide a means for the automatic transmission of safety-related information from among similarly equipped ships and shore stations, including information on a ship's identity, position, course, speed and navigational status;

- on-board installation of ship security alert systems, which do not sound on the vessel but only alert the authorities on shore;
- the development of vessel security plans;
- ship identification number to be permanently marked on a vessel's hull;
- a continuous synopsis record kept onboard showing a vessel's history including, the name of the ship and of the state whose flag the ship is entitled to fly, the date on which the ship was registered with that state, the ship's identification number, the port at which the ship is registered and the name of the registered owner(s) and their registered address; and
- compliance with flag state security certification requirements.

The U.S. Coast Guard regulations, intended to align with international maritime security standards, exempt from MTSA vessel security measures non-U.S. vessels that have on board, as of July 1, 2004, a valid International Ship Security Certificate attesting to the vessel's compliance with SOLAS security requirements and the ISPS Code. We have implemented the various security measures addressed by the MTSA, SOLAS and the ISPS Code, and our fleet is in compliance with applicable security requirements.

#### Inspection by Classification Societies

Every seagoing vessel must be "classed" by a classification society. The classification society certifies that the vessel is "in class," signifying that the vessel has been built and maintained in accordance with the rules of the classification society and complies with applicable rules and regulations of the vessel's country of registry and the international conventions of which that country is a member. In addition, where surveys are required by international conventions and corresponding laws and ordinances of a flag state, the classification society will undertake them on application or by official order, acting on behalf of the authorities concerned.

The classification society also undertakes or requests other surveys and checks that are required by regulations and requirements of the flag state. These surveys are subject to agreements made in each individual case and/or to the regulations of the country concerned.

For maintenance of the class, regular and extraordinary surveys of hull, machinery, including the electrical plant, and any special equipment classed are required to be performed as follows:

**Annual Surveys:** For seagoing ships, annual surveys are conducted for the hull and the machinery, including the electrical plant, and where applicable for special equipment classed, at intervals of 12 months from the date of commencement of the class period indicated in the certificate.

**Intermediate Surveys:** Extended annual surveys are referred to as intermediate surveys and typically are conducted two and one-half years after commissioning and each class renewal. Intermediate surveys may be carried out on the occasion of the second or third annual survey.

**Class Renewal Surveys:** Class renewal surveys, also known as special surveys, are carried out for the ship's hull, machinery, including the electrical plant, and for any special equipment classed, at the intervals indicated by the character of classification for the hull. At the special survey, the vessel is thoroughly examined, including audio-gauging to determine the thickness of the steel structures. Should the thickness be found to be less than class requirements, the classification society would prescribe steel renewals. The classification society may grant a one-year grace period for completion of the special survey. Substantial amounts of money may have to be spent for steel renewals to pass a special survey if the vessel experiences excessive wear and tear. In lieu of the special survey every four or five years, depending on whether a grace period was granted, a shipowner has the option of arranging with the classification society for the vessel's hull or machinery to be on a continuous survey cycle, in which every part of the vessel would be surveyed within a five-year cycle.

At an owner's application, the surveys required for class renewal may be split according to an agreed schedule to extend over the entire period of class. This process is referred to as continuous class renewal.

All areas subject to survey as defined by the classification society are required to be surveyed at least once per class period, unless shorter intervals between surveys are prescribed elsewhere. The period between two subsequent surveys of each area must not exceed five years.

Most vessels are also dry-docked every 30 to 36 months for inspection of the underwater parts and for repairs related to inspections. If any defects are found, the classification surveyor will issue a "recommendation" which must be rectified by the ship owner within prescribed time limits.

Most insurance underwriters make it a condition for insurance coverage that a vessel be certified as "in class" by a classification society which is a member of the International Association of Classification Societies. All our vessels are certified as being "in class" by the American Bureau of Shipping, Lloyd's Register of Shipping or Det Norske Veritas. All new and secondhand vessels that we purchase must be certified prior to their delivery under our standard contracts and memorandum of agreement. If the vessel is not certified on the date of closing, we have no obligation to take delivery of the vessel.

#### Risk of Loss and Liability Insurance Generally

The operation of any cargo vessel includes risks such as mechanical failure, collision, property loss, cargo loss or damage and business interruption due to political circumstances in foreign countries, hostilities and labor strikes. In addition, there is always an inherent possibility of marine disaster, including oil spills and other environmental mishaps, and the liabilities arising from owning and operating vessels in international trade. OPA, which imposes virtually unlimited liability upon owners, operators and demise charterers of any vessel trading in the United States exclusive economic zone for certain oil pollution accidents in the United States, has made liability insurance more expensive for ship owners and operators trading in the United States market. While we carry loss of hire insurance to cover 100% of our fleet, we may not be able to maintain this level of coverage. Furthermore, while we believe that our present insurance coverage is adequate, not all risks can be insured, and there can be no guarantee that any specific claim will be paid, or that we will always be able to obtain adequate insurance coverage at reasonable rates.

#### Hull and Machinery Insurance

We have obtained marine hull and machinery, marine interests and war risk insurance, which includes the risk of actual or constructive total loss, general average, particular average, salvage, salvage charges, sue and labor, damage received in collision or contact with fixed or floating objects for all of the vessels in our fleet. In 2009, the vessels in our fleet were each covered up to at least fair market value, with deductibles of \$100,000 per vessel per incident, for

the non-bareboat vessels in our fleet. In 2010, deductibles changed to include an additional machinery deductible of \$100,000 per vessel per incident for the non-bareboat vessels in our fleet. For the vessels that are under bareboat charters, the charterer is responsible for arranging and paying the hull and machinery insurance. We have also arranged increased value coverage for one of our bareboat chartered vessels, M/V Papillon, in order to conform with relevant loan covenants. Under this increased value coverage, in the event of total loss of a vessel, we will recover for amounts not recoverable under the hull and machinery policy by reason of any under-insurance by the charterers, in relation to values dictated by loan covenants.

### Loss of Hire Insurance

During 2009, we obtained Loss of Hire Insurance to cover the loss of hire of each non-bareboat vessel and two of the bareboat chartered vessels, M/T Ionian Wave and M/T Hongbo, as required by the relevant loan agreements, for 90 days in excess of 30 days in case of an incident that is coverable by our Hull and Machinery policy. In 2010, we have obtained Loss of Hire Insurance to cover the loss of hire for M/V Cyclades, M/V Pepito, M/T Ioannis P, M/T Ionian Wave and M/T Hongbo for 90 days in excess of 30 days in case of an incident that is coverable by our Hull and Machinery policy.

### Protection and Indemnity Insurance

Protection and indemnity insurance is provided by mutual protection and indemnity associations, or P&I Associations, which covers our third party liabilities in connection with our shipping activities. This includes third party liability and other related expenses of injury or death of crew, passengers and other third parties, loss or damage to cargo, claims arising from collisions with other vessels, damage to other third party property, pollution arising from oil or other substances, including wreck removal. Protection and indemnity insurance is a form of mutual indemnity insurance, extended by protection and indemnity mutual associations, or "clubs." Subject to the "capping" discussed below, our coverage, except for pollution, is unlimited.

Our current protection and indemnity insurance coverage for pollution remains at \$1.0 billion per vessel per incident. The 13 P&I Associations that comprise the International Group insure approximately 90% of the world's commercial tonnage and have entered into a pooling agreement to reinsure each association's liabilities. Each P&I Association has capped its exposure to this pooling agreement at approximately \$5.5 billion. As a member of a P&I Association, which is a member of the International Group, we are subject to calls payable to the associations based on its claim records as well as the claim records of all other members of the individual associations, and members of the pool of P&I Associations comprising the International Group.

### Competition

We operate in markets that are highly competitive and based primarily on supply and demand. We compete for charters on the basis of price, vessel location, size, age and condition of the vessel, as well as on our reputation as an operator. We arrange our time charters, bareboat charters and voyage charters in the spot market through the use of brokers, who negotiate the terms of the charters based on market conditions. We compete primarily with owners of tankers in the Handymax class sizes and also with owners of drybulk vessels in the Handymax, Supramax and Panamax class sizes. Ownership of tankers is highly fragmented and is divided among major oil companies and independent vessel owners. The drybulk market is less fragmented with more small operators.

### Seasonality

We operate our vessels in markets that have historically exhibited seasonal variations in demand and, therefore, charter rates. This seasonality may affect operating results.

## C. Organizational Structure

The following are the wholly-owned subsidiaries of TOP SHIPS INC. as of December 31, 2009.

	Shipowning Companies with vessels in operations at December 31, 2009	Date of Incorporation	Country of Incorporation	Vessel
1	Lefka Shipping Company Limited ("Lefka")	March 2005	Marshall Islands	Dauntless (acquired March 2005)
2	Ilisos Shipping Company Limited ("Ilisos")	April 2005	Marshall Islands	Ioannis P (acquired November 2005)
3	Amalfi Shipping Company Limited ("Amalfi")	July 2007	Marshall Islands	Amalfi (acquired December 2007)
4	Jeke Shipping Company Limited ("Jeke")	July 2007	Liberia	Voc Gallant (acquired February 2008)
5	Japan I Shipping Company Limited ("Japan I")	August 2007	Liberia	Pepito (acquired March 2008)
6	Japan II Shipping Company Limited ("Japan II")	August 2007	Liberia	Astrale (acquired May 2008)
7	Japan III Shipping Company Limited ("Japan III")	August 2007	Liberia	Cyclades (acquired December 2007)
8	Warhol Shipping Company Limited ("Warhol")	July 2008	Liberia	Miss Marilena (delivered February 2009)
9	Lichtenstein Shipping Company Limited ("Lichtenstein")	July 2008	Liberia	Lichtenstein (delivered February 2009)
10	Banksy Shipping Company Limited ("Banksy")	July 2008	Liberia	Ionian Wave (delivered March 2009)
11	Indiana R Shipping Company Limited ("Indiana R")	July 2008	Liberia	Tyrrhenian Wave (delivered March 2009)
12	Britto Shipping Company Limited ("Britto")	July 2008	Liberia	Britto (delivered May 2009)
13	Hongbo Shipping Company Limited ("Hongbo")	July 2008	Liberia	Hongbo (delivered August 2009)
<b>Other Companies</b>				
14	Top Tankers (U.K.) Limited	January 2005	England and Wales	Representative office in London
15	Top Bulker Management Inc.	April 2005	Marshall Islands	Inactive Management

				Company
16	TOP Tanker Management Inc. ((the "Manager"))	May 2004	Marshall Islands	Management Company
17	Ierissos Shipping Inc.	November 2008	Marshall Islands	Cash Manager

It should be noted that Ierissos Shipping Inc was dissolved in April 2010.

	Shipowning Companies with vessels sold	Date of Incorporation	Country of Incorporation	Vessel
18	Olympos Shipping Company Limited	December 1999	British Cayman Islands	Med Prologue (sold to "Olympos Shipping Company Limited")
19	Vermio Shipping Company Limited ("Faithful")	December 2001	Marshall Islands	Faithful (sold to "Gramos Shipping Company Inc" July 2003)
20	Kalidromo Shipping Company Limited ("Kalidromo")	May 2003	Marshall Islands	Tireless (sold September 2004)
21	Olympos Shipping Company Limited ("Olympos")	May 2003	Marshall Islands	Med Prologue (sold December 2004)
22	Rupel Shipping Company Inc. ("Rupel")	January 2003	Marshall Islands	Fearless (sold July 2005)
23	Helidona Shipping Company Limited ("Helidona")	May 2003	Marshall Islands	Yapi (sold September 2005)
24	Mytikas Shipping Company Limited ("Mytikas")	February 2004	Marshall Islands	Limitless (sold September 2008)
25	Litochoro Shipping Company Limited ("Litochoro")	March 2004	Marshall Islands	Endless (sold September 2008)
26	Vardousia Shipping Company Limited ("Vardousia")	July 2004	Cyprus	Invincible (sold by its new owners July 2007)
27	Psiloritis Shipping Company Limited ("Psiloritis")	July 2004	Liberia	Victorious (sold by its new owners August 2007)
28	Menalo Shipping Company Limited ("Menalo")	July 2004	Cyprus	Restless (sold by its new owners September 2007)
29	Pintos Shipping Company Limited ("Pintos")	July 2004	Cyprus	Sovereign (sold by its new owners August 2008)
30	Pylio Shipping Company Limited ("Pylio")	July 2004	Liberia	Flawless (sold by its new owners September 2008)
31	Taygetus Shipping Company Limited ("Taygetus")	July 2004	Liberia	Timeless (sold by its new owners September 2008)
32	Imitos Shipping Company Limited ("Imitos")	November 2004	Marshall Islands	Noiseless (sold January 2008)
33	Parnis Shipping Company Limited ("Parnis")	November 2004	Marshall Islands	Stainless (sold January 2008)

34	Parnasos Shipping Company Limited ("Parnasos")	November 2004	Liberia	Faultless (sold by its new owners March 2008)
35	Vitsi Shipping Company Limited ("Vitsi")	November 2004	Liberia	Stopless (sold by its new owners September 2008)
36	Kisavos Shipping Company Limited ("Kisavos")	November 2004	Marshall Islands	Priceless (sold by its new owners September 2008)
37	Agion Oros Shipping Company Limited ("Agion Oros")	February 2005	Marshall Islands	Topless (sold December 2006)

	Shipowning Companies with vessels sold	Date of Incorporation	Country of Incorporation	Vessel
38	Giona Shipping Company Limited ("Giona")	March 2005	Marshall Islands	Tainless (sold November 2006)
39	Agrafa Shipping Company Limited ("Agrafa")	March 2005	Marshall Islands	Soundless (sold November 2006)
40	Ardas Shipping Company Limited ("Ardas")	April 2005	Marshall Islands	Errorless (sold April 2007)
41	Nedas Shipping Company Limited ("Nedas")	April 2005	Marshall Islands	Stormless (sold June 2008)
42	Kifisos Shipping Company Limited ("Kifisos")	April 2005	Marshall Islands	Edgeless (sold July 2008)
43	Sperhios Shipping Company Limited ("Sperhios")	April 2005	Marshall Islands	Ellen P (sold September 2008)
44	Noir Shipping S.A. ("Noir")	June 2007	Marshall Islands	Bertram (sold April 2008)
45	Gramos Shipping Company Inc. ("Gramos")	January 2003	Marshall Islands	Faithful (sold and leased back March 2006)
46	Falakro Shipping Company Limited ("Falakro")	July 2004	Liberia	Doubtless (sold and leased back March 2006)
47	Pageon Shipping Company Limited ("Pageon")	July 2004	Cyprus	Vanguard (sold and leased back March 2006)
48	Idi Shipping Company Limited ("Idi")	July 2004	Liberia	Spotless (sold and leased back March 2006)
49	Parnon Shipping Company Limited ("Parnon")	July 2004	Cyprus	Relentless (sold and leased back September 2005)

#### D. Properties, Plants and Equipment

For a list of our fleet see "Business Overview – Our Fleet" above.

In January 2006, we entered into an agreement with an unrelated party to lease office space in Athens, Greece. The office is located at 1, Vasilisis Sofias & Megalou Alexandrou Street, 151 24 Maroussi, Athens, Greece. The agreement is for a duration of 12 years beginning May 2006 with a lessee's option for an extension of 10 years. The current monthly rental is \$0.2 million (based on the U.S. Dollar/Euro exchange rate as of December 31, 2009) adjusted annually for inflation increase plus 1.0%.

In addition, our subsidiary TOP TANKERS (U.K.) LIMITED, a representative office in London, leases office space in London from an unrelated third party. The agreement is valid from June 2007 and shall continue until either party shall give to the other one calendar month written notice. The annual lease is \$0.03 million (based on the U.S. Dollar/GBP exchange rate as of December 31, 2009) payable quarterly in advance.

In November 2009, TOP SHIPS INC. entered into a lease agreement for office space in London. The agreement is for a duration of one year from and including November 15, 2009 to and including November 14, 2010. The current monthly rent is \$0.04 million (based on the U.S. Dollar/GBP exchange rate as of December 31, 2009).

ITEM 4A. UNRESOLVED STAFF COMMENTS

None.

## ITEM 5. OPERATING AND FINANCIAL REVIEW AND PROSPECTS

The following management's discussion and analysis is intended to discuss our financial condition, changes in financial condition and results of operations, and should be read in conjunction with our historical consolidated financial statements and their notes included in this report.

This discussion contains forward-looking statements that reflect our current views with respect to future events and financial performance. Our actual results may differ materially from those anticipated in these forward-looking statements as a result of certain factors, such as those set forth in the section entitled "Risk Factors" and elsewhere in this report.

### A. Operating results

#### Overview

We are an international provider of seaborne transportation services, carrying petroleum products, crude oil and drybulk commodities for the steel, electric utility, construction and agriculture-food industries.

As of December 31, 2009, our fleet consisted of thirteen owned vessels (five drybulk vessels and eight tankers), with total carrying capacity of approximately 0.7 million dwt as compared to twelve vessels (five drybulk vessels and seven tankers), with total carrying capacity of approximately 0.7 million dwt (including seven owned and five vessels sold and leased back for a period of five to seven years) on December 31, 2008.

#### Segments

Since the acquisition of drybulk vessels in the fourth quarter of 2007, we have been analyzing and reporting our results of operations in two segments: tanker segment and drybulk segment.

**Tanker segment:** For the year ended December 31, 2009, revenues for this segment were \$47.4 million and operating loss was \$56.2 million.

**Drybulk segment:** For the year ended December 31, 2009, revenues for this segment were \$56.7 million and operating income was \$18.2 million.

#### Factors affecting our results of operations – all segments

We believe that the important measures for analyzing trends in the results of our operations for both tankers and drybulk vessels consist of the following:

- **Calendar days.** We define calendar days as the total number of days the vessels were in our possession for the relevant period. Calendar days are an indicator of the size of our fleet during the relevant period and affect both the amount of revenues and expenses that we record during that period.
- **Available days.** We define available days as the number of calendar days less the aggregate number of days that our vessels are off-hire due to scheduled repairs or scheduled guarantee inspections in the case of newbuildings, vessel upgrades or special surveys and the aggregate amount of time that we spend positioning our vessels. Companies in the shipping industry generally use available days to measure the number of days in a period during which vessels should be capable of generating revenues. We determined to use available days as a performance metric for the first time, in

the second quarter and first half of 2009. We have determined to adjust the calculation method of utilization to include available days in order to be comparable with shipping companies that calculate utilization using operating days divided by available days.

- **Operating days.** We define operating days as the number of available days in a period less the aggregate number of days that our vessels are off-hire due to unforeseen circumstances. The shipping industry uses operating days to measure the aggregate number of days in a period during which the vessels actually generate revenues.
- **Fleet utilization.** We calculate fleet utilization by dividing the number of operating days during a period by the number of available days during that period. The shipping industry uses fleet utilization to measure a company's efficiency in finding suitable employment for its vessels and minimizing the number of days that its vessels are off-hire for reasons other than scheduled repairs or scheduled guarantee inspections in the case of newbuildings, vessel upgrades, special or intermediate surveys and vessel positioning. We used a new calculation method for fleet utilization for the first time, in the second quarter and first half of 2009. In all prior filings and reports, utilization was calculated by dividing operating days by calendar days. We have determined to adjust the calculation method in order to be comparable with most shipping companies, which calculate utilization using operating days divided by available days.
- **Spot Charter Rates.** Spot charter rates are volatile and fluctuate on a seasonal and year-to-year basis. Fluctuations derive from imbalances in the availability of cargoes for shipment and the number of vessels available at any given time to transport these cargoes.
- **Bareboat Charter Rates.** Under a bareboat charter party, all operating costs, voyage costs and cargo-related costs are covered by the charterer, who takes both the operational and the shipping market risk.
- **TCE Revenues / TCE Rates.** We define TCE revenues as revenues minus voyage expenses. Voyage expenses primarily consist of port, canal and fuel costs that are unique to a particular voyage, which would otherwise be paid by a charterer under a time charter, as well as commissions. We believe that presenting revenues net of voyage expenses neutralizes the variability created by unique costs associated with particular voyages or the deployment of vessels on the spot market and facilitates comparisons between periods on a consistent basis. We calculate daily TCE rates by dividing TCE revenues by operating days for the relevant time period. TCE revenues include demurrage revenue, which represents fees charged to charterers associated with our spot market voyages when the charterer exceeds the agreed upon time required to load or discharge a cargo. We calculate daily direct vessel operating expenses and daily general and administrative expenses for the relevant period by dividing the total expenses by the aggregate number of calendar days that we owned each vessel for the period.

In accordance with GAAP measures, we report revenues in our income statements and include voyage expenses among our expenses. However, in the shipping industry the economic decisions are based on vessels' deployment upon anticipated TCE rates, and industry analysts typically measure shipping freight rates in terms of TCE rates. This is because under time-charter and bareboat contracts the customer usually pays the voyage expenses, while under voyage charters the ship-owner usually pays the voyage expenses, which typically are added to the hire rate at an approximate cost. Consistent with industry practice, management uses TCE as it provides a means of comparison between different types of vessel employment and, therefore, assists decision making process.

## Voyage Revenues

### Tanker segment

Our voyage revenues are driven primarily by the number of vessels in our fleet, the number of operating days during which our vessels generate revenues and the amount of daily charterhire that our vessels earn under charters, which, in turn, are affected by a number of factors, including our decisions relating to vessel acquisitions and disposals, the

amount of time that we spend positioning our vessels, the amount of time that our vessels spend in dry-dock undergoing repairs, maintenance and upgrade work, the duration of the charter, the age, condition and specifications of our vessels, levels of supply and demand in the global transportation market for oil products or bulk cargo and other factors affecting spot market charter rates such as vessel supply and demand imbalances.

Vessels operating on period charters, time charters or bareboat charters, provide more predictable cash flows, but can yield lower profit margins than vessels operating in the short-term, or spot, charter market during periods characterized by favorable market conditions. Vessels operating in the spot charter market generate revenues that are less predictable, but may enable us to capture increased profit margins during periods of improvements in charter rates, although we are exposed to the risk of declining charter rates, which may have a materially adverse impact on our financial performance. If we employ vessels on period charters, future spot market rates may be higher or lower than the rates at which we have employed our vessels on period time charters.

Under a time charter, the charterer typically pays us a fixed daily charter hire rate and bears all voyage expenses, including the cost of bunkers (fuel oil) and port and canal charges. We remain responsible for paying the chartered vessel's operating expenses, including the cost of crewing, insuring, repairing and maintaining the vessel, the costs of spares and consumable stores, tonnage taxes and other miscellaneous expenses, and we also pay commissions to one or more unaffiliated ship brokers and to in-house brokers associated with the charterer for the arrangement of the relevant charter.

Under a bareboat charter, the vessel is chartered for a stipulated period of time which gives the charterer possession and control of the vessel, including the right to appoint the master and the crew. Under bareboat charters all voyage and operating costs are paid by the charterer. During 2009, we took delivery of six newbuilding product tankers all of which are on bareboat charters for a period between 7 and 10 years.

During 2007 and 2008, we also employed vessels in the spot market and we may do so again in the future depending on prevailing market conditions at the time our period charters expire. Such might be the case for one of our tankers, the time charter of which expires during 2010. Given the market conditions prevailing in the product tanker market as of the date of this annual report, we intend to seek to enter into period charters for periods ranging from one to three years at market rates. Nevertheless, if we are not able to secure such employment we might need to operate these vessels in the spot market.

In 2007, approximately 33% of our revenues in the tanker segment were derived from two charterers. These two charterers, Glencore and PDVSA, provided 23% and 10%, respectively, of our revenues in 2007. In 2008 and 2009, approximately 17% and 22%, respectively, of our total revenues was derived from one charterer, Glencore.

#### Drybulk segment

The factors affecting voyage revenues discussed also apply to the drybulk segment with the only difference being the different economics that apply in the global markets for oil versus the global market for dry products shipped in bulk.

As of the date of this annual report, four of our drybulk vessels were operating under time charters and one under a bareboat charter.

Revenues related to drybulk vessels include amortization of fair value of below market acquired time charter liability. However, relevant revenues are considered unallocated for the purposes of analyzing and reporting our results of operations in two segments: tanker segment and drybulk segment. Specifically, when vessels are acquired with period charters attached and the rates on such charters are below market on the acquisition date, we allocate the total cost between the vessel and the fair value of below market time charter based on the relative fair values of the vessel and the liability acquired. The fair value of the attached period charter is computed as the present value of the difference between the contractual amount to be received over the term of the period charter and management's estimates of the market period charter rate at the time of acquisition. The fair value of below market period charter is amortized over the remaining period of the period charter as an increase to revenues.

In November and December 2007 and February 2008, we acquired the drybulk vessels M/V Bertram, M/V Amalfi and M/V Papillon (ex Voc Gallant), respectively, with attached time charter contracts. As a result, the purchase price of the vessels was allocated between vessel cost and the fair value of the time charter contracts, totaling in aggregate \$43.3 million. Following the sale of the M/V Bertram, on April 16, 2008, the then unamortized fair value of its below market time charter of \$16.1 million was written-off to the loss from the sale of the vessel. For the years ended December 31, 2008 and 2009, the amortization of the fair value of the time charter contracts totaled \$21.8 million and \$3.9 million, respectively. The fair value of the time charter contracts was fully amortized up to the second quarter of 2009.

In 2009, approximately 32% of our revenues in the drybulk segment were derived from two charterers. These two charterers, Hanjin and Cosco provided 18% and 14%, respectively, of our total revenues in 2009.

#### Voyage Expenses

##### Tanker segment

Voyage expenses primarily consist of port charges, including canal dues, bunkers (fuel costs) and commissions. All these expenses, except commissions, are paid by the charterer under a time charter or bareboat charter contract. The amount of voyage expenses are mainly driven by the routes that the vessels travel, the amount of ports called on, the canals crossed and the price of bunker fuels paid. This category was less significant in 2009 when compared to 2008 since all our tanker vessels were either on time charters or bareboat charters, as compared to 2008 when up to 11 vessels operated in the spot market.

##### Drybulk segment

Our drybulk vessels are operating under time charter or bareboat charter contracts and hence voyage expenses primarily consist of commissions on the time charters.

#### Charter Hire Expenses

##### Tanker segment

Charter hire expenses consist of lease payments for vessels sold and leased-back during 2005 and 2006 for periods between five to seven years. After the termination of the last five lease agreements, during 2009, we are no longer obligated to pay lease payments (see "Item 4-Information on the Company-History and Development of the Company").

##### Drybulk segment

Not applicable.

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## Vessel Operating Expenses

### Tanker and Drybulk segment

Vessel operating expenses include crew wages and related costs, the cost of insurance, expenses relating to repairs and maintenance, the costs of spares and consumable stores, tonnage taxes and other miscellaneous expenses for vessels that we own and vessels that we lease under our operating leases. Our vessel operating expenses, which generally represent fixed costs, have historically increased as a result of the increase in the size of our fleet. We analyze vessel operating expenses on a U.S. Dollar / per day basis. Additionally, vessel operating expenses can fluctuate due to factors beyond our control, such as unplanned repairs and maintenance which can be attributed to damages, regulatory compliance or market forces and can be quite significant, or factors which may affect the shipping industry in general, such as developments relating to insurance premiums, or developments relating to the availability of crew, may also cause these expenses to increase.

### Dry-docking Costs

#### Tanker segment

Dry-docking costs relate to the regularly scheduled intermediate survey or special survey dry-docking necessary to preserve the quality of our vessels as well as to comply with international shipping standards and environmental laws and regulations. Dry-docking costs can vary according to the age of the vessel, the location where the dry-dock takes place, shipyard availability, local availability of manpower and material, the billing currency of the yard, the days the vessel is off hire in order to complete its survey and the diversion necessary in order to get from the last port of employment to the yard and back to a position for the next employment. Please see "Item 18 – Financial Statements: Note 2 – Significant Accounting Policies." In the case of tankers, dry-docking costs may also be affected by new rules and regulations (see "Item 4 – Information on the Company – B. Business Overview – Environmental Regulations").

#### Drybulk segment

The above discussion for the Tanker Segment also applies to the drybulk segment. The effect of new rules and regulations on cost is lower in the drybulk segment due to the lower pollution risk this segment has as compared to tankers.

## General and Administrative Expenses

### Tanker and Drybulk segments

General and administrative expenses include the salaries and other related costs of senior management, directors and other on-shore employees, our office rent, legal and auditing costs, regulatory compliance costs, other miscellaneous office expenses, long-term compensation costs, non cash stock compensation, corporate overhead and sub-manager fees. General and administrative expenses are Euro denominated except for some legal fees and are therefore affected by the conversion rate of the U.S. Dollar versus the Euro.

General and administrative expenses are allocated to different segments based on calendar days of vessels operated.

## Interest and Finance Costs

### Tanker and Drybulk segments

We have historically incurred interest expense and financing costs in connection with vessel-specific debt. Interest expense is directly related with the repayment schedule of our loans, the prevailing LIBOR and the relevant margin.

Since the fourth quarter of 2008, however, lenders have required provisions that entitle the lenders, in their discretion, to replace published LIBOR as the base for the interest calculation with their cost-of-funds rate which in all cases is higher than LIBOR. Additionally, as part of our discussions with banks with regards to loan covenant breaches, we have agreed to increase the margins to certain of our loans (see " – B. Liquidity and Capital Resources").

## Inflation

### Tanker and Drybulk segments

Inflation has not had a material effect on our expenses given current economic conditions. In the event that significant global inflationary pressures appear, these pressures would increase our operating, voyage, administrative and financing costs.

In evaluating our financial condition, we focus on the above measures to assess our historical operating performance and we use future estimates of the same measures to assess our future financial performance. In assessing the future performance of our fleet, the greatest uncertainty relates to future charter rates which affect those of our vessels that come out from their present period employment whether under a time charter or a bareboat charter. Decisions about future purchases and sales of vessels are based on the availability of excess internal funds, the availability of financing, the financial and operational evaluation of such actions and depend on the overall state of the drybulk and tanker markets, the availability of relevant purchase candidates, and our general assessment of the prospects for the segments that we operate in.

### Lack of Historical Operating Data for Vessels Before Their Acquisition

Although vessels are generally acquired free of charter, we have acquired (and may in the future acquire) some vessels with time charters. Where a vessel has been under a voyage charter, the vessel is usually delivered to the buyer free of charter. It is rare in the shipping industry for the last charterer of the vessel in the hands of the seller to continue as the first charterer of the vessel in the hands of the buyer. In most cases, when a vessel is under time charter and the buyer wishes to assume that charter, the vessel cannot be acquired without the charterer's consent and the buyer entering into a separate direct agreement (a "novation agreement") with the charterer to assume the charter. The purchase of a vessel itself does not transfer the charter because it is a separate service agreement between the vessel owner and the charterer.

Where we identify any intangible assets or liabilities associated with the acquisition of a vessel, we allocate the purchase price to identified tangible and intangible assets or liabilities based on their relative fair values. Fair value is determined by reference to market data and the discounted amount of expected future cash flows. Where we have assumed an existing charter obligation or entered into a time charter with the existing charterer in connection with the purchase of a vessel at charter rates that are less than market charter rates, we record a liability, based on the difference between the assumed charter rate and the market charter rate for an equivalent vessel. Conversely, where we assume an existing charter obligation or enter into a time charter with the existing charterer in connection with the purchase of a vessel at charter rates that are above market charter rates, we record an asset, based on the difference between the market charter rate for an equivalent vessel and the contracted charter rate. This determination is made at the time the vessel is delivered to us, and such assets and liabilities are amortized as a reduction or increase to revenue over the remaining period of the charter.

In November and December 2007 and February 2008, we acquired the drybulk vessels M/V Bertram, M/V Amalfi and M/V Papillon (ex Voc Gallant), respectively, with attached time charter contracts. As a result, the purchase price of the vessels was allocated between vessel cost and the fair value of the time charter contracts, totaling in aggregate \$43.3 million. The fair value of the time charter contracts was fully amortized up to the second quarter of 2009.

During 2009, we did not acquire any vessels with existing period charter arrangements.



When we purchase a vessel and assume or renegotiate a related time charter, we must take the following steps before the vessel will be ready to commence operations:

- obtain the charterer's consent to us as the new owner;
- obtain the charterer's consent to a new technical manager;
- in some cases, obtain the charterer's consent to a new flag for the vessel;
- arrange for a new crew for the vessel, and where the vessel is on charter, in some cases, the crew must be approved by the charterer;
- replace all hired equipment on board, such as gas cylinders and communication equipment;
- negotiate and enter into new insurance contracts for the vessel through our own insurance brokers; and
- register the vessel under a flag state and perform the related inspections in order to obtain new trading certificates from the flag state.

The following discussion is intended to help you understand how acquisitions of vessels affect our business and results of operations. Our business is comprised of the following main elements:

- employment and operation of our tanker and drybulk vessels; and
- management of the financial, general and administrative elements involved in the conduct of our business and ownership of our tanker and drybulk vessels.

The employment and operation of our vessels require the following main components:

- vessel maintenance and repair;
- crew selection and training;
- vessel spares and stores supply;
- contingency response planning;
- onboard safety procedures auditing;
- accounting;
- vessel insurance arrangement;
- vessel chartering;
- vessel security training and security response plans (ISPS);
- obtain ISM certification and audit for each vessel within the six months of taking over a vessel;

- vessel hire management;
- vessel surveying; and
- vessel performance monitoring.

The management of financial, general and administrative elements involved in the conduct of our business and ownership of our vessels requires the following main components:

- management of our financial resources, including banking relationships, i.e., administration of bank loans and bank accounts;
- management of our accounting system and records and financial reporting;
- administration of the legal and regulatory requirements affecting our business and assets; and
- management of the relationships with our service providers and customers.

The principal factors that affect our profitability, cash flows and shareholders' return on investment include:

- Charter rates and periods of charter hire for our tanker and drybulk vessels;
- Utilization of our tanker and drybulk vessels (earnings efficiency);
- levels of our tanker and drybulk vessels' operating expenses and dry-docking costs;
- depreciation and amortization expenses;
- financing costs; and
- fluctuations in foreign exchange rates.

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Results of operations for the fiscal years ended December 31, 2007, 2008 and 2009

The following table depicts changes in the results of operations for 2009 compared to 2008 and 2008 compared to 2007.

	Year Ended December 31,			YEO8 v YEO7		change		YEO9 v YEO8	
	2007	2008	2009	\$	%	\$	%	\$	%
	(\$ in thousands)								
Voyage Revenues	252,259	257,380	107,979	5,121	2.0 %	(149,401)	-58.0 %		
Voyage expenses	59,414	38,656	3,372	(20,758)	-34.9 %	(35,284)	-91.3 %		
Charter hire expense	94,118	53,684	10,827	(40,434)	-43.0 %	(42,857)	-79.8 %		
Amortization of deferred gain on sale and leaseback of vessels and write-off of seller's credit	(15,610)	(18,707)	(7,799)	(3,097)	19.8 %	10,908	-58.3 %		
Lease termination Expense	-	-	15,391	-	-	15,391	-		
Vessel operating expenses	67,914	67,114	23,739	(800)	-1.2 %	(43,375)	-64.6 %		
Dry-docking costs	25,094	10,036	4,602	(15,058)	-60.0 %	(5,434)	-54.1 %		
Depreciation	27,408	32,664	31,585	5,256	19.2 %	(1,079)	-3.3 %		
General and administrative expenses	25,000	31,388	23,835	6,388	25.6 %	(7,553)	-24.1 %		
Gain on sale of vessels	(1,961)	(19,178)	-	(17,217)	878.0 %	19,178	-100.0 %		
Impairment on vessels	-	-	36,638	-	-	36,638	-		
Expenses	281,377	195,657	142,190	(85,720)	-30.5 %	(53,467)	-27.3 %		
Operating (loss) income	(29,118)	61,723	(34,211)	90,841	-312.0 %	(95,934)	-155.4 %		
Interest and finance costs	(19,518)	(25,764)	(13,969)	(6,246)	32.0 %	11,795	-45.8 %		
Gain / (loss) on financial instruments	(3,704)	(12,024)	(2,081)	(8,320)	224.6 %	9,943	-82.7 %		
Interest income	3,248	1,831	235	(1,417)	-43.6 %	(1,596)	-87.2 %		
Other, net	16	(127)	(170)	(143)	-893.8 %	(43)	33.9 %		
Total other expenses, net	(19,958)	(36,084)	(15,985)	(16,126)	80.8 %	20,099	-55.7 %		
Net (loss) Income	(49,076)	25,639	(50,196)	74,715	-152.2 %	(75,835)	-295.8 %		

The table below presents the key measures of each of our segments for the each of the years 2007, 2008 and 2009 (also see "Item 18 — Financial Statements: Note 4 — Segment Reporting"). Please see "Item 3.A. — Selected Financial Data" for a reconciliation of Average Daily TCE to revenues.

	12-months Ended December 31,			change			
	2007	2008	2009	YEO8 v YEO7	YEO9 v YEO8		
	(\$ in thousands)			%	%		
<b>TANKER FLEET**</b>							
Total number of vessels at end of period	20.0	7.0	8.0	-65.0	%	14.3	%
Average number of vessels	22.2	13.9	8.7	-37.3	%	-37.4	%
Total operating days for fleet under spot charters	2,312	1,035	0	-55.2	%	-100.0	%
Total operating days for fleet under time charters	4,679	3,322	1,420	-29.0	%	-57.3	%
Total operating days for fleet under bareboat charters	0	0	1,569	-		-	
Average TCE (\$/day)	27,134	29,786	15,468	9.8	%	-48.1	%
<b>DRYBULK FLEET</b>							
Total number of vessels at end of period	3.0	5.0	5.0	66.7	%	0.0	%
Average number of vessels	0.2	4.9	5.0	2589.6	%	2.5	%
Total operating days for fleet under time charters	41	1,407	1,421	3331.7	%	1.0	%
Total operating days for fleet under bareboat charters	0	335	365			9.0	%
Average TCE (\$/day)*	42,463	38,547	30,493	-9.2	%	-20.9	%
<b>TOTAL FLEET</b>							
Total number of vessels at end of period	23.0	12.0	13.0	-47.8	%	8.3	%
Average number of vessels	22.4	18.8	13.7	-16.1	%	-27.0	%
Total operating days for fleet under spot charters	2,312	1,035	0	-55.2	%	-100.0	%
Total operating days for fleet under time charters	4,720	4,729	2,841	0.2	%	-39.9	%
Total operating days for fleet under bareboat charters	0	335	1,934	-		477.3	%
Average TCE (\$/day)*	27,424	35,862	21,907	30.8	%	-38.9	%

\* Amortization of Time Charter Fair Value is not included in the calculation of the Average TCE (\$/day) of the drybulk fleet, but it is included in the total fleet consistent with our segment presentation.

\*\* Includes owned and leased back vessels for 2007 and 2008.



## Year On Year Comparison Of Operating Results

## Revenues

Revenues by Segment	Year Ended December 31,			change			
	2007	2008	2009	YEO8 v YEO7	YEO9 v YEO8		
	(\$ in thousands)			\$	%	\$	%
Tanker Fleet	248,944	163,995	47,353	(84,949)	-34.1%	(116,642)	-71.1%
Drybulk Fleet	1,902	71,590	56,715	69,688	3663.9%	(14,875)	-20.8%
Unallocated	1,413	21,795	3,911	20,382	1442.5%	(17,884)	-82.1%
Consolidated Revenues	252,259	257,380	107,979	5,121	2.0%	(149,401)	-58.0%

## Tanker segment

## 2009 Vs 2008

During 2009, tanker revenues decreased by \$116.6 million or 71.1% compared to 2008. This was mainly due to the decrease in the average number of tanker vessels that we operated, from 13.9 in 2008 to 8.7 in 2009, as a result of our lease unwinding strategy, which resulted in the termination of six leases and the sale of seven owned vessels during 2008, and the termination of five leases during 2009. The decrease in the revenues relating to the vessels sold and leases terminated in 2008 amounted to \$117.7 million. The decrease in the revenues relating to the leases terminated in 2009 amounted to \$21.0 million. This decrease was partially offset by an increase in revenues in 2009, which amounted to \$22.4 million related to the newbuilding vessels delivered during 2009.

## 2008 Vs 2007

During 2008, tanker revenues decreased by \$84.9 million or 34.1% compared to 2007. This was mainly due to the decrease in the average number of tanker vessels that we operated, from 22.2 in 2007 to 13.9 in 2008, as a result of our lease unwinding strategy, which resulted in the termination of six leases during 2008, and the sale of seven owned vessels during 2008. The decrease in the revenues relating to the vessels sold in 2008 amounted to \$66.4 million. In addition, during 2008 total days operating in the spot market decreased by 55.2% which was partially offset by an increase in average TCE by 9.8%. Utilization during 2008 was lower than 2007 by 0.8% as a result of increased downtime due to repairs and maintenance.

## Drybulk segment

## 2009 Vs 2008

During 2009, drybulk vessel revenues decreased by \$14.9 million or 20.8% compared to 2008. This was mainly due to the lower rates achieved for vessels M/V Amalfi and M/V Astrale in 2009 and the fact that the vessel M/V Bertram was sold in 2008, and, therefore did not contribute to 2009 results.

## 2008 Vs 2007

During 2008, drybulk vessel revenues increased by \$69.7 million or 3,663.9% compared to 2007. This was due to the fact that the drybulk fleet had its first full year of operation during 2008. Our first three drybulk vessels were delivered during the fourth quarter of 2007, and the remaining three during the first two quarters of 2008 (M/V Bertram which

was delivered during 2007 was sold in 2008).

Unallocated revenues

This amount refers to the amortization of the fair value of the time charter contracts of the drybulk vessels M/V Bertram, M/V Amalfi and M/V Papillon (ex Voc Gallant). This amount is included in the total Revenues but is excluded from segment revenue to be consistent with the way management evaluates segment performance and allocates resources.

## Expenses

## 1. Voyage expenses

Voyage Expenses by Segment	Year Ended December 31,			change	
	2007	2008	2009	YEO8 v YEO7	YEO9 v YEO8
	(\$ in thousands)			\$	%
Tanker Fleet	59,253	34,215	1,118	(25,038)	-42.3%
Drybulk Fleet	161	4,441	2,254	4,280	2658.4%
Consolidated Voyage Expenses	59,414	38,656	3,372	(20,758)	-34.9%
				(33,097)	-96.7%
				(2,187)	-49.2%
				(35,284)	-91.3%

Voyage expenses primarily consist of port charges, including bunkers (fuel costs), canal dues and commissions.

## Tanker segment

## 2009 Vs 2008

During 2009, voyage expenses decreased by \$33.1 million or 96.7% compared to 2008 mainly due to the decrease of the average number of our tanker vessels by 37.4% and the fact that during the year none of our vessels operated in the spot market. The decrease was a result of our lease unwinding strategy which resulted in the termination of six leases and the sale of seven owned vessels during 2008 and the termination of five leases during 2009. Voyage expenses incurred during 2009 relate entirely to charter commissions.

## 2008 Vs 2007

During 2008, voyage expenses decreased by \$25.0 million or 42.3% compared to 2007 mainly due to the decrease of the average number of our tanker vessels by 37.3% and the decrease in operating days for vessels operating in the spot market by 55.2%. The decrease was a result of our lease unwinding strategy which resulted in the termination of six leases during 2008 and the sale of seven owned vessels. The decrease in the voyage expenses relating to the vessels sold in 2008 amounted to \$ 22.7 million.

## Drybulk segment

## 2009 Vs 2008

During 2009, voyage expenses decreased by \$2.2 million or 49.2% compared to 2008 mainly due to a decrease in commissions on the time charters in the amount of \$1.7 million, which mainly resulted from the decrease in revenues under time charters of the respective vessels.

## 2008 Vs 2007

We are unable to provide a meaningful year to year comparison due to the fact that our entrance into the drybulk sector began in the fourth quarter of 2007.



## 2. Charter hire expenses

Charter Hire Expenses by Segment	Year Ended December 31,			change			
	2007	2008	2009	YEO8 v YEO7	YEO9 v YEO8	YEO8 v YEO7	YEO9 v YEO8
	(\$ in thousands)			\$	%	\$	%
Tanker Fleet	94,118	53,684	10,827	(40,434)	-43.0%	(42,857)	-79.8%
Drybulk Fleet	-	-	-	-	-	-	-
Consolidated Charter Hire Expenses	94,118	53,684	10,827	(40,434)	-43.0%	(42,857)	-79.8%

## Tanker segment

## 2009 Vs 2008

During 2009, charter hire expense decreased by \$42.9 million or 79.8% compared to 2008. An amount of \$30.5 was due to the termination of the six leases during 2008 and an amount of \$12.4 million was due to the termination of the remaining five leases during the first half of 2009.

## 2008 Vs 2007

During 2008, charter hire expense decreased by \$40.4 million or 43.0% compared to 2007. This was mainly due to the termination of six leases during 2008.

## Drybulk segment

Not applicable.

## 3. Lease Termination Expense

Lease Termination Expense by Segment	Year Ended December 31,			change			
	2007	2008	2009	YEO8 v YEO7	YEO9 v YEO8	YEO8 v YEO7	YEO9 v YEO8
	(\$ in thousands)			\$	%	\$	%
Tanker Fleet			15,391	-	-	15,391	-
Drybulk Fleet	-	-	-	-	-	-	-
Consolidated Lease Termination Expenses	-	-	15,391	-	-	15,391	-

## Tanker segment

## 2009 Vs 2008

On June 24, 2009, we terminated the bareboat charters, initially entered into as part of the sale and leaseback deal in 2006, and redelivered the vessels M/T Faithful, the M/T Doubtless, the M/T Spotless and the M/T Vanguard to their owners after paying \$11.8 million in termination fees and expenses. In addition to the termination fee and expenses,

we also paid bareboat hire up to July 15, 2009 in the amount of \$1.1 million. Furthermore, on July 3, 2009 we redelivered the M/T Relentless to its owners and paid a termination fee of \$2.5 million as part of a termination agreement entered into on April 3, 2009 to terminate the bareboat charter initially entered into as part of the sale and leaseback deal in 2005.

Drybulk segment

Not applicable.

## 4. Amortization of deferred gain on sale and leaseback of vessels and write-off of seller's credit

	Year Ended December 31,			change			
	2007	2008	2009	YEO8 v YEO7	YEO9 v YEO8		
Amortization of Deferred Gain on Sale and Leaseback of Vessels by Segment	(\$ in thousands)			\$	%	\$	%
Tanker Fleet	(15,610)	(18,707)	(7,799)	(3,097)	19.8%	10,908	-58.3%
Drybulk Fleet	-	-	-	-	-	-	-
Consolidated Amortization of Deferred Gain on Sale and Leaseback of Vessels	(15,610)	(18,707)	(7,799)	(3,097)	19.8%	10,908	-58.3%

## Tanker segment

## 2009 Vs 2008

During 2009, amortization of deferred gain decreased by \$10.9 million or 58.3% compared to 2008. During 2009, amortization of deferred gain on sale and leaseback of vessels included \$14.1 million accelerated recognition of unamortized gain offset by the write off of \$7.9 million of seller's credit, due to the termination of the remaining five leases. The 2009 amount also includes the annual deferred gain amortization of \$1.6 million. During 2008, amortization of deferred gain on sale and leaseback of vessels included \$4.4 million of annual amortization and \$27.2 million of accelerated amortization representing unamortized gain resulting from the unwinding of six leases in 2008, offset by the \$14.3 million of vessel sale related expenses.

## 2008 Vs 2007

During 2008, amortization of deferred gain was higher by \$3.1 million or 19.8% compared to 2007 due to the unwinding of six leases in 2008 which resulted in the immediate recognition of the unamortized gain of \$27.2 from the initial sale and leaseback transaction, offset by vessel sale related expenses of \$14.3 million. The 2008 amount also includes the annual deferred gain amortization of \$4.4 million, which is decreased due to the termination of seven leases in 2007 and the termination of six leases in 2008. During 2007, the amount includes accelerated amortization of deferred gain for vessels M/T Restless, M/T Victorious and M/T Invincible of \$8.3 million. The amount also includes \$7.4 million scheduled amortization of deferred gain on sale and leaseback of the vessels.

## Drybulk segment

Not applicable.

## 5. Vessel Operating Expenses

	Year Ended December 31,			change			
	2007	2008	2009	YEO8 v YEO7	YEO9 v YEO8		
Vessel Operating Expenses by Segment	(\$ in thousands)			\$	%	\$	%

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Tanker Fleet	67,225	56,272	15,032	(10,953)	-16.3%	(41,240)	-73.3%
Drybulk Fleet	689	10,842	8,707	10,153	1473.6%	(2,135)	-19.7%
Consolidated Vessel Operating Expenses	67,914	67,114	23,739	(800)	-1.2%	(43,375)	-64.6%

Vessel operating expenses include:

- crew wages and related costs,
  - insurance,
  - repairs and maintenance,
- spares and consumable stores,
  - tonnage taxes and VAT.

Vessel operating expenses, which generally represent fixed costs, have historically increased as a result of the increase in the size of our fleet.

## Tanker segment

### 2009 Vs 2008

During 2009, vessel operating expenses decreased by \$41.2 million or 73.3% compared to 2008 mainly as a result of a 37.4% reduction in the average number of tanker vessels that we operated from 13.9 in 2008 to 8.7 in 2009.

On a daily basis, vessel operating expenses decreased in 2009 by \$6,322 per day, or 57.2%, from 2008. The decrease was partly a result of lower crew wages and related costs during 2009 representing \$2,091 per day, or 47.9%, compared to 2008. Crew wages decreased due to a change in the mix of our crew during the second half of 2009. More specifically, all of our Greek crew was replaced with other nationalities during the second half of 2009. During 2009, repairs and maintenance decreased by \$2,414 per day, or 73.0%, from 2008, mainly as a result of a decrease in unplanned repairs due to damages of \$1,116 per day and decreased costs related to other repairs and maintenance of \$728 per day mainly resulting from the decrease in the average age and capacity of vessels. Also, during 2009, spares and consumable stores decreased by \$1,225 per day, or 54.8% compared to 2008 as a result of the decreased repairs and maintenance. Finally, during 2009 the daily insurance cost decreased by \$638 per day, or 52.4% compared to 2008 as a result of the decrease in the average number of vessels that we operated in 2009 relative to 2008, which offset the increased insurance premiums imposed.

### 2008 Vs 2007

During 2008, vessel operating expenses decreased overall by \$11.0 million or 16.3% compared to 2007 mainly as a result of a 37.3% reduction in the average number of tanker vessels that we operated from 22.2 in 2007 to 13.9 in 2008.

On a daily basis, vessel operating expenses increased in 2008 by \$2,755 per day, or 33.2%, from 2007. The increase was partly a result of higher crew wages and related costs which were higher during 2008 by \$985 per day, or 29.1%, from 2007. Crew wages increased due to a change in the mix of our crew during the latter part of 2007. Other factors that lead to higher crew wages were the appreciation of the Euro in respect of the U.S. Dollar, indemnities paid to seafarers of ships sold and changeover costs related to a change of crewing sub-managers. Repairs and maintenance during 2008 increased by \$1,012 per day or 44.1%, from 2007. Also, during 2008 the daily insurance cost increased by \$458 per day, or 60.4%, from 2007 as a result of additional P&I insurance premiums imposed. Finally, spares and consumable stores increased by \$280 per day, or 14.4%, during 2008 compared to 2007 as a result of the increased repairs and maintenance.

## Drybulk segment

### 2009 Vs 2008

During 2009, vessel operating expenses decreased by \$2.1 million or 19.7% compared to 2008.

On a daily basis, vessel operating expenses decreased in 2009 by \$1,320 per day, or 21.7%, from 2008. The decrease was partly a result of lower crew wages and related costs which decreased in 2009 by \$186 per day, or 7.5%, from 2008. During 2009, repairs and maintenance decreased by \$841 per day, or 50.9%, from 2008, mainly as a result of the sale of M/V Bertram during the second half of 2008. Also, during 2009, spares and consumable stores decreased by \$406 per day, or 27.6% compared to 2008, mainly due to the sale of M/V Bertram and the fact that 2008 was the first year of operation of the drybulk vessels, which was characterized by an increased need for spares and consumable stores. Finally, during 2009 the daily insurance cost increased by \$77 per day, or 13.6%, from 2008 as a result of increased insurance premiums imposed.



## 2008 Vs 2007

During 2008, vessel operating expenses increased by \$10.2 million or 1,473.6% compared to 2007. This is mainly a result of the increase in the average number of vessels that we operated in 2008 to 4.9 compared to 0.2 in 2007.

## 6. Dry-docking costs

Dry-docking Costs by Segment	Year Ended December 31,			change			
	2007	2008	2009	YEO8 v YEO7	YEO9 v YEO8	YEO9 v YEO8	YEO9 v YEO8
	(\$ in thousands)			\$	%	\$	%
Tanker Fleet	25,094	9,450	4,543	(15,644)	-62.3%	(4,907)	-51.9%
Drybulk Fleet	-	586	59	586	-	(527)	-89.9%
Consolidated Dry-docking Costs	25,094	10,036	4,602	(15,058)	-60.0%	(5,434)	-54.1%

## Tanker segment

During 2009, dry-docking costs decreased 51.9% to \$4.5 million. 2009 dry-docking costs mainly relate to the special surveys of two Handymax tankers that were completed in 2009.

During 2008, dry-docking costs decreased 62.3% to \$9.4 million. 2008 dry-docking costs mainly relate to the special surveys of two Suezmax tankers and two Handymax tankers and the intermediate survey of one Suezmax tanker that was completed in 2008.

During 2007, dry-docking costs were \$25 million. 2007 dry-docking costs mainly relate to the special surveys of three Suezmax tankers and three Handymax tankers that were completed in 2007.

## Drybulk segment

During 2009, no drybulk vessels underwent any dry-docking.

During 2008, we completed the intermediate survey of one Panamax drybulk vessel.

## 7. Vessel Depreciation

Vessel Depreciation by Segment	Year Ended December 31,			change			
	2007	2008	2009	YEO8 v YEO7	YEO9 v YEO8	YEO9 v YEO8	YEO9 v YEO8
	(\$ in thousands)			\$	%	\$	%
Tanker Fleet	26,560	13,867	12,580	(12,693)	-47.8%	(1,287)	-9.3%
Drybulk Fleet	848	18,797	19,005	17,949	2116.6%	208	1.1%
Consolidated Vessel Depreciation	27,408	32,664	31,585	5,256	19.2%	(1,079)	-3.3%

## Tanker segment

## 2009 Vs 2008

During 2009, vessel depreciation decreased by \$1.3 million or 9.3% compared to 2008. This is due to a decrease of \$9.5 million related to the seven owned Suezmax tankers that were sold during 2008, and an offsetting increase of \$8.2 million related to the newbuilding vessels delivered during 2009.

## 2008 Vs 2007

During 2008, vessel depreciation decreased by \$12.7 million or 47.8% compared to 2007 due to the sale of seven owned Suezmax tankers which decreased the number of owned vessels from nine as of December 31, 2007 to two as of December 31, 2008. As of December 31, 2008 our owned fleet consisted of two Handymax tankers.

## Drybulk segment

## 2009 Vs 2008

During 2009, vessel depreciation increased by \$0.2 million or 1.1% compared to 2008. This is due to the increase of \$1.7 million related to M/V Papillon (ex. Voc Gallant), M/V Astrale and M/V Pepito that were operating for the full year in 2009, which is offset by the decrease of \$1.5 million, related to the sale of the M/V Bertram during 2008.

## 2008 Vs 2007

Vessel depreciation during 2008 increased by \$17.9 million, or 2,116.6%, from 2007, due to the acquisition of six drybulk vessels. Our first three drybulk vessels were delivered during the fourth quarter of 2007, and the remaining three during the first two quarters of 2008 including the M/V Bertram which was delivered during 2007 and then sold in 2008.

## 8. General and Administrative Expenses

General and administrative expenses include the salaries and other related costs of senior management, directors and other on shore employees, our office rent, legal and auditing costs, regulatory compliance costs, other miscellaneous office expenses, long-term compensation costs, corporate overhead and sub-manager fees. General and administrative expenses are allocated to either tanker or drybulk vessel segments based on the calendar days that the specific vessels were operating. The below analysis combines tanker and drybulk vessel segments.

	Year Ended December			change			
	2007	2008	2009	YEO8 v YEO7	YEO9 v YEO8		
General and Administrative Expenses by Segment	(\$ in thousands)			\$	%	\$	%
Tanker Fleet	24,550	23,554	15,252	(996)	-4.1%	(8,302)	-35.2%
Drybulk Fleet	274	7,935	8,518	7,661	2796.0%	583	7.3%
Unallocated	176	(101)	65	(277)	-157.4%	166	-164.4%
Consolidated General and Administrative Expenses	25,000	31,388	23,835	6,388	25.6%	(7,553)	-24.1%

## 2009 Vs 2008

During 2009, our general and administrative expenses decreased by \$7.6 million or 24.1%, compared to 2008. This decrease was attributed primarily to a decrease in salaries and related costs of \$3.6 million during 2009 due to a decrease in the average number of employees from 92 in 2008 to 59 in 2009. Also, during 2009, stock based compensation expense decreased by \$1.6 million from \$5.1 million in 2008 to \$3.5 million in 2009, mainly related to the difference in grant date fair value of awards granted to the senior management and directors, offset by the accelerated vesting due to board member resignations in 2009 (See "Item 6 – Directors, Senior Management and Employees – Compensation"). Finally, during 2009, our audit expenses decreased by \$1.5 million from 2008.



## 2008 Vs 2007

During 2008, our general and administrative expenses increased by \$6.4 million or 25.6%, compared to 2007. This increase was attributed primarily to an increase in stock based compensation expense of \$4.2 million, from \$0.9 million in 2007 to \$5.1 million in 2008, granted to the senior management and directors pursuant to our equity incentive plan (See "Item 6 – Directors, Senior Management and Employees – Compensation"). Additionally, salaries and related costs increased by \$2.6 million during 2008 as a result of the shift of technical management from sub managers to TOP Tanker Management which began during the last two quarters of 2007 but affected salaries mainly during 2008. The increase in salaries during 2008 is also attributed to severance payments relating to layoffs relevant to the tanker segment due to sale of tanker vessels or unwinding of leases and also to the increase in employees supporting the drybulk segment which we entered in late 2007 but which affected our results mainly in 2008. Also, during 2008, our audit fees were higher by \$0.7 million compared to 2007. Finally, general and administrative expenses are Euro denominated except for certain legal fees and during 2008, the Euro/U.S. Dollar exchange rate was the highest ever recorded reaching almost \$1.6 to 1 Euro during the summer of 2008. During 2008, the average exchange rate was \$1.4709 to 1 Euro. During 2007, the average exchange rate was \$1.3708 to 1 Euro.

## 9. Gain on sale of vessels

	Year Ended December 31,			change	
	2007	2008	2009	YEO8 v YEO7	YEO9 v YEO8
Gain on Sale of Vessels by Segment	(\$ in thousands)			\$	%
Tanker Fleet	(1,961)	(21,347)		-(19,386)	988.6%
Drybulk Fleet	-	2,169		2,169	- (2,169)-100.0%
Consolidated Gain on Sale of Vessels	(1,961)	(19,178)		-(17,217)	878.0%
				(19,178)	-100.0%

## Tanker segment

During 2009, we did not sell any tanker vessels.

During 2008 we recognized a total gain of \$19.4 million from the sale of M/T Edgeless, M/T Ellen P, M/T Limitless and M/T Endless, a gain of \$1.8 from the sale of M/T Stormless, and a gain of \$0.6 from the sale of M/T Noiseless.

During 2007, we realized a gain of \$2.0 million from the sale of M/T Errorless.

## Drybulk segment

During 2009, we did not sell any drybulk vessels.

During 2008 we recognized a loss of \$2.2 million from the sale of M/V Bertram in April 2008.

## 10. Interest and Finance Costs

	Year Ended December 31,			change	
	2007	2008	2009	YEO8 v YEO7	YEO9 v YEO8
Interest and Finance Costs by Segment	(\$ in thousands)			\$	%
Tanker Fleet	(17,464)	(11,888)	(7,692)	5,576	-31.9%
				4,196	-35.3%

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Drybulk Fleet	(2,054)	(13,876)	(5,519)	(11,822)	575.6%	8,357	-60.2%
Unallocated			(758)	-	-	(758)	-
Consolidated Interest and Finance Costs	(19,518)	(25,764)	(13,969)	(6,246)	32.0%	11,795	-45.8%

Tanker segment

2009 Vs 2008

During 2009, interest and finance costs decreased by \$4.2 million or 35.3% compared to 2008. The decrease is mainly due to the loan prepayment of \$97.7 million associated with the sale of tanker vessels M/T Edgeless, M/T Ellen P and M/T Stormless in 2008, which resulted in a decrease of \$3.8 million in loan interest expenses and the loan prepayment of \$100.1 million associated with the sale of tanker vessels M/T Noiseless, M/T Limitless, M/T Endless and M/T Stainless in 2008, which resulted in a decrease of \$3.1 million in loan interest expenses. These decreases were partially offset by an increase of \$4.5 million in loan interest expenses relating to the financing of newbuilding vessels.

Also, during 2009, there was a decrease in amortization of finance fees in a net amount of \$1.2 million. This decrease relates to a decrease in finance fees associated with vessels sold during 2008 and a decrease related to the loan associated with vessels M/T Dauntless and M/T Ioannis P. During 2008, relevant amortization for this loan was accelerated due to restructuring. Finally, these decreases were offset by an increase during 2009 related to finance fees of newbuilding vessels.

#### 2008 Vs 2007

During 2008, interest and finance costs decreased by \$5.6 million or 31.9% compared to 2007. The decrease is mainly due to the loan prepayment of \$28.2 million in January 2008, associated with the sale of tanker vessel M/T Noiseless, the loan prepayment of \$108.7 million in September 2008 associated with the sale of tanker vessels M/T Limitless, M/T Endless, M/T Ellen P, and M/T Stainless, the loan prepayment of \$31.7 million in July 2008 associated with the sale of tanker vessel M/T Edgeless and the loan prepayment of \$29.2 million in June 2008 associated with the sale of tanker vessel M/T Stormless and the fact that the average interest rate as of December 31, 2008 was 4.54% compared to 6.12% at December 12, 2007.

#### Drybulk segment

#### 2009 Vs 2008

During 2009, interest and finance costs decreased by \$8.4 million or 60.2% compared to 2008. The decrease is mainly due to (i) decrease in LIBOR rates, associated with the loans of M/T Astrale, M/T Pepito, M/T Cyclades, M/T Papillon (ex Voc Gallant) and M/T Amalfi, which reduced interest and finance costs by \$4.6 million, (ii) lower average interest rate as of December 31, 2009 of 3.30% compared to 4.54% as of December 31, 2008, and (iii) a decrease in interest and finance costs of \$0.7 million relating to vessel Bertram which was sold during 2008. In addition, an amount of \$1.2 million was charged as interest in 2008 related to the drybulk vessel M/V Astrale's capital lease entered into in February 2008 for two months before the vessel was acquired. Finally, there was a decrease in amortization of finance fees of vessel M/V Amalfi of an amount of \$2.0 million. This decrease is mainly related to decrease in finance fees which were higher in 2008 due to write-off, as a result of amendments of loan terms.

#### 2008 Vs 2007

During 2008, interest and finance costs increased by \$11.8 million or 575.6% compared to 2007. Specifically, during 2008 we drew down \$133.1 million in order to finance the acquisition of three drybulk vessels of which \$42.0 million was repaid in April 2008 following the sale of M/V Bertram.

In addition, an amount of \$1.2 million was charged as interest in 2008 related to the drybulk vessel M/V Astrale's capital lease entered into in February 2008 for two months before the vessel was acquired.

#### Other Income or Expenses Not Allocated to Segments

Our management does not review the gain / (loss) on financial instruments and interest income by segment.

## 11. Gain / (loss) on financial instruments

	Year Ended December			change	
	2007	2008	2009	YEO8 v YEO7	YEO9 v YEO8
Gain / (loss) on Financial Instruments	(\$ in thousands)				
Fair value change on financial instruments	(4,904)	(10,650)	2,635	(5,746) 117.2%	13,285-124.7%
Swap Interest	1,200	(1,374)	(4,716)	(2,574)-214.5%	(3,342) 243.2%
Total Gain / (loss) on Financial Instruments	(3,704)	(12,024)	(2,081)	(8,320) 224.6%	9,943 -82.7%

## 2009 Vs 2008

During 2009, fair value change in financial instruments decreased by \$13.3 million or 124.7% compared to 2008. During 2009, the fair value of our swaps increased by \$19.0 million in due to more favorable valuations of our swap contracts as a result of an expectation of higher LIBOR rates in the future, as evidenced by forward rates. This positive change was partly set-off by the decrease relating to the gain of \$5.6 million as a result of the termination of a derivative product in the fourth quarter of 2008. (See "Item 11 – Quantitative and Qualitative Disclosures About Market Risk").

During 2009, swap interest increased by \$3.3 million or 243.2% compared to 2008, mainly due to decreased LIBOR rates.

## 2008 Vs 2007

During 2008, fair value change in financial instruments increased by \$5.7 million or 117.2% compared to 2007. During 2008, we had a negative change in the fair value of our swaps due to adverse fluctuations of interest rate parameters. This negative change was partly set-off by the gain of \$5.6 million as a result of the termination of a derivative product in the fourth quarter of 2008. Additionally, during 2008 we entered into several new swap agreements in order to hedge our exposure related to the loans for our drybulk vessels. (See "Item 11 – Quantitative and Qualitative Disclosures About Market Risk").

During 2008, swap interest changed by \$2.6 million to \$1.4 million additional interest expense from \$1.2 million interest income in 2007. This was a result of the falling interest rates which declined significantly during the last two quarters of 2008, and negatively affected interest income from our swaps.

## 12. Interest Income

## 2009 Vs 2008

During 2009, interest income decreased by 87.2% to \$0.2 million from \$1.8 million during 2009. This decrease is mainly due to the decrease in the amounts kept under time deposits and relevant interest rates.

## 2008 Vs 2007

During 2008, interest income decreased by 43.6% to \$1.8 million from \$3.2 million during 2007. This decrease is mainly due to the decrease in the amounts kept under time deposits and relevant interest rates.



## B. Liquidity and Capital Resources

Since our formation, our principal source of funds has been equity provided by our shareholders through equity offerings or at the market sales, operating cash flow and long-term borrowing. Our principal use of funds has been capital expenditures to establish and grow our fleet, maintain the quality of our vessels, comply with international shipping standards and environmental laws and regulations, fund working capital requirements and make principal repayments on outstanding loan facilities.

In December 2007 and April 2008 we raised a total of \$120.0 million of equity capital to fund our diversification into the drybulk sector and our newbuilding program. Additionally, during 2008 we sold seven owned Suezmax tankers and one owned Panamax drybulk vessel for an aggregate sale price of \$380.5 million.

We also completed the refinancing of our six newbuilding product tankers in 2008 and chartered all six vessels with three major charterers at fixed rates for periods that range between seven and ten years. These charters are on a bareboat basis, which not only reduces our long-term market risk relating to the vessels, but also eliminates our operational risk for that period.

Our business is capital intensive and its future success will depend on our ability to maintain a high-quality fleet through the acquisition of newer vessels and the selective sale of older vessels. Our practice has been to acquire tankers and drybulk vessels using a combination of funds received from equity investors and bank debt secured by mortgages on our vessels. Future acquisitions are subject to management's expectation of future market conditions, our ability to acquire vessels on favorable terms and our liquidity and capital resources.

As of December 31, 2009, we had total indebtedness under senior secured and unsecured credit facilities with our lenders of \$404.3 million, excluding unamortized financing fees of \$5.2 million, maturing from 2010 through 2019.

As of December 31, 2009, our cash balances amounted to \$22.2 million all of which is classified as restricted as a result of being pledged, blocked, held as cash collateral, or required to be maintained by the Company as an overall cash position as part of loan agreements. Of such amount, \$18.8 million is inaccessible to the Company as a result of being pledged, blocked or held as cash collateral. The remaining \$3.4 million is restricted solely as a result of our overall cash position not meeting the targets set by the loan covenants. While restricted under the loan agreements, this amount is accessible by the Company and is being used for working capital purposes.

### Breach of Loan Covenants

As of December 31, 2009, we were in breach of loan covenants relating to EBITDA, our overall cash position (minimum liquidity covenants), adjusted net worth, the net asset value and the asset cover of our product tankers with certain banks. As a result of these covenant breaches with our banks, we have classified all of our debt as current as discussed in Note 12 to our consolidated financial statements included in this annual report (See also below under "Working Capital Requirements and Sources of Capital").

A violation of covenants constitutes an event of default under our credit facilities, which would, unless waived by our lenders, provide our lenders with the right to require us to post additional collateral, enhance our equity and liquidity, increase our interest payments, pay down our indebtedness to a level where we are in compliance with our loan covenants, sell vessels in our fleet and accelerate our indebtedness, which would impair our ability to continue to conduct our business. We expect that the lenders will not demand payment of the loans before their maturity, provided that we pay loan installments and accumulated or accrued interest as they fall due under the existing credit

facilities.

We do not expect that cash generated from the operations of the vessels owned or operated by the Company will be sufficient to repay the existing total balance of loans if such debt is accelerated by the lenders.

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For details of credit facilities as of December 31, 2009 and discussion regarding waivers see "Item 5.F. – Tabular Disclosure of Contractual Obligations – Long Term Debt".

#### Working Capital Requirements and Sources of Capital

As of December 31, 2009, we had a working capital deficit (current assets less current liabilities) of \$424.2 million assuming acceleration of our debt and financial instruments by our lenders. This working capital deficit consisted of the following (figures in millions):

Total current assets	\$ 3.8
Current portion of debt	\$ 47.9
Current portion of debt (previously categorized as long term)	\$ 351.2
Other current liabilities	\$ 15.1
Current portion of financial instruments	\$ 3.9
Current portion of financial instruments (previously categorized as long term)	\$ 9.9
Total current liabilities (assuming acceleration of our debt and financial instruments by our lenders)	\$ 428.0
Working capital deficit	\$ 424.2
Other capital requirements for the coming 12 months:	
Lease payments	\$ 2.1
Cash shortfall (Working capital deficit plus other capital requirements assuming acceleration of our debt and financial instruments by our lenders)	\$ 426.3
Less: Restricted cash (To be used against debt repayment assuming acceleration of our debt and financial instruments by our lenders)	\$ 22.2
Adjusted Cash shortfall	\$ 404.1

We believe that we will be able to make loan installments and accumulated or accrued interest payments as they fall due under the existing senior credit facilities and, therefore, our lenders will not demand payment of the loans before their maturity, due to covenant breaches. Under this assumption, our material capital requirements in the coming 12 months are as follows (figures in millions):

Debt (excluding debt portion due after 12 months characterized as current)	\$47.9
Interest payments	\$16.0
Operating leases	\$2.1
Total requirements:	\$66.0

Based on our projections for 2010, we expect that cash generated from operations will amount to \$52.2 million, leaving a shortfall of \$13.8 million. If we include the amount of \$3.4 million which is restricted solely as a result of our overall cash position not meeting the targets set by the loan covenants, as mentioned previously, the projected cash shortfall amounts to \$10.4 million. We may not meet our cash flow projections. Please see "Risk Factors" for factors which may have an adverse effect on our results of operation.

We have been in discussions with DVB in order to defer part or the whole of the bridge loan, which as of December 31, 2009 amounted to \$11.2 million, due to be repaid on July 30, 2010, which would enable us to meet our liquidity requirements for 2010. In addition to DVB, we are also in discussions with various other financiers that can refinance part or all of the bridge loan. If we are unable to extend or refinance the bridge loan, we will consider whether a sale of an asset is required. The sale and purchase market has been very liquid as of the date of this annual report, and we expect that it will continue to be so in the foreseeable future. Given the high quality of assets and charters that we have in our portfolio, the sale of a vessel provides us with a realistic alternative to the extension or refinancing of the bridge loan.

#### Cash Flow Information

Cash and cash equivalents decreased by \$46.2 million to \$0.0 as of December 31, 2009 compared to \$46.2 million as of December 31, 2008. The decrease resulted primarily from the amounts paid as advances for vessels under construction for our six newbuilding product tankers, delivered in 2009. All our cash is restricted due to minimum liquidity covenant requirements. An amount of \$3.4 million is available for working capital purposes as it is not pledged, blocked or used as part of collateral.

NET CASH (USED IN) PROVIDED BY OPERATING ACTIVITIES-decreased 44.49% for 2009 to \$6.6 million compared to \$11.8 million for 2008. This decrease was attributed to the overall decrease in operating income by \$95.9 million, or 155.4%, which resulted in a \$34.2 million operating loss for 2009, compared to an operating income of \$61.7 million for 2008. The operating loss for 2009 includes net expenses of \$12.2 million, relating to the termination of leases and the impairment charge of \$36.6 million. The remainder of the decrease is mainly a result of the decrease in revenues relating to the decrease in the average number of tanker vessels that we operated, from 13.9 in 2008 to 8.7 in 2009, the lower rates achieved for vessels M/V Amalfi and M/V Astrale in 2009 and the fact that vessel M/V Bertram was sold in 2008, and, therefore, did not contribute to 2009 results, partly offset by a related decrease in expenses. For 2008, net cash provided by operating activities amounted \$11.8 million compared to net cash used in operating activities of (\$11.3) million for 2007. This increase was attributed to the overall increase in operating income of \$90.8 million, or 312.0%, to \$61.7 million for 2008 compared to an operating loss of \$29.1 million for 2007. Improved operating results during 2008 were mainly due to the termination of six leases together with the delivery of our drybulk vessels, which were deployed on time charters at above-market rates.



NET CASH (USED IN) PROVIDED BY INVESTING ACTIVITIES-net cash used in investing activities for 2009 was \$104.4 million, mainly due to \$136.7 million relating to advances for our six newbuilding product tankers (representing payment of the third installment for one vessel, the fourth installment for four vessels and the delivery installment for six vessels in an aggregate amount of \$133.3 million and capitalized interest and expenses of \$3.4 million). Net cash from investing activities was \$30.3 million mainly relating to a decrease in restricted cash of \$20 million due to the termination of sale and leaseback transactions and a decrease of \$4.8 million relating to the change in the minimum liquidity of our revolving credit facility with Royal Bank of Scotland, or RBS. For 2008, we had net cash from investing activities of \$58.6 million, mainly due to net proceeds from the sale of vessels totaling \$338.1 million. Specifically, during 2008 we sold seven owned Suezmax tankers and one owned Panamax drybulk vessel. Also, during 2008, we invested \$118.1 million upon delivery of two of our drybulk vessels (representing payment of the remaining purchase price of \$115.6 million and capitalized expenses of \$2.5 million) and \$114.3 as advances for vessels under construction for our six newbuilding product tankers (representing payment of the second installment for all vessels, the third installment for five vessels and the fourth installment for two vessels in an aggregate amount of \$109.2 million and capitalized interest and expenses of \$5.1 million).

NET CASH PROVIDED BY (USED IN) FINANCING ACTIVITIES-net cash from financing activities for 2009 was \$51.6 million, consisting of \$111.7 of new bank loans relating to installments of our six newbuildings and the issuance of 2,230,000 shares of common stock under the SEDA with YA Global, with total net proceeds, after commissions, in the amount of \$2.6 million. These inflows were offset by total loan repayments of \$54.3 million. For 2008, net cash used in financing activities was \$50.2 million, consisting of total loan repayments of \$368.6 million relating to sold vessels offset by the draw down of \$271.2 of new bank loans relating to the purchase of drybulk vessels and installments of newbuildings and the private placement of 7.3 million unregistered shares of common stock for aggregate proceeds of approximately \$51.0 million.

C. Research and Development, Patents and Licenses, etc.

Not applicable.

D. Trend Information

For industry trends refer to industry disclosure under "Item 4 - Business Overview." For company-specific trends refer to "Item 5. Operating and Financial Review and Prospects – Operating Results."

E. Off Balance Sheet Arrangements

None

## F. Tabular Disclosure of Contractual Obligations

The following table sets forth our contractual obligations and their maturity dates as of December 31, 2009:

Contractual Obligations	Total	Payments due by period			
		Less than 1 year	1-3 years	3-5 years	More than 5 years
(1) (i) Long term debt <sup>A</sup>	\$404.3	\$404.3			
(ii) Interest <sup>B</sup>	\$16.0	\$16.0			
(2) Operating leases <sup>C</sup>	\$17.4	\$2.1	\$2.1	\$2.1	\$11.1
Total	\$437.7	\$422.4	\$2.1	\$2.1	\$11.1

- A. Relates to the outstanding balance as of December 31, 2009, consisting of 1(a) (50.8 million), 1(b) (i) (\$46.9 million), 1(b) (ii) (\$100.5 million), 1(c) (i) (\$28.0 million), 1(c) (ii) (\$70.0 million), 1(d) (i) (\$28.0 million), 1(d) (ii) (\$37.2 million), 1(e) (\$40.0 million) and 1(f) (\$2.9 million), discussed below.
- B. Interest payments are calculated using the Company's average going interest rate of 3.96%, as of December 31, 2009, which takes into account additional interest expense from interest rate swaps, applied on the amortized long term debt as presented in the table above.
- C. Relates to the minimum rentals payable for the office space.

(1) Long Term Debt:

(a) RBS Revolving Credit Facility:

As of December 31, 2009 the outstanding amount under the RBS revolving credit facility was \$50.8 million payable in fifteen consecutive quarterly installments as follows: (i) six installments of \$1.0 million, starting in February, 2010; (ii) nine installments of \$1.6 million; and (iii) a balloon payment of \$29.6 million payable together with the last installment in August 2013. Furthermore, on March 31, 2010 the Borrower repaid the sum of \$0.8 million, according to the repayment schedule.

Additional terms and conditions of the RBS credit facility are as follows:

During 2007, the interest rate on the RBS credit facility was 85 basis points over LIBOR. From March 26, 2008, the interest rate was adjusted to 125 basis points over LIBOR. On July 31, 2009, the Company amended the loan with RBS and adjusted the margin to 2.5%. The RBS credit facility is collateralized by a first priority mortgage on each of the M/T Ioannis P and M/T Dauntless as of December 31, 2009.

The RBS credit facility contains, among other things, various financial covenants, including (i) security value maintenance whereby the market value of the mortgaged vessels and the market value of any additional security is required to be greater than or equal to 130% of the outstanding loan and the fair value of outstanding swaps. The minimum security cover is waived for a period until not later than March 31, 2010, (ii) market value adjusted net worth required to be greater than or equal to \$250.0 million and greater than 35% of total assets, (iii) EBITDA required to be greater than 120% of fixed charges (excluding one off lease termination fees paid in June and July 2009 for the termination of the remaining 5 leased vessels), (iv) minimum liquid funds of \$15.0 million overall and the higher of \$5.0 million or \$0.4 million per vessel unencumbered (i.e. not blocked specifically as security for obligations) and (v) a minimum balance of \$0.1 million per vessel to be maintained in the operating accounts.

Furthermore, the facility includes a cash sweep mechanism whereby 75% of any surplus cash on each repayment date, earned by M/T Ioannis P and M/T Dauntless will be applied in the inverse order of maturity to the amount outstanding under the loan agreement. Surplus cash is defined as net earnings less: (i) aggregate operating expenses and general and administrative expenses capped at \$10,500 per day, (ii) scheduled capital repayments and (iii) loan interest and swap interest payments.

The RBS credit facility also contains general covenants that require us to maintain adequate insurance coverage and obtain the bank's consent before we incur new indebtedness that is secured by the vessels mortgaged thereunder. In addition, the RBS credit facility prohibits us, without the lender's consent, from appointing a Chief Executive Officer, or CEO, other than Mr. Evangelos Pistiolis and requires that the vessels mortgaged thereunder be managed by TOP Tanker Management, which will subcontract the technical management of the mortgaged vessels to V. Ships Management Limited, Hanseatic Shipping Company Ltd., and any other company acceptable to the lender. We are permitted to pay dividends under the RBS credit facility so long as we are not in default of a loan covenant. Finally, the RBS credit facility contains a cross-default provision.

Covenant Breaches and Waivers

As of December 31, 2009, we were not in compliance with the security value maintenance covenant, for which we have received a waiver until March 31, 2010, the EBITDA covenant and the minimum liquid funds covenant. We are currently in discussions with the bank regarding these breaches.



As of December 31, 2009, we had two interest rate swaps with RBS. For a full description of our interest rate swap agreements, see "Item 11 – Quantitative and Qualitative Disclosures about Market Risk".

(b) HSH Credit Facilities:

(i) Loan of an initial amount of \$95.0 million: As of December 31, 2009, we had a secured term loan outstanding of \$46.9 million, which was ultimately part of a \$95.0 million secured term loan available to partially finance the acquisition cost of the M/V Bertram, M/V Amalfi and the M/V Papillon (ex Voc Gallant).

M/V Bertram: A loan of \$28.1 million was drawn down on November 9, 2007 (originally amounted to \$29.6 million). In December 2007, \$1.5 million was prepaid from the net proceeds of the equity offering. Following the sale of the vessel in April 2008, the then outstanding loan of \$26.5 million was fully repaid.

M/V Amalfi: A loan of \$28.7 million was drawn down on December 27, 2007 (originally amounted to \$30.3 million). In December 2007, \$1.6 million was prepaid on this loan from the net proceeds of the equity offering. As of December 31, 2009 the outstanding amount was \$22.6 million, payable in 20 consecutive quarterly installments of approximately \$0.53 million, starting in March 2010, and a balloon payment of \$11.9 million payable together with the last installment in December 2014.

M/V Papillon (ex Voc Gallant): On February 1, 2008, following the delivery of the vessel, a loan of \$33.2 million, net of a prepayment of \$1.9 million, was drawn down (originally amounted to \$35.1 million). As of December 31, 2009 the outstanding amount was \$24.3 million, payable in 21 consecutive quarterly installments as follows: (i) one installment of \$0.85 million, starting in February 2010; (ii) twenty installments of \$0.50 million; and (iii) a balloon payment of \$13.4 million payable together with the last installment in February 2015.

The credit facility bears interest at LIBOR plus a margin. Until March 27, 2008 the margin was 100 basis points over LIBOR. From March 28, 2008 until March 24, 2009 the margin was adjusted to 135 basis points over LIBOR as a result of the waiver received for our breach of the EBITDA covenant during 2008. According to the amendment of the loan agreement dated May, 11, 2009, from March 24, 2009 until March 31, 2010, the margin was set at 250 basis points over LIBOR. As of the date of this annual report, due to covenant breaches, the margin has not been reset to the initial loan agreement levels and it continues being 250 basis points over LIBOR. Once covenant breaches have been rectified, the margin will be reset to the initial loan agreement levels, i.e. 100 basis points per annum while each of the related vessels are employed under time charter party agreements acceptable to the Agent for periods of at least twelve months and 112.5 basis points per annum at all other times.

The facility contains, among other things, various financial covenants, including (i) at any time after March 31, 2010 asset maintenance whereby the fair market value of the mortgaged vessels and of any additional security is required to be greater than or equal to a required percentage of the outstanding loan and the fair value of outstanding swaps. As per the initial loan agreement the minimum required percentage had been set at 130% for the first four years up to November 2011 and 135% from then on until maturity, (ii) market value adjusted net worth required to be greater than or equal to \$125.0 up to March 31, 2010 and \$250.0 million, thereafter and greater than or equal to 15% up to March 31, 2010, and 35% of total assets, thereafter, (iii) beginning on March 31, 2010 and at all times thereafter, EBITDA required to be greater than 120% of fixed charges (dry-docking costs are considered extraordinary items in the calculation up to March 31, 2010 only), and (iv) minimum liquid funds of \$25.0 million until March 31, 2010 inclusive of all pledged deposits and cash held with all banks and afterwards minimum liquid funds of \$25.0 million or \$0.5 million per group vessel.

Furthermore, the facility provides for a cash pledge in the amount of \$4.8 million as of December 31, 2009 (originally amounted to \$6.5 million), which is applied against future installments starting from February 2010; 50% pro rata against the eight installments starting from February 2010, and 50% pro rata against all remaining installments of the facility including the balloon payment. This cash pledge amounts to \$3.8 million as of the date of this annual report.

(ii) Loan of an initial amount of \$121.3 million: As of December 31, 2009, we had a secured term loan outstanding of \$100.5 million, which is part of a \$121.3 million loan that was concluded to partially finance the construction cost of the newbuilding product tankers S-1025, S-1029 and S-1031, all delivered in 2009.

M/T Miss Marilena (S-1025): As of December 31, 2009, the outstanding amount was \$38.3 million out of a total of \$40.1 million, of which \$16.5 million was drawn down in October 2008, \$6.6 million was drawn down in November 2008 and \$17.0 million was drawn down in February 2009. The loan is repayable in 37 consecutive quarterly installments, as follows: (i) five installments of \$0.60 million, starting in February 2010; (ii) 12 installments of \$0.70 million, (iii) 20 installments of \$0.75 million; and (iv) a balloon payment of \$11.9 million payable together with the last installment in February 2019.

M/T Tyrrhenian Wave (S-1029): As of December 31, 2009, the outstanding amount was \$28.0 million out of a total of \$29.3 million, out of which \$16.7 million was drawn down in October 2008, \$6.7 million was drawn down in January 2009 and \$5.9 million was drawn down in March 2009. The loan is repayable in 37 consecutive quarterly installments, as follows: (i) five installments of \$0.43 million, starting in March, 2010; (ii) 12 installments of \$0.51 million, (iii) 20 installments of 0.54 million; and (iv) a balloon payment of \$8.9 million payable together with the last installment in March 2019.

M/T Britto (S-1031): As of December 31, 2009, the outstanding amount was \$34.2 million out of a total of \$35.2 million, out of which \$10.0 million was drawn down in October 2008, \$6.7 million was drawn down in November 2008 \$6.7 million was drawn down in February 2009 and \$11.8 million was drawn down in May 2009. The loan is repayable in 38 consecutive quarterly installments, as follows: (i) six installments of \$0.52 million, starting in February 2010; (ii) 12 installments of \$0.61 million; (iii) 20 installments of \$0.65 million; and (iv) a balloon payment of \$10.8 million payable together with the last installment in May 2019.

The credit facility bears interest at LIBOR plus a margin. Until March 24, 2009 the margin was 175 basis points over LIBOR. According to the amendment of the loan agreement dated May, 11, 2009, from March 24, 2009 until March 31, 2010, the margin was set at 200 basis points over LIBOR. As of the date of this annual report, due to covenant breaches, the margin has not been reset to the initial loan agreement levels and it continues being 200 basis points over LIBOR. Once covenant breaches have been rectified, the margin will be reset to the initial loan agreement levels, i.e.

175 basis points per annum until maturity of the loan while each of the related vessels are employed under time charter party agreements acceptable to the Agent for periods of at least twelve months and 112.5 basis points per annum at all other times.

The credit facility contains a provision whereby the bank may chose to use an alternative base interest rate in case it believes that the LIBOR is not representative of its funding cost. HSH has been using cost of funds instead of LIBOR as this cost of funds is determined by KLIEM, a broker.

The facility contains, among other things, various financial covenants, including (i) asset maintenance whereby the fair market value of the mortgaged vessels and of any additional security is required to be greater than or equal to a required percentage of the outstanding loan and the fair value of outstanding swaps. The minimum required percentage has been set at 125% until March 31, 2010, at 120% from April 1, 2010 until the fourth anniversary of this Credit Facility Agreement (October 2012) and at 125% at all times thereafter, (ii) market value adjusted net worth required to be greater than or equal to \$125.0 million up to March 31, 2010 and \$250.0 million thereafter, and greater than or equal to 15% up to March 31 2010, and 35% of total assets thereafter and (iii) beginning on March 31 2010 and at all times thereafter, EBITDA required to be greater than 120% of fixed charges (dry-docking costs are considered extraordinary items in the calculation up to March 31, 2010 only), and (iv) minimum liquid funds of \$25.0 million until March 31, 2010, inclusive of all pledged deposits and cash held with all banks and afterwards minimum liquid funds of \$25.0 million or \$0.5 million per group vessel.

In addition, the HSH credit facilities require that the mortgaged vessels be managed by TOP Tanker Management, which may subcontract the technical management of the mortgaged vessels to V. Ships Management Limited, Hanseatic Shipping Company Ltd., or any other company acceptable to the lender. In addition, it prohibits the three borrowers, which are our subsidiaries, from declaring or paying any dividends or making any distributions to TOP SHIPS INC. in excess of 70% of their net income and full dividend restriction or other distributions (other than the Guarantor's stock incentive plan for its employees) for TOP SHIPS INC. (as Corporate Guarantor) so long as the ratio of EBITDA to Fixed Charges is below 120% or the Fair Market Value of the Vessels is below 140% of the outstanding loan and the cost of terminating any Interest Rate SWAP Agreement. The facility also does not permit any distribution of capital or assets and permits investments relating to any share buy-back or similar actions only up to an amount of \$5.0 million. In the case of sale of vessels financed by HSH, 100% of the sale proceeds following debt repayment are to be applied towards full covenant compliance; in the case of sale of vessels not financed by HSH, following debt repayment HSH is to be allocated an amount of the remaining sale proceeds equal to the proportion of total HSH outstanding loans over our total indebtedness; and in the case of a successful equity offering, HSH is to be allocated an amount (on the basis of 50% of offering proceeds) equal to the proportion of total HSH outstanding loans over TOP SHIPS INC. consolidated indebtedness. Our cash deposits, in addition to the pledged amounts, are required to be at least equal to \$3.75 million (i.e. \$0.75 million per vessel). Finally, the facilities contain a cross-default provision and are cross collateralized.

#### Covenant Breaches and Waivers

In relation to both of the above facilities, as of December 31, 2009, we were not in compliance with the asset maintenance and the EBITDA covenant, for which we have received a waiver until March 31, 2010. Furthermore, we were not in compliance with the adjusted net worth and the minimum liquid funds covenants. Both facilities provide that a default rate of two percent (2%) on top of the initially agreed margin shall apply for as long as there is an event of default such as covenant breaches. As of the date of this annual report, HSH has not imposed such a rate on any of the two facilities. We are currently in discussions with the bank regarding covenant breaches.

As of December 31, 2009, we had seven interest rate swaps with HSH. For a full description of our interest rate swap agreements, see "Item 11 – Quantitative and Qualitative Disclosures about Market Risk".



(c) DVB Credit Facilities:

(i) M/V Astrale: As of December 31, 2009, the outstanding amount was \$28.0 million, payable in 23 consecutive quarterly installments as follows: (i) two installments of \$0.35 million, starting in April 2010, (ii) twenty one installments of \$0.7 million; and (iii) a balloon payment of \$12.6 million, payable together with the last installment in October 2015. The loan of \$48.0 million was drawn down in April, 2008 to partially finance the acquisition cost of the drybulk vessel Astrale.

The facility bears interest at LIBOR plus a margin. The margin has been agreed at 175 basis points per annum for the period commencing on the date of the drawdown and ending on, but not including, the first anniversary of the Actual Drawdown Date, and 150 basis points annum thereafter. The credit facility contains a provision whereby the bank may choose to use an alternative base interest rate if it believes that the LIBOR is not representative of its funding cost. DVB has been using cost of funds instead of LIBOR as this cost of funds is determined by KLIEM, a broker.

The facility contains, among other things, various financial covenants including (i) asset maintenance whereby the fair market value of the mortgaged vessels under the drybulk and the product tanker financing and of any additional security is required to be greater than or equal to 100% until March 31, 2010, 105% until March 31, 2011, 110% until March 31, 2012 and 120% thereafter of the outstanding loan (excluding Top Up Loan) and the fair value of the outstanding swaps, (ii) a Net Asset Value that is required to be greater than \$125.0 million, calculated on an annual basis, which was amended to \$0 up to March 31, 2010, (iii) Stockholder's equity required to be greater than \$100.0 million and (iv) minimum cash balances of \$5.0 million unencumbered up to September, 30, 2010 and thereafter \$25.0 million or \$0.5 million per vessel (\$0.25 million per vessel as cash in hand may be included).

Furthermore, the facility includes a cash sweep mechanism for the period commencing after the end of April 2010 until the maturity of the loan agreement, whereby 60% of any excess cash earned by the M/V Astrale will be applied in the inverse order of maturity to the amount outstanding under the loan agreement. Excess cash is defined as net earnings less: (i) aggregate operating expenses and general and administrative expenses capped at \$10,000 per day as adjusted for an annual increase of 3%, (ii) scheduled installment repayments and (iii) interest costs. The cash sweep mechanism will cease to apply in the event the ratio of the vessel's charter free fair market value over the outstanding loan is equal or greater than 140% for a period of more than 3 consecutive months.

(ii) Loan of an initial amount of \$80.0 million: As of December 31, 2009, we had a secured term loan outstanding of \$70.0 million, which is part of an \$80.0 million loan that was concluded to partially finance the construction cost of the newbuilding product tankers S-1027 and S-1033 all of which were delivered in 2009.

M/T Ionian Wave (S-1027): As of December 31, 2009, the outstanding amount was \$32.7 million out of a total of \$33.8 million, out of which \$16.7 million was drawn down in October 2008, \$6.7 million was drawn down in January 2009 and \$10.4 million was drawn down in March 2009. The loan is repayable in 38 equal consecutive quarterly installments as follows: (i) 38 installments of \$0.53 million, starting in March 2010; and (ii) a balloon payment of \$12.6 million payable together with the last installment in June 2019.

M/T Hongbo (S-1033): As of December 31, 2009, the outstanding amount was \$26.1 million out of a total of \$27.0 million out of which \$10.0 million was drawn down in October 2008, \$6.7 million was drawn down in February 2009, \$6.7 million was drawn down in April 2009 and \$3.6 million was drawn down in July 2009. The loan is repayable in 38 equal consecutive quarterly installments as follows: (i) 38 installments of \$0.42 million, starting in March 2010; and (ii) a balloon payment of \$10.1 million payable together with the last installment in June 2019.

Top Up Loan: On July 31, 2009, we amended our \$80.0 million product tanker facility with DVB in order to take account of a bridge loan of \$12.5 million used in the financing of the delivery installment of the M/T Hongbo. As of December 31, 2009, the outstanding amount was \$11.2 million. The bridge loan is payable in full on July 30, 2010. Furthermore, the facility includes a cash sweep mechanism whereby 100% of the aggregate of any excess cash being hire earned by M/T Hongbo and M/T Ionian Wave above capital repayments in connection with the relevant loan tranches and interest expenses in connection with relevant tranches, swap agreements and the Top Up Loan, is applied on a quarterly basis as prepayment against the outstanding Top Up Loan, starting on September 16, 2009. As of the date of this annual report, we have prepaid a total amount of \$2.4 million of the Top Up Loan in relation to the cash sweep mechanism.

In connection with this amendment and bridge loan, we issued 12,512,400 common shares to Hongbo Shipping Company Limited, our wholly owned subsidiary, who pledged these shares in favor of DVB. This pledge was granted as security and must remain in an amount equal to 180% of the outstanding bridge loan. This amount will be tested at the end of each quarter. We also agreed to file a registration statement for the resale of such shares and use our best efforts to keep the registration statement effective during the security period. As of the date of this annual report, and based on the fair value of our common stock and the outstanding balance of the loan measured on March 31, 2010, we are required to issue and pledge 9,756,488 additional shares of common stock.

The credit facility bears interest at LIBOR plus a margin of 155 basis points per annum. According to the amendment of the loan agreement signed on July, 31, 2009, from March 16, 2009 the margin for the loan of the Ionian Wave has been set at 175 basis points over LIBOR. The bridge loan carries a margin of 6.0% over LIBOR. The credit facility contains a provision whereby the bank may chose to use an alternative base interest rate in case it believes that the LIBOR is not representative of its funding cost. DVB has been using cost of funds instead of LIBOR as this cost of funds is determined by KLIEM, a broker.

The facility contains, among other things, various financial covenants including (i) asset maintenance whereby the fair market value of the mortgaged vessels and of any additional security is required to be greater than or equal to 115% for the first five years, up to August 2014 and 125% thereafter of the outstanding loan (excluding Top Up Loan) and the fair value of the outstanding swaps. In case of breach of the minimum security cover, the borrowers would be obliged to reduce the tranche relating to M/T Ionian Wave and M/T Hongbo by 55% and 45% of shortfall, respectively, and increase the Top Up Loan by the shortfall. Thereafter, in case the security cover shows an excess of at least \$1 million, the tranche relating to M/T Ionian Wave and M/T Hongbo is to be increased by 55% and 45%, respectively, of the excess and the Top Up Loan is to be reduced by the same amount, (ii) a Net Asset Value that is required to be greater than \$225.0 million, calculated on an annual basis, which was amended to \$0 up to March 31, 2010, (iii) Stockholder's equity required to be greater than \$180.0 million, (iv) minimum cash balances of \$5.0 million unencumbered up to September, 30, 2010 and thereafter \$25.0 million or \$0.5 million per vessel (\$0.25 million per

vessel as cash in hand may be included); and (v) Interest cover ratio of no less than 1.5 times (defined as EBITDAR divided by interest expense plus Lease Obligations), which was amended to 1.2 times up to March 31, 2010.

According to notice received from DVB, as of March 16, 2010, we were not in compliance with the minimum security cover for an amount of \$3.0 million based on valuations dated December 31, 2009. As a result, we reduced the tranche relating to M/T Ionian Wave by \$1.7 million and the tranche relating to M/T Hongbo by \$1.3 million, representing the 55% and the 45% of shortfall, respectively, and increase the Top Up Loan by \$3.0 million. During May, 2010 we sent a notice to DVB informing them that based on new valuations the Top Up Loan would need to be reduced by approximately \$4.5 million according to the mechanism described above.

In addition, the DVB credit facilities prohibit the borrower without the lender's consent, from declaring or paying any dividends or returning any capital to its equity holder and require that the mortgaged vessels be managed by TOP Tanker Management, which may subcontract the technical management of the mortgaged vessels to V.Ships Management Limited, Hanseatic Shipping Company Ltd., or any other company acceptable to the lender. Finally, TOP SHIPS INC. is not allowed to appoint any chief executive officer other than Mr. Evangelos Pistiolis without the prior written consent of DVB. Finally, we are in the process of cross collateralizing the terms of the two DVB facilities. The credit facilities contain cross default provisions.

#### Covenant Breaches and Waivers

As of December 31, 2009, we were not in compliance with the asset maintenance covenant in relation to the \$80.0 million product tanker facility. Furthermore, we were not in compliance with the net asset value and the minimum cash balance covenants, in relation to both facilities. The asset maintenance covenant breach was remedied through the Top Up Loan adjustment mechanism previously described. Regarding the net asset value and the minimum cash balance covenant, we are currently in discussions with the bank.

In July 2009, we paid a restructuring fee of \$0.08 million in addition to the \$0.24 million fee required in accordance with the loan agreement terms for renewing the drybulk facility. Furthermore, we paid a \$1.5 million arrangement fee on the drawdown date of the Top Up loan.

As of December 31, 2009, we had one interest rate swap with DVB. For a full description of our interest rate swap agreements, see "Item 11– Quantitative and Qualitative Disclosures about Market Risk".

We have also agreed to enter into an interest rate swap agreement with DVB for a minimum period of 3 years within a period of six months after the delivery advance drawdown date of M/T Hongbo (up to January 2010). As of the date of this annual report we have not yet entered into such an agreement.

#### (d) ALPHA BANK Credit Facilities:

(i) M/V Cyclades: As of December 31, 2009, the outstanding amount was \$28.0 million. The loan of \$48.0 million was drawn down on December 17, 2007 to partially finance the acquisition cost of the drybulk vessel Cyclades. The loan is repayable in 24 consecutive quarterly installments as follows: (i) four installments of \$1.25 million, starting in March 2010; (ii) 20 installments of \$0.75 million; and (iii) a balloon payment of \$8.0 million payable together with the last installment in December 2015.

The credit facility bears interest at LIBOR plus a margin of 130 basis points. Under the first supplemental agreement of the loan signed in April 2009, from April 3, 2009 the margin has been set at 250 basis points over LIBOR and under the third supplemental agreement of the loan signed in November, 2009, from September 17, 2009, the margin has been set at 300 basis points over LIBOR up to March 31, 2010 and 225 basis points over LIBOR, thereafter. As of the date of this annual report, due to covenant breaches, the margin continues being 300 basis points over LIBOR.



The facility contains, among other things, various financial covenants including: (i) asset maintenance whereby the fair market value of the mortgaged vessel and of any additional security is required to be greater than or equal to 130% of the outstanding loan. The minimum security requirement is waived up to March 31, 2010; (ii) market value adjusted net worth is required to be greater than or equal to \$250.0 million. The adjusted net worth is waived up to March 31, 2010; (iii) book equity (total assets less consolidated debt) is required to be greater than \$100.0 million; and (iv) minimum cash balances of \$25.0 million. The minimum liquidity is waived up to March 31, 2010.

(ii) M/T Lichtenstein: As of December 31, 2009, the outstanding amount was \$37.2 million, out of a total of \$39.0 million, which was concluded to partially finance the construction cost of newbuilding S-1026, out of which \$10.6 million was drawn down in August 2008, \$7.1 million was drawn down in September 2008, \$7.1 million was drawn down in November 2008 and \$14.2 million was drawn down in February 2009. The loan is repayable in 37 equal consecutive quarterly installments as follows: (i) 37 installments of \$0.6 million, starting in February 2010; and (ii) a balloon payment of \$15.0 million payable together with the last installment in February 2019.

The credit facility bears interest at LIBOR plus a margin of 165 basis points. Under the first supplemental agreement of the loan signed in April 2009, from April 3, 2009 the margin has been set at 225 basis points over LIBOR and under the third supplemental agreement of the loan signed in November 2009, from October 26, 2009 the margin has been set at 300 basis points over LIBOR up to March 31, 2010 and 225 basis points over LIBOR, thereafter. As of the date of this annual report, due to covenant breaches, the margin continues being 300 basis points over LIBOR.

The facility contains, among other things, various financial covenants including: including (i) asset maintenance whereby the fair market value of the mortgaged vessel and of any additional security is required to be greater than or equal to 130% of the outstanding loan. The minimum security requirement is waived up to March 31, 2010; (ii) market value adjusted net worth is required to be greater than or equal to \$250.0 million. The adjusted net worth is waived up to March 31, 2010; (iii) book equity (total assets less consolidated debt) is required to be greater than \$100.0 million, and (iv) minimum cash balances of \$25.0 million. The minimum liquidity is waived up to March 31, 2010.

In addition, the credit facilities provide for a cash pledge of \$4.0 million to be maintained with Alpha Bank; this amount will be applied towards the drybulk financing in case of renegotiation or cancellation of the existing time charter agreement of M/V Cyclades. \$2.0 million of the pledged cash will be released on December 31, 2009 subject to the above and no other event of default. The remaining \$2.0 million will be released on March 30, 2010 given that: a) no renegotiation or cancellation of the existing time charter agreement has been effected until then, b) no event of default has occurred in the respective loan facility. As of the date of this annual report, due to covenant breaches, the \$4.0 million cash pledge has not been released and we are in discussions with the bank in relation to these funds.

Finally, the two facilities are cross collateralized. The credit facilities contain a cross-default provision.

#### Covenant Breaches and Waivers

As of December 31, 2009, we were not in compliance with the asset maintenance, the adjusted net worth and the minimum cash balance covenants, for which we have received waivers until March 31, 2010. We are currently in discussions with the bank with respect to these breaches.

(e) EMPORIKI Credit Facility: As of December 31, 2009, the outstanding amount was \$40.0 million. The loan of \$50.0 million was entered into in March 2008 in order to partially finance the acquisition cost of the drybulk vessel M/V Pepito. The loan is repayable in 11 consecutive semi-annual installments as follows: (i) one installment of \$3.3 million, in March 2010; (ii) ten installments of \$2.4 million; and (iii) a balloon payment of \$12.9 million payable

together with the last installment in March 2015.

The credit facility bears interest at LIBOR plus a margin of 110 basis points. Under the first supplemental agreement of the loan signed in August 2009, from March 31, 2009 until March 31, 2010, the margin was set at 250 basis points over LIBOR. Thereafter the margin would be reduced to 175 basis points per annum until maturity of the loan. As of the date of this annual report, due to covenant breaches, the margin continues being 250 basis points over LIBOR.

The facility contains, among other things, various financial covenants including: (i) the aggregate market value of the mortgaged vessel and of any additional security is required to be equal to at least 125% of the outstanding principal amount under the loan and the swap. The minimum security requirement is waived up to March 31, 2010; (ii) the leverage ratio (defined as Total Liabilities divided by Total Assets adjusted to fair market value, or FMV, of vessels) will not exceed 75%. The maximum leverage ratio is waived up to March 31, 2010; (iii) the interest cover ratio (as defined in the EMPORIKI credit facility agreement) will stand at the minimum level of 2.5:1; (iv) minimum corporate liquidity not to be less than next 6 months of senior debt principal payments; and (v) minimum average monthly balances of the earnings account of \$1 million.

In addition, the EMPORIKI credit facility prohibits us, without the lender's consent, from appointing a CEO other than Mr. Evangelos Pistiolis and requires that the mortgaged vessel be managed by TOP Tanker Management, which may subcontract the technical management of the mortgaged vessel to V.Ships Management Limited, Hanseatic Shipping Company Ltd., or any other company acceptable to the lender. In addition, it prohibits the borrower, which is our subsidiary, without the lender's consent, from declaring or paying any dividends or making any distributions to its shareholders. The credit facility contains a cross-default provision.

#### Covenant Breaches and Waivers

As of December 31, 2009, we were not in compliance with the asset maintenance and the minimum leverage ratio covenants, for which we have received waivers until March 31, 2010 and the minimum liquid funds covenant. We are currently in discussions with the bank in relation to these breaches.

As of December 31, 2009, we had one interest rate swap with Emporiki Bank. For a full description of our interest rate swap agreements, see "Item 11 – Quantitative and Qualitative Disclosures about Market Risk".

(f) CAPE MANUEL Credit Facility: On July 27, 2009, we entered into an unsecured bridge loan financing facility with an unrelated party. The purpose of this loan was to provide working capital financing. As of December 31, 2009, the outstanding amount was Euro 2.0 million or \$2.9 million (based on the U.S. Dollar/Euro exchange rate as of December 31, 2009) that was drawn down in two tranches: one on July 29, 2009 for an amount of Euro 1.0 million or \$1.4 million (based on the U.S. Dollar/Euro exchange rate as of December 31, 2009) and one on September 24, 2009 for an amount of Euro 1.0 million or \$1.4 million (based on the U.S. Dollar/Euro exchange rate as of December 31, 2009).

We have undertaken to repay the first tranche, interest and fees in connection with the facility by April 15, 2010 in cash or shares or in combination as demanded by the lender. The number of shares cannot exceed 15% of our total number of outstanding shares due to anti-takeover provisions in our Stockholder Rights Agreement. On April 15, 2010, we repaid the first advance of Euro 1 million or \$1.4 million (based on the U.S. Dollar/Euro exchange rate as of April 15, 2010) along with all accrued interest and finance costs by then. The repayment of the second advance and relevant accrued interest from April 15, 2010 was extended up to July 31, 2010.

The loan bears interest at 9.0% per annum. As of December 31, 2009, an amount of Euro 0.46 million or \$0.66 million (based on the U.S. Dollar/Euro exchange rate as of December 31, 2009) in relation to this loan is included under interest and finance costs.

(2) Operating Leases:

In January 2006, we entered into an agreement with an unrelated party to lease office space in Athens, Greece. The office is located at 1, Vasilisis Sofias & Megalou Alexandrou Street, 151 24 Maroussi, Athens, Greece. The agreement is for a duration of 12 years beginning May 2006 with a lessee's option for an extension of 10 years. The current monthly rental is \$0.2 million (based on the U.S. Dollar/Euro exchange rate as of December 31, 2009) adjusted annually for inflation increase plus 1.0%.

In addition, our subsidiary TOP TANKERS (U.K.) LIMITED, a representative office in London, leases office space in London from an unrelated third party. The agreement is valid from June 2007 and shall continue until either party shall give to the other, one calendar month written notice. The annual lease is \$0.03 million (based on the U.S. Dollar/GBP exchange rate as of December 31, 2009) payable quarterly in advance.

In November 2009, TOP SHIPS INC. entered into an agreement to lease space in London. The agreement is for the duration of one year from and including November 15, 2009 to and including November 14, 2010. The current monthly rental is \$0.04 million (based on the U.S. Dollar/GBP exchange rate as of December 31, 2009).

Other Contractual Obligations:

TOP Tanker Management, our wholly-owned subsidiary, is responsible for the chartering, operational and technical management of our tanker and drybulk fleet, including crewing, maintenance, repair, capital expenditures, dry-docking, vessel taxes, maintaining insurance and vessel operating expenses under management agreements with each of our vessel owning subsidiaries.

As of December 31, 2009, TOP Tanker Management has subcontracted the day-to-day technical management and crewing of one Handymax tanker and the crewing only of another Handymax tanker to V. Ships Management Limited, or V. Ships, and had also subcontracted the crewing of four drybulk vessels to Interorient Maritime Enterprises Inc., or Interorient. The agreements between TOP Tanker Management and V. Ships Management Limited may be terminated by either party upon three months' written notice and the agreements with Interorient may be terminated by either party upon two months' written notice.

Other major capital expenditures include funding our maintenance program of regularly scheduled intermediate survey or special survey dry-docking necessary to preserve the quality of our vessels as well as to comply with international shipping standards and environmental laws and regulations. Although we have some flexibility regarding the timing of this maintenance, the costs are relatively predictable. Management anticipates that the vessels that are younger than 15 years are required to undergo in-water intermediate surveys 2.5 years after a special survey dry-docking and that such vessels are to be dry-docked every five years, while vessels 15 years or older are to be dry-docked for an intermediate survey every 2.5 years in which case the additional intermediate survey dry-dockings take the place of in-water surveys.

Critical Accounting Policies:

The discussion and analysis of our financial condition and results of operations is based upon our consolidated financial statements, which have been prepared in accordance with GAAP. The preparation of those financial statements requires us to make estimates and judgments that affect the reported amount of assets and liabilities, revenues and expenses and related disclosure of contingent assets and liabilities at the date of our financial statements. Actual results may differ from these estimates under different assumptions or conditions.

Critical accounting policies are those that reflect significant judgments or uncertainties, and potentially result in materially different results under different assumptions and conditions. We have described below what we believe are our most critical accounting policies that involve a higher degree of judgment and the methods of their application. For a description of all of our significant accounting policies, see Note 2 to our consolidated financial statements included herein.

**Vessel depreciation.** We record the value of our vessels at their cost (which includes the contract price, pre-delivery costs incurred during the construction of newbuildings, capitalized interest and any material expenses incurred upon acquisition such as initial repairs, improvements and delivery expenses to prepare the vessel for its initial voyage) less accumulated depreciation. We depreciate our vessels on a straight-line basis over their estimated useful lives, estimated to be 25 years from the date of initial delivery from the shipyard. Depreciation is based on cost of the vessel less its residual value which is estimated to be \$160 per light-weight ton. A decrease in the useful life of the vessel or in the residual value would have the effect of increasing the annual depreciation charge. When regulations place limitations over the ability of a vessel to trade on a worldwide basis, the vessel's useful life is adjusted at the date such regulations become effective. We have not historically experienced change in estimate used in calculating depreciation and do not expect to experience changes in estimates in a future.

**Impairment of vessels :** We evaluate the carrying amounts and periods over which long-lived assets are depreciated on a quarterly basis to determine if events have occurred which would require modification to their carrying values or useful lives. In evaluating useful lives and carrying values of long-lived assets, we review certain indicators of potential impairment, such as undiscounted projected operating cash flows, vessel sales and purchases, business plans and overall market conditions. We determine undiscounted projected net operating cash flows for each vessel and compare it to the vessel's carrying value. If the carrying value of the related vessel exceeds its undiscounted future net cash flows, the carrying value is reduced to its fair value. We estimate fair market value primarily through the use of third party valuations performed on an individual vessel basis.

The carrying values of our vessels may not represent their fair market value at any point in time since the market prices of second-hand vessels tend to fluctuate with changes in charter rates and the cost of newbuildings.

We did not note for 2007, any events or changes in circumstances indicating that the carrying amount of our vessels may not be recoverable.

In the fourth quarter of 2008, shipping market conditions deteriorated significantly, mainly in the drybulk sector, as a result of the credit crisis and the resulting slowdown in world trade. These were conditions we considered to be indicators of potential impairment. We performed the undiscounted cash flow test as of December 31, 2008 on our entire fleet and determined that the carrying amounts of our vessels held for use were recoverable despite the significant drop in values of drybulk vessels.

During 2009, the drybulk market stabilized and the charter market recovered resulting in a partial recovery of asset values. In contrast, the product tanker sector to which we are mainly exposed experienced a significant drop in charter rates and, as a result, a quarter on quarter drop in asset values. Despite these market conditions, our expectations of a

recovery in charter rates, similar to the one experienced in the drybulk market in 2009, did not lead to an impairment charge for the first three quarters of 2009.

During the fourth quarter of 2009, we began exploring the re-chartering of our two oldest tanker vessels, M/T Dauntless and M/T Ioannis P, due to their upcoming charter expirations. Based on discussions with charterers we had indications that such vessels would need to be re-chartered at significantly lower rates upon expiration of their existing charters. As a result, during the fourth quarter of 2009, we performed the undiscounted cash flow test as of December 31, 2009 on our entire fleet and determined that the carrying amounts of these two vessels were not recoverable by their undiscounted cash flows, indicating impairment and thereby we recorded an impairment charge of \$36.6 million for the year ended December 31, 2009.

In order to perform the undiscounted cash flow test, we make assumptions about future charter rates, commissions, vessel operating expenses, dry-dock costs, fleet utilization, scrap rates used to calculate estimated proceeds at the end of vessels' useful lives and the estimated remaining useful lives of the vessels. These assumptions are based on historical trends as well as future expectations. The projected net operating cash flows are determined by considering the charter revenues from existing time charters for the fixed fleet days and an estimated daily time charter equivalent for the unfixed days (based on a combination of three year time charter rates for the next three years and the most recent 8 year average of the one-year time charter rates for each vessels' category) over the remaining useful life of each vessel, which we estimate to be 25 years from the date of initial delivery from the shipyard. Expected outflows for scheduled vessels' maintenance and vessel operating expenses are based on historical data, and adjusted annually assuming an average annual inflation rate of 2.8%, which is the twenty year average (period 1990-2009) consumer price index. Effective fleet utilization, average commissions, dry-dock costs and scrap values are also based on historical data.

The fair value of the impaired vessels was determined based on a market approach, which consisted of quotations from well respected brokers regarding vessels with similar characteristics as compared to our vessels. This market approach is deemed more objective than the income approach mainly due to the multitude of transactions of comparable assets in the active and liquid shipping market at the time the impairment test was performed.

Our impairment test exercise is highly sensitive to variances in the time charter rates, fleet effective utilization rates, commissions, estimated scrap values, future dry-docking costs, estimated remaining useful lives of vessels and estimated vessel operating costs. Our analysis as of December 31, 2009, which involved also a sensitivity analysis by assigning possible alternative values to these inputs, indicates that except for the above mentioned two tanker vessels there are no impairment indications of any other individual long lived assets. However, there can be no assurance as to how long term charter rates and vessel values will remain at their currently low levels or whether they will improve by any significant degree. Charter rates may remain at depressed levels for some time which could adversely affect our revenue and profitability, and future assessments of vessel impairment.

#### Derivatives:

We designate our derivatives based upon the criteria established by the FASB in its accounting guidance for derivatives and hedging activities. The accounting guidance for derivatives requires that an entity recognize all derivatives as either assets or liabilities in the statement of financial position and measure those instruments at fair value. The accounting for the changes in the fair value of the derivative depends on the intended use of the derivative and the resulting designation. For a derivative that does not qualify as a cash flow hedge, the change in fair value is recognized at the end of each accounting period on the income statement. For a derivative that qualifies as a cash flow hedge, the change in fair value is recognized at the end of each reporting period in accumulated other comprehensive income / (loss) (effective portion) until the hedged item is recognized in income. The ineffective portion of a derivative's change in fair value is immediately recognized in the income statement.

If there is an increase in the 3-month LIBOR or if the 10 year U.S. Dollar swap rate exceeds 3.85%, there will be a positive effect on the fair value of our interest rate swap agreements. In contrast, a decrease in the 3-month LIBOR or an increase of over 0.05% in the difference between the 10 year U.S. Dollar swap rate and the 2 year U.S. Dollar swap rate will have a negative effect on the fair value of our interest rate swap agreements.



We have not applied hedge accounting for our interest rate swaps. Additionally, we have not adjusted the fair value of our derivative liabilities for non-performance risk as we expect to be able to perform under the contractual terms of our derivative agreements, such as making cash payments at periodic net settlement dates or upon termination. Also refer to "Item 5 – Liquidity and Capital Resources – Working capital requirements and sources of capital" for availability of capital.

Provision for doubtful accounts. Revenue is based on contracted voyage and time charter parties and, although our business is with customers who we believe to be of the highest standard, there is always the possibility of dispute, mainly over terms, calculation and payment of demurrages. In such circumstances, we assess the recoverability of amounts outstanding and we estimate a provision if there is a possibility of non-recoverability, combined with the application of a historical recoverability ratio, for purposes of determining the appropriate provision for doubtful accounts. Although we believe our provisions to be based on fair judgment at the time of their creation, it is possible that an amount under dispute is not recovered and the estimated provision for doubtful recoverability is inadequate.

New accounting pronouncements: No significant effect from new accounting pronouncements. See Notes to the December 31, 2009 Financial Statements for a full description of new accounting pronouncements and effect on our financials.

G. Safe Harbor

Forward looking information discussed in this Item 5 includes assumptions, expectations, projections, intentions and beliefs about future events. These statements are intended as "forward-looking statements". We caution that assumptions, expectations, projections, intentions and beliefs about future events may and often do vary from actual results and the differences can be material. Please see "Cautionary Statement Regarding Forward-Looking Statements" in this Report.

## ITEM 6.

## DIRECTORS, SENIOR MANAGEMENT AND EMPLOYEES

## A. Directors and Senior Management

Set forth below are the names, ages and positions of our directors, executive officers and key employees as at December 31, 2009. Members of our Board of Directors are elected annually on a staggered basis, and each director elected holds office for a three-year term. Officers are elected from time to time by vote of our Board of Directors and hold office until a successor is elected.

Name	Age	Position
Evangelos J. Pistiolis	37	Director, President, Chief Executive Officer
Vangelis G. Ikonomou	45	Director, Executive Vice President and Chairman of the Board
Alexandros Tsirikos	36	Director, Chief Financial Officer
Michael G. Docherty	50	Director
Roy Gibbs	60	Director
Marios Hamboullas	69	Director
Yiannakis C. Economou	61	Director
Stavros Emmanuel	67	Chief Operating Officer of TOP Tanker Management
Demetris P. Souroullas	47	Vice President
Eirini Alexandropoulou	38	Secretary

Biographical information with respect to each of our directors and executives is set forth below.

Evangelos J. Pistiolis founded our Company in 2000, is our President and Chief Executive Officer and has served on our Board of Directors since July 2004. Mr. Pistiolis graduated from Southampton Institute of Higher Education in 1999 where he studied shipping operations and from Technical University of Munich in 1994 with a bachelor's degree in mechanical engineering. His career in shipping started in 1992 when he was involved with the day to day operations of a small fleet of drybulk vessels. From 1994 through 1995 he worked at Howe Robinson & Co. Ltd., a London shipbroker specializing in container vessels. While studying at the Southampton Institute of Higher Education, Mr. Pistiolis oversaw the daily operations of Compass United Maritime Container Vessels, a ship management company located in Greece.

Vangelis G. Ikonomou is our Executive Vice President and Chairman and has served on our Board of Directors since July 2004. Prior to joining the Company, Mr. Ikonomou was the Commercial Director of Primal Tankers Inc. From 2000 to 2002, Mr. Ikonomou worked with George Moundreas & Company S.A. where he was responsible for the purchase and sale of second-hand vessels and initiated and developed a shipping industry research department. Mr. Ikonomou worked, from 1993 to 2000, for Eastern Mediterranean Maritime Ltd., a ship management company in Greece, in the commercial as well as the safety and quality departments. Mr. Ikonomou holds a Masters degree in Shipping Trade and Finance from the City University Business School in London, a Bachelors degree in Business Administration from the University of Athens in Greece and a Navigation Officer Degree from the Higher State Merchant Marine Academy in Greece.

Alexandros Tsirikos has served as our Chief Financial Officer since April 1, 2009. Mr. Tsirikos, is a UK qualified Chartered Accountant (ACA) and has been employed with TOP SHIPS INC. since July 2007 as the Company's Corporate Development Officer. Prior to joining TOP SHIPS INC., Mr Tsirikos was a manager with PricewaterhouseCoopers, or PwC, where he worked as a member of the PwC Advisory team and the PwC Assurance team thereby drawing experience both from consulting as well as auditing. As a member of the Advisory team, he lead and participated in numerous projects in the public and the private sectors, involving strategic planning and business modeling, investment analysis and appraisal, feasibility studies, costing and project management. As a member of the Assurance team, Mr. Tsirikos was part of the International Financial Reporting Standards, or IFRS, technical team of PwC Greece and lead numerous IFRS conversion projects for listed companies. He holds a Master's of Science in Shipping Trade and Finance from City University of London and a Bachelor's Degree with honors in Business Administration from Boston University in the United States. He speaks English, French and Greek.

Michael G. Docherty has served on our Board of Directors since July 2004. Mr. Docherty is a founding partner of Independent Average Adjusters Ltd., an insurance claims adjusting firm located in Athens, Greece, which he co-founded in 1997. Mr. Docherty has 25 years of international experience handling maritime insurance claims.

Roy Gibbs has served on our Board of Directors since July 2004. Mr. Gibbs has been the chief executive officer of Standard Chartered Grindlays Bank, Greece, formerly ANZ Grindlays, since 1992. From 1988 to 1992, Mr. Gibbs was the chief manager of domestic banking at ANZ Grindlays, London. Prior to that he was assistant director for property, construction and shipping at ANZ London. Mr. Gibbs joined National and Grindlays Bank in 1965.

Marios Hamboullas has served on our Board since September 2009. Mr. Hamboullas is the founder and Chairman of Astarti Development Public Company Ltd., a public company founded in 1979 and listed on the Cyprus Exchange (Symbol: AST) engaged in the hotel industry. Since 1968, Mr. Hamboullas has been a managing director of Kyriacos Hamboullas and Son Ltd., a family owned company with extensive interests in agriculture, trading and manufacturing. Mr. Hamboullas is also the Business Development Director of D.H. Cyprotels Plc, a Cypriot private company engaged in the hotel and tourism industry. Mr. Hamboullas also serves as a director of the following private companies: Hamboullas Financial Services Ltd. and Marham Investments Ltd. Mr. Hamboullas earned his M.A. degree in Law and Economics from Cambridge University U.K. and a post-graduate degree in European Politics and Economics from Strasbourg University in France. Mr. Hamboullas is a citizen of Cyprus and is fluent in Greek, English and French.

Yiannakis C. Economou has served on our Board since September 2009. Mr. Economou is a Managing Director of Hull Blyth Araouzos Limited, a company based in Cyprus which provides a wide variety of services in passenger and cargo transport by sea, land and air, including agency services for shipping, aviation, travel and tourism, customs clearance and freight forwarding. Since 1985, Mr. Economou has served as a Managing Director and Secretary of the company. Prior to joining Hull Blyth, Mr. Economou trained in shipping with Ellerman City Liners in Liverpool and London, England. Mr. Economou earned his Bachelor of Laws degree at the University of Athens. Since 1981, Mr. Economou has served on the Board of Directors of Associated Agencies Ltd. and United Stevedoring Company Limited. Mr. Economou for the third time serves as the President of the Cyprus Shipping Association. He is also a member of the Employers Association of Cyprus, Honorable Consul for Costa Rica in Cyprus, Secretary of the Consular Corps in Cyprus and was a past President of the Rotary Club of Famagusta. Mr. Economou is a citizen of Cyprus.

Captain Stavros Emmanuel has been the Chief Operating Officer of TOP Tanker Management since July 2004. He has 34 years experience in the shipping industry and expertise in operation and chartering issues. Prior to joining TOP Tanker Management, Captain Emmanuel served as General Manager of Primal Tankers Inc., where his responsibilities included chartering and operations management. Prior to joining Primal Tankers in 2000, Captain Emmanuel worked in various management capacities for Compass United Maritime. Captain Emmanuel obtained a Naval Officers degree from ASDEN Nautical Academy of Aspropyrgos, Greece and earned a Master Mariners degree in 1971.

Demetris P. Souroullas is Vice President of TOP SHIPS INC. and has been with our Company since 2007. Prior to joining the Company, and from 2001 onwards Mr. Souroullas held the positions of Chief Executive Officer for the Fleet of Admibros Shipmanagement Co. Ltd and Technical and General Manager of LMZ Transoil Shipmanagement S.A. Prior to that Mr. Souroullas worked with the Cyprus Bureau of Shipping where he started in 1988 as a Surveyor and left in 2001 as the Head of Classification. Mr. Souroullas holds a Masters degree in Naval Architecture from the University of Newcastle upon Tyne, and a Bachelors degree in Maritime Technology from the University of Wales Institute of Science and Technology.

Eirini Alexandropoulou has been our Secretary since August 2004. Mrs. Alexandropoulou's principal occupation for the past ten years is as a legal advisor providing legal services to ship management companies with respect to corporate and commercial as well as shipping and finance law issues in Greece. From 2001 to 2004, Mrs. Alexandropoulou served as a legal advisor to Eurocarriers SA, a ship manager. Most recently, from 2000 to 2001, Mrs. Alexandropoulou served as a legal advisor to Belize's ship registry office in Piraeus. Mrs. Alexandropoulou has been a member of the Athens Bar Association since 1997 and has a law degree from the Law Faculty of the University of Athens.

B. Compensation

During the fiscal year ended December 31, 2009, we paid to the members of our senior management and to our directors' aggregate compensation of \$6.5 million. We do not have a retirement plan for our officers or directors.

Equity Incentive Plan

In April 2005 the Board adopted the TOP SHIPS INC. 2005 Stock Incentive Plan, or the Plan, under which our officers, key employees and directors may be granted options to acquire common stock. A total of 1,000,000 shares of common stock were initially reserved for issuance under the Plan, which is administered by the Board. Since the Plan's inception, the number of shares of common stock reserved for issuance under the Plan has been increased to 12,000,000. The Plan also provides for the issuance of stock appreciation rights, dividend equivalent rights, restricted stock, unrestricted stock, restricted stock units, and performance shares at the discretion of our Board of Directors. The Plan expires 10 years from the date of its adoption. Please refer to Note 16 to the consolidated financial statements included in Item 18 describing grants under the Plan, which have occurred between April 2005 and January 2008.

On July 11, 2007, the Company increased the Plan's reserve by 1,000,000 shares

On January 22, 2008, the Company granted 197,560 shares of restricted common stock of the Company, pursuant to the Company's Plan. These shares were granted to two officers and employees and proportionally vest over a period of four years in equal annual installments with the following provisions: in the event of a change of control or termination of employment, shares immediately vest, with the exception of voluntary resignation or termination of employment for cause, in which event the shares are forfeited. The fair value of each share on the grant date was \$6.69.

On July 1, 2008, the Company increased the Plan's reserve by 1,000,000 shares and granted 500,000 shares to our CEO, and issued to Sovereign Holdings Inc., a company wholly-owned by our CEO. Of these shares, 125,000 vested on the grant date and the remainder of the shares vest over a period of three years in equal annual installments beginning one year from the grant date. However, as the shares granted to our CEO do not contain any future service vesting conditions, all such shares are considered vested shares on the grant date. The fair value of each share on the grant date was \$6.20.

On July 10, 2008, the Company granted 2,666 shares to one of our employees, such shares vested over a period of 6 months. The fair value of each share on the grant date was \$5.15.

On September 2, 2008, the Company granted 387,666 shares, of which 375,000 were granted to our non-executive directors and vest five years after the grant date. 10,000 of the shares were granted to one of our employees and vest proportionally over a period of three years in equal installments, commencing on the grant date. 2,666 of the shares were granted to another of our employees and vested over a period of 6 months. The fair value of each Share on the grant date was \$5.08.

On September 4, 2008, the Company increased the Plan's reserve by 2,000,000 shares and granted 1,472,438 shares to our CEO, Mr. Evangelos Pistiolis in lieu of cash compensation that would be owed to Mr. Pistiolis under his employment agreement with the Company, in the event of a change in control of the Company. These shares were issued to Sovereign Holdings Inc., a company wholly-owned by Mr. Pistiolis. The shares will vest in the event of a change in control of the Company, as defined in the employment agreement. The fair value of each share on the grant date was \$5.23.

On October 21, 2009, the Company granted to an officer 30,326 unrestricted common shares pursuant to the Plan. The shares vested immediately. The fair value of each share on the grant date was \$1.11.

On December 21, 2009, the Company increased the Plan's reserve by 1,500,000 shares and granted 150,000 restricted shares to each of the Company's two new non-executive directors pursuant to the Plan. The shares vest over a period of 5 years. The fair value of each share on the grant date was \$0.98.

On December 21, 2009, the Company granted 500,000 shares to our CEO, and issued to Sovereign Holdings Inc., a company wholly-owned by our CEO. The shares vest six months from the date of grant, with any unvested restricted stock vesting upon his termination from the Company for any reason (including resignation). However, as the shares granted to our CEO do not contain any future service vesting conditions, all such shares are considered vested shares on the grant date. The fair value of each share on the grant date was \$0.98.

On December 21, 2009, the Company granted 300,000 shares to our CFO, and issued to Puebla Investments Co, a company nominated by our CFO. One third of the shares vest immediately, and the remainder of the shares vest over a period of 2 years, with any unvested restricted stock vesting upon his termination from the Company for any reason other than resignation. The fair value of each share on the grant date was \$0.98.

On December 22, 2009, the Company increased the total number of shares of common stock of the Company with respect to which awards may be granted pursuant to the Plan, by 5,500,000 shares.

## C. Board Practices

### Committees of the Board of Directors

We have established an audit committee composed of three members, which pursuant to a written audit committee charter is responsible for reviewing our accounting controls and recommending to the Board of Directors, or the Board, the engagement of our outside auditors. Each member is an independent director under the corporate governance rules of the NASDAQ Global Select Market. The members of the audit committee are Messrs. Gibbs, Hamboullas and Economou. In June 2007, we established a compensation committee and a nominating and governance committee. Both committees are composed of three members, all of whom are independent directors. The compensation committee carries out the Board's responsibilities relating to compensation of the Company's executive and non-executive officers and provides such other guidance with respect to compensation matters as the Committee deems appropriate. The nominating and governance committee assists the Board in: (i) identifying, evaluating and making recommendations to the Board concerning individuals for selections as director nominees for the next annual meeting of stockholders or to otherwise fill Board vacancies; (ii) developing and recommending to the Board a set of corporate governance guidelines and principles applicable to the Company, and (iii) reviewing the overall corporate governance of the Company and recommending improvements to the Board from time to time.

The board has determined that Mr. Gibbs, whose biographical details are included elsewhere in this Item 6, chairman of our audit committee, qualifies as a financial expert and is considered to be independent under the corporate

governance rules of the NASDAQ Global Select Market.

D. Employees

During, 2007, 2008 and 2009 we had four employees, while our wholly-owned subsidiary, TOP Tanker Management, employed on average 82, 88 and 55 employees, respectively, all of whom are shore-based. TOP Tanker Management ensures that all seamen have the qualifications and licenses required to comply with international regulations and shipping conventions, and that our vessels employ experienced and competent personnel. As of December 31, 2007, 2008 and 2009, we also employed 560, 300 and 137 sea going employees, directly and indirectly through our sub-managers.

## E. Share Ownership

The common shares beneficially owned by our directors and senior managers and/or companies affiliated with these individuals are disclosed in "Item 7. Major Shareholders and Related Party Transactions".

## ITEM 7. MAJOR SHAREHOLDERS AND RELATED PARTY TRANSACTIONS

## A. Major Shareholders

The following table sets forth information regarding (i) the owners of more than five percent of our common stock that we are aware of and (ii) the total amount of capital stock owned by our officers and directors as of June 15, 2010. All of the shareholders, including the shareholders listed in this table, are entitled to one vote for each share of common stock held. The percentages below are calculated as of June 15, 2010.

Title of Class	Identity of Person or Group	Amount Owned	Percent of Class	
Common Stock, par value	Sphinx Investment Corp.*	4,133,333	12.56	%
\$.01 per share	Maryport Navigation Corp.*	4,133,333	12.56	%
	George Economou*	4,133,333	12.56	%
	QVT Financial LP**	2,132,709	6.48	%
	QVT Financial GP LLC**	2,132,709	6.48	%
	QVT Fund LP	1,873,365	5.69	%
	QVT Associates GP LLC**	2,132,709	6.48	%
	Kingdom Holdings Inc.***	1,065,393	3.23	%
	Sovereign Holdings****	3,326,564	10.11	%
	Evangelos Pistiolis*****	3,326,564	10.11	%
	Shares of Officers and directors other than Evangelos Pistiolis	965,920	2.93	%
	All officers and directors as a group	4,292,484	13.04	%

\*As of October 24, 2008. Sphinx Investment Corp., Maryport Navigation Corp. and Mr. Economou may constitute a "group" for reporting purposes of Rule 13d-5 promulgated under the Exchange Act.

\*\*As of December 18, 2009. QVT Financial LP, QVT Financial GP LLC, QVT Fund LP and QVT Associates GP LLC share beneficial ownership of the shares listed in this table.

\*\*\* A company owned primarily by adult relatives of our President, Chief Executive Officer, and Director, Evangelos Pistiolis.

\*\*\*\* A company that is wholly owned by Evangelos Pistiolis.

\*\*\*\*\* By virtue of the shares owned directly through Sovereign Holdings Inc.

## B. Related Party Transactions

For Related Party Transactions please refer to Note 5 to the consolidated financial statements included in Item 18.

Additionally, on May 12, 2010, our Board of Directors agreed to outsource all of the commercial and technical management of the Company's vessels to Central Mare Inc., or Central Mare, a related party controlled by the family of the Company's Chief Executive Officer, on a timeline to be determined by its executive officers in consideration of

the vessels' schedule. The Company has not yet executed a management agreement with Central Mare, but has already informed all relevant parties including banks and charterers of the impending change in management.

The management agreement is expected to have a duration of five years and to include management fees with currency conversion based on the U.S. Dollar/Euro exchange rate as of June 3, 2010 as follows: (i) a base management fee of Euro 650 or \$800 per vessel per day on time or spot charter and Euro 250 or \$308 per vessel per day on bareboat charter; (ii) a quarterly accounting fee of Euro 0.25 million or \$0.31 million; (iii) a quarterly financial reporting fee of Euro 0.08 million or \$0.10 million; (iv) a Sarbanes-Oxley compliance fee of Euro 100 or \$123 per vessel per day; (v) a commercial operation and freight collection services fee of Euro 90 or \$111 per vessel per day; (vi) a commission on all new hires of 1.25% and on existing hires a post fixture fee of 0.75%; and (vii) a 1% commission on the sale or purchase price of vessels upon sale or purchase. Central Mare shall also supervise crewing, although it will use third parties in order to access larger pools of crew.

C. Interests of Experts and Counsel.

Not applicable.

ITEM 8. FINANCIAL INFORMATION.

A. Consolidated Statements and Other Financial Information.

See Item 18.

Legal Proceedings

We have not been involved in any legal proceedings which may have, or have had, a significant effect on our business, financial position, results of operations or liquidity, nor are we aware of any proceedings that are pending or threatened which may have a significant effect on our business, financial position, results of operations or liquidity. From time to time, we may be subject to legal proceedings and claims in the ordinary course of business, principally personal injury and property casualty claims. We expect that these claims would be covered by insurance, subject to customary deductibles. Those claims, even if lacking merit, could result in the expenditure of significant financial and managerial resources.

Dividend Distribution Policy

The Company paid special dividends of \$15.00 per share and \$7.50 per share on March 27, 2006 and April 25, 2006, respectively. On April 6, 2006 our Board decided to discontinue the Company's policy of paying regular quarterly dividends. The declaration and payment of any future special dividends shall remain subject to the discretion of the Board and shall be based on general market and other conditions including the Company's earnings, financial strength and cash requirements and availability.

We are permitted to pay dividends under the loans so long as we are not in default of a loan covenant and if such dividend payment would not result in a default of a loan covenant.

B. Significant Changes.

Please refer to Note 22 to the consolidated financial statements included in Item 18.



## ITEM 9. THE OFFER AND LISTING.

## A. Offer and Listing Details.

## Price Range of Common Stock

The trading market for our common stock is the NASDAQ Global Select Market, on which the shares are listed under the symbol "TOPS". The following table sets forth the high and low closing prices for our common stock since our initial public offering of common stock at \$33.00 per share on July 23, 2004, as reported by the NASDAQ Global Select Market. The high and low closing prices for our common stock for the periods indicated were as follows:

	HIGH	LOW
For the Fiscal Year Ended December 31, 2009	\$3.52	\$0.77
For the Fiscal Year Ended December 31, 2008	\$10.62	\$1.40
For the Fiscal Year Ended December 31, 2007	\$25.2	\$9.09
For the Fiscal Year Ended December 31, 2006	\$54.96	\$13.83
For the Fiscal Year Ended December 31, 2005	\$66.00	\$36.81
	HIGH	LOW
For the Quarter Ended		
March 31, 2010	\$1.24	\$0.99
December 30, 2009	\$1.26	\$0.94
September 30, 2009	\$2.12	\$1.16
June 30, 2009	\$3.52	\$0.98
March 31, 2009	\$2.30	\$0.77
December 31, 2008	\$4.66	\$1.40
September 30, 2008	\$6.31	\$3.81
June 30, 2008	\$10.28	\$6.40
March 31, 2008	\$10.65	\$6.06
	HIGH	LOW
For the Month		
May 2010	\$1.22	\$1.02
April 2010	\$1.28	\$1.10
March 2010	\$1.14	\$1.05
February 2010	\$1.16	\$1.03
January 2010	\$1.24	\$0.99
December 2009	\$1.14	\$0.96

B. Plan of Distribution.

Not applicable

C. Markets.

Shares of our common stock trade on the NASDAQ Global Select Market under the symbol TOPS".

D. Selling Shareholders.

Not applicable.

E. Dilution.

Not applicable.

F. Expenses of the Issue.

Not applicable.

ITEM 10. ADDITIONAL INFORMATION

A. Share Capital

Not applicable.

B. Memorandum and Articles of Association

Our purpose is to engage in any lawful act or activity for which corporations may now or hereafter be organized under the Marshall Islands Business Corporations Act, or BCA. Our Amended and Restated Articles of Incorporation and Amended and Restated By-laws do not impose any limitations on the ownership rights of our shareholders.

Under our Amended and Restated By-laws, annual shareholder meetings will be held at a time and place selected by our Board of Directors. The meetings may be held in or outside of the Marshall Islands. Special meetings of the shareholders, unless otherwise prescribed by law, may be called for any purpose or purposes at any time exclusively by the Board of Directors. Notice of every annual and special meeting of shareholders shall be given at least 15 but not more than 60 days before such meeting to each shareholder of record entitled to vote thereat.

Directors. Our directors are elected by a plurality of the votes cast at a meeting of the shareholders by the holders of shares entitled to vote in the election. Our Amended and Restated Articles of Incorporation and Amended and Restated By-laws prohibit cumulative voting in the election of directors.

The Board of Directors must consist of at least one member and not more than twelve, as fixed from time to time by the vote of not less than 66 $\frac{2}{3}$ % of the entire board. Each director shall be elected to serve until the third succeeding annual meeting of shareholders and until his successor shall have been duly elected and qualified, except in the event of his death, resignation, removal, or the earlier termination of his term of office. The Board of Directors has the authority to fix the amounts which shall be payable to the members of our Board of Directors, and to members of any

committee, for attendance at any meeting or for services rendered to us.

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## Classified Board

Our Amended and Restated Articles of Incorporation provide for the division of our Board of Directors into three classes of directors, with each class as nearly equal in number as possible, serving staggered, three-year terms. Approximately one-third of our Board of Directors will be elected each year. This classified board provision could discourage a third party from making a tender offer for our shares or attempting to obtain control of our company. It could also delay shareholders who do not agree with the policies of the Board of Directors from removing a majority of the Board of Directors for two years.

## Election and Removal

Our Amended and Restated Articles of Incorporation and Amended and Restated by-laws require parties other than the Board of Directors to give advance written notice of nominations for the election of directors. Our Amended and Restated articles of incorporation provide that our directors may be removed only for cause and only upon the affirmative vote of the holders of at least 80% of the outstanding shares of our capital stock entitled to vote for those directors. These provisions may discourage, delay or prevent the removal of incumbent officers and directors.

**Dissenters' Rights of Appraisal and Payment.** Under the Business Corporation Act of the Republic of the Marshall Islands, or BCA, our shareholders have the right to dissent from various corporate actions, including any merger or sale of all or substantially all of our assets not made in the usual course of our business, and receive payment of the fair value of their shares. In the event of any further amendment of the articles, a shareholder also has the right to dissent and receive payment for his or her shares if the amendment alters certain rights in respect of those shares. The dissenting shareholder must follow the procedures set forth in the BCA to receive payment. In the event that, among other things, the institution of proceedings in the circuit court in the judicial circuit in the Marshall Islands in which our Marshall Islands office is situated. The value of the shares of the dissenting we and any dissenting shareholder fail to agree on a price for the shares, the BCA procedures involve shareholder is fixed by the court after reference, if the court so elects, to the recommendations of a court-appointed appraiser.

**Shareholders' Derivative Actions.** Under the BCA, any of our shareholders may bring an action in our name to procure a judgment in our favor, also known as a derivative action, provided that the shareholder bringing the action is a holder of common stock both at the time the derivative action is commenced and at the time of the transaction to which the action relates.

**Anti-takeover Provisions of our Charter Documents.** Several provisions of our Amended and Restated Articles of Incorporation and Amended and Restated by-laws may have anti-takeover effects. These provisions are intended to avoid costly takeover battles, lessen our vulnerability to a hostile change of control and enhance the ability of our Board of Directors to maximize shareholder value in connection with any unsolicited offer to acquire us. However, these anti-takeover provisions, which are summarized below, could also discourage, delay or prevent (1) the merger or acquisition of our company by means of a tender offer, a proxy contest or otherwise, that a shareholder may consider in its best interest and (2) the removal of incumbent officers and directors.

## Business Combinations

The Company's Amended and Restated Articles of Incorporation include provisions which prohibit the Company from engaging in a business combination with an interested shareholder for a period of three years after the date of the transaction in which the person became an interested shareholder, unless:

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prior to the date of the transaction that resulted in the shareholder becoming an interested shareholder, the Board approved either the business combination or the transaction that resulted in the shareholder becoming an interested shareholder;

upon consummation of the transaction that resulted in the shareholder becoming an interested shareholder, the interested shareholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced;

at or subsequent to the date of the transaction that resulted in the shareholder becoming an interested shareholder, the business combination is approved by the Board and authorized at an annual or special meeting of shareholders by the affirmative vote of at least 66 2/3% of the outstanding voting stock that is not owned by the interested shareholder; and

the shareholder became an interested shareholder prior to the consummation of the initial public offering.

#### Limited Actions by Shareholders

Our Amended and Restated Articles of Incorporation and our Amended and Restated By-laws provide that any action required or permitted to be taken by our shareholders must be effected at an annual or special meeting of shareholders or by the unanimous written consent of our shareholders.

Our Amended and Restated Articles of Incorporation and our Amended and Restated By-laws provide that only our Board of Directors may call special meetings of our shareholders and the business transacted at the special meeting is limited to the purposes stated in the notice. Accordingly, a shareholder may be prevented from calling a special meeting for shareholder consideration of a proposal over the opposition of our Board of Directors and shareholder consideration of a proposal may be delayed until the next annual meeting.

#### Blank Check Preferred Stock

Under the terms of our Amended and Restated Articles of Incorporation, our Board of Directors has authority, without any further vote or action by our shareholders, to issue up to 20,000,000 shares of blank check preferred stock. Our Board of Directors may issue shares of preferred stock on terms calculated to discourage, delay or prevent a change of control of our company or the removal of our management.

#### Super-majority Required for Certain Amendments to Our By-Laws

On February 28, 2007, we amended our by-laws to require that amendments to certain provisions of our by laws may be made when approved by a vote of not less than 66 2/3% of the entire Board of Directors. These provisions that require not less than 66 2/3% vote of the Board of Directors to be amended are provisions governing: the nature of business to be transacted at our annual meetings of shareholders, the calling of special meetings by our Board of Directors, any amendment to change the number of directors constituting our Board of Directors, the method by which our Board of Directors is elected, the nomination procedures of our Board of Directors, removal of our Board of Directors and the filling of vacancies on our Board of Directors.

#### C. Material Contracts

##### Long Term Debt

As of December 31, 2009 we had long term debt obligations under credit facilities with RBS, HSH, DVB, EMPORIKI, ALPHA BANK and CAPE MANUEL. For a full description of our credit facilities and related interest rate swaps, see "Item 5 – Operating and Financial Review and Prospects - Tabular Disclosure of Contractual Obligations – Long Term Debt" and "Item 11 – Quantitative and Qualitative Disclosures about Market Risk".



## Equity Offerings

On July 1, 2009, we entered into a Standby Equity Distribution Agreement, or the SEDA, with YA Global Master SPV LTD, or YA Global, pursuant to which we may offer and sell up to \$200 million worth of our common shares to YA Global. The SEDA has a duration of three years. We made initial sales under the SEDA on August 13, 2009 and as of December 31, 2009 2,230,000 shares had been sold with net proceeds amounting to approximately \$2.9 million. During the period from October 21, 2009 to the date of this report, no shares have been sold to YA Global under the SEDA.

## Office space lease

In January 2006, we entered into an agreement with an unrelated party to lease office space in Athens, Greece. The agreement is for a duration of 12 years beginning May 2006 with a lessee's option for an extension of 10 years.

In addition, our subsidiary TOP TANKERS (U.K.) LIMITED, leases office space in London, from an unrelated third party. The agreement is valid from June 2007 and shall continue until either party shall give to the other, one calendar month written notice.

In November 2009, TOP SHIPS INC. entered into a lease agreement for office space in London. The agreement is for the duration of one year from and including November 15, 2009 to and including November 14, 2010.

For a full description of the above mentioned agreements see "Item 5 – Operating and Financial Review and Prospects - Tabular Disclosure of Contractual Obligations – Operating Leases".

## Stockholders Rights Agreement

We entered into a Stockholders Rights Agreement with Computershare Investor Services, LLC, as Rights Agent, as of August 19, 2005. Under this Agreement, we declared a dividend payable of one right, or Right, to purchase one one-thousandth of a share of the Company's Series A Participating Preferred Stock for each outstanding share of TOP SHIPS INC. common stock, par value U.S.\$0.01 per share. The Rights will separate from the common stock and become exercisable after (1) the 10th day after public announcement that a person or group acquires ownership of 15% or more of the company's common stock or (2) the 10th business day (or such later date as determined by the company's Board of Directors) after a person or group announces a tender or exchange offer which would result in that person or group holding 15% or more of the company's common stock. On the distribution date, each holder of a right will be entitled to purchase for \$25 (the "Exercise Price") a fraction (1/1000th) of one share of the company's preferred stock which has similar economic terms as one share of common stock. If an acquiring person (an "Acquiring Person") acquires more than 15% of the company's common stock then each holder of a right (except that Acquiring Person) will be entitled to buy at the exercise price, a number of shares of the company's common stock which has a market value of twice the exercise price. If after an Acquiring Person acquires more than 15% of the company's common stock, the company merges into another company or the company sells more than 50% of its assets or earning power, then each holder of right (except for those owned by the acquirer) will be entitled to purchase at the Exercise Price, a number of shares of common stock of the surviving entity which has a then current market value of twice the Exercise Price. Any time after the date an Acquiring Person obtains more than 15% of the company's common stock and before that Acquiring Person acquires more than 50% of the company's outstanding common stock, the company may exchange each right owned by all other rights holders, in whole or in part, for one share of the company's common stock. The rights expire on the earliest of (1) August 31, 2015 or (2) the exchange or redemption of the rights as described above. The company can redeem the rights at any time on or prior to the earlier of a public announcement that a person has acquired ownership of 15% or more of the company's common stock, or the expiration date. The terms of the rights and the Stockholders Rights Agreement may be amended without the consent of the rights holders at any time on or prior to the Distribution Date. After the Distribution Date, the terms of

the rights and the Stockholders Rights Agreement may be amended to make changes that do not adversely affect the rights of the rights holders (other than the Acquiring Person). The rights do not have any voting rights. The rights have the benefit of certain customary anti-dilution protections.

We have no other material contracts, other than contracts entered into in the ordinary course of business, to which we are a party

D. Exchange controls

The Marshall Islands imposes no exchange controls on non-resident corporations.

E. Taxation.

The following is a discussion of the material Marshall Islands and United States federal income tax considerations relevant to an investment decision by a U.S. Holder and a non U.S. Holder, each as defined below, with respect to the common stock. This discussion does not purport to deal with the tax consequences of owning common stock to all categories of investors, some of which, such as dealers in securities and investors whose functional currency is not the U.S. Dollar, may be subject to special rules. You are encouraged to consult your own tax advisors concerning the overall tax consequences arising in your own particular situation under United States federal, state, local or foreign law of the ownership of common stock.

Marshall Islands Tax Consequences

We are incorporated in the Republic of the Marshall Islands. Under current Marshall Islands law, we are not subject to tax on income or capital gains, and no Marshall Islands withholding tax will be imposed upon payments of dividends by us to our shareholders.

United States Federal Income Tax Consequences

The following are the material United States federal income tax consequences to us of our activities and to U.S. Holders and non U.S. Holders, each as defined below, of our common stock. The following discussion of United States federal income tax matters is based on the Code, judicial decisions, administrative pronouncements, and existing and proposed regulations issued by the United States Department of the Treasury, all of which are subject to change, possibly with retroactive effect. Treasury Regulations interpreting Code Section 883 became effective on January 1, 2005 for calendar year taxpayers such as ourselves and our subsidiaries. The discussion below is based, in part, on the description of our business as described in "Business" above and assumes that we conduct our business as described in that section. Except as otherwise noted, this discussion is based on the assumption that we will not maintain an office or other fixed place of business within the United States. References in the following discussion to "we" and "us" are to TOP SHIPS INC. and its subsidiaries on a consolidated basis.

United States Federal Income Taxation of Our Company

Taxation of Operating Income: In General

Unless exempt from United States federal income taxation under the rules discussed below, a foreign corporation is subject to United States federal income taxation in respect of any income that is derived from the use of vessels, from the hiring or leasing of vessels for use on a time, voyage or bareboat charter basis, from the participation in a pool, partnership, strategic alliance, joint operating agreement, code sharing arrangements or other joint venture it directly or indirectly owns or participates in that generates such income, or from the performance of services directly related to those uses, which we refer to as "shipping income," to the extent that the shipping income is derived from sources within the United States. For these purposes, 50% of shipping income that is attributable to transportation that begins or ends, but that does not both begin and end, in the United States constitutes income from sources within the United

States, which we refer to as "U.S.-source shipping income."

Shipping income attributable to transportation that both begins and ends in the United States is considered to be 100% from sources within the United States. We are not permitted by law to engage in transportation that produces income which is considered to be 100% from sources within the United States.

Shipping income attributable to transportation exclusively between non-U.S. ports will be considered to be 100% derived from sources outside the United States. Shipping income derived from sources outside the United States will not be subject to any United States Federal income tax.

In the absence of exemption from tax under Section 883, our gross U.S. source shipping income would be subject to a 4% tax imposed without allowance for deductions as described below.

#### Exemption of Operating Income from United States Federal Income Taxation

Under Section 883 of the Code and the regulations there under, we will be exempt from United States federal income taxation on our U.S.-source shipping income if:

- (1) we are organized in a foreign country, or our country of organization, that grants an "equivalent exemption" to corporations organized in the United States; and
- (2) either
  - (A) more than 50% of the value of our stock is owned, directly or indirectly, by individuals who are "residents" of our country of organization or of another foreign country that grants an "equivalent exemption" to corporations organized in the United States, which we refer to as the "50% Ownership Test," or
  - (B) our stock is "primarily and regularly traded on an established securities market" in our country of organization, in another country that grants an "equivalent exemption" to United States corporations, or in the United States, which we refer to as the "Publicly-Traded Test".

The Marshall Islands, Cyprus and Liberia, the jurisdictions where our ship-owning subsidiaries are incorporated, each grant an "equivalent exemption" to United States corporations. Therefore, we will be exempt from United States federal income taxation with respect to our U.S.-source shipping income if either the 50% Ownership Test or the Publicly-Traded Test is met.

The regulations provide, in pertinent part, that stock of a foreign corporation will be considered to be "primarily traded" on an established securities market if the number of shares of each class of stock that are traded during any taxable year on all established securities markets in that country exceeds the number of shares in each such class that are traded during that year on established securities markets in any other single country. Our common stock, which is our sole class of issued and outstanding stock, is and we anticipate will continue to be "primarily traded" on the NASDAQ Global Select Market.

Under the regulations, our common stock will be considered to be "regularly traded" on an established securities market if one or more classes of our stock representing more than 50% of our outstanding shares, by total combined voting power of all classes of stock entitled to vote and total value, is listed on the market which we refer to as the listing threshold. Since our common stock, our sole class of stock, is listed on the NASDAQ Global Select Market, we will satisfy the listing requirement.

It is further required that with respect to each class of stock relied upon to meet the listing threshold, (i) such class of stock be traded on the market, other than in minimal quantities, on at least 60 days during the taxable year or one-sixth of the days in a short taxable year; and (ii) the aggregate number of shares of such class of stock traded on such market is at least 10% of the average number of shares of such class of stock outstanding during such year or as appropriately adjusted in the case of a short taxable year. We believe we will satisfy the trading frequency and trading volume tests. Even if this were not the case, the regulations provide that the trading frequency and trading volume tests will be deemed satisfied if, as is the case with our common stock, such class of stock is traded on an established market in the United States and such stock is regularly quoted by dealers making a market in such stock.



Notwithstanding the foregoing, the regulations provide, in pertinent part, that each class of our stock will not be considered to be "regularly traded" on an established securities market for any taxable year in which 50% or more of each class of our outstanding shares of the stock are owned, actually or constructively under specified stock attribution rules, on more than half the days during the taxable year by persons who each own 5% or more of the value of each class of our outstanding stock, which we refer to as the "5 Percent Override Rule."

For purposes of being able to determine the persons who own 5% or more of our stock, or "5% Shareholders," the regulations permit us to rely on those persons that are identified on Schedule 13G and Schedule 13D filings with the SEC, as having a 5% or more beneficial interest in our common stock. The regulations further provide that an investment company identified on a SEC Schedule 13G or Schedule 13D filing which is registered under the Investment Company Act of 1940, as amended, will not be treated as a 5% shareholder for such purposes.

In the event the 5 Percent Override Rule is triggered, the regulations provide that the 5 Percent Override Rule will not apply if we can establish that among the closely-held group of 5% Shareholders, there are sufficient 5% Shareholders that are considered to be qualified shareholders for purposes of Section 883 to preclude non-qualified 5% Shareholders in the closely-held group from owning 50% or more of each class of our stock for more than half the number of days during such year.

We believe that we currently satisfy the Publicly-Traded Test and are not subject to the 5 Percent Override Rule and we will take this position for U.S. federal income tax reporting purposes. However, there are factual circumstances beyond our control which could cause us to lose the benefit of this exemption.

#### Taxation in the Absence of Code Section 883 Exemption

To the extent the benefits of Code Section 883 are unavailable, our U.S. source shipping income, to the extent not considered to be "effectively connected" with the conduct of a U.S. trade or business, as described below, would be subject to a 4% tax imposed by Section 887 of the Code on a gross basis, without the benefit of deductions. Since under the sourcing rules described above, no more than 50% of our shipping income would be treated as being derived from U.S. sources, the maximum effective rate of U.S. federal income tax on our shipping income would never exceed 2% under the 4% gross basis tax regime.

To the extent the benefits of the Code Section 883 exemption are unavailable and our U.S. source shipping income is considered to be "effectively connected" with the conduct of a U.S. trade or business, as described below, any such "effectively connected" U.S. source shipping income, net of applicable deductions, would be subject to the U.S. federal corporate income tax currently imposed at rates of up to 35%. In addition, we may be subject to the 30% "branch profits" taxes on earnings effectively connected with the conduct of such trade or business, as determined after allowance for certain adjustments, and on certain interest paid or deemed paid attributable to the conduct of its U.S. trade or business.

Our U.S. source shipping income would be considered "effectively connected" with the conduct of a U.S. trade or business only if:

- We have, or are considered to have, a fixed place of business in the United States involved in the earning of shipping income; and

- substantially all of our U.S. source shipping income is attributable to regularly scheduled transportation, such as the operation of a vessel that follows a published schedule with repeated sailings at regular intervals between the same points for voyages that begin or end in the United States.

We do not have currently or intend to have, or permit circumstances that would result in having any vessel operating to the United States on a regularly scheduled basis. Based on the foregoing and on the expected mode of our shipping operations and other activities, we believe that none of our U.S. source shipping income will be "effectively connected" with the conduct of a U.S. trade or business.

#### United States Taxation of Gain on Sale of Vessels

Regardless of whether we qualify for exemption under Code Section 883, we will not be subject to United States federal income taxation with respect to gain realized on a sale of a vessel, provided the sale is considered to occur outside of the United States under United States federal income tax principles. In general, a sale of a vessel will be considered to occur outside of the United States for this purpose if title to the vessel, and risk of loss with respect to the vessel, pass to the buyer outside of the United States. It is expected that any sale of a vessel by us will be considered to occur outside of the United States.

## United States Federal Income Taxation of U.S. Holders

As used herein, the term "U.S. Holder" means a beneficial owner of our common stock that

is a United States citizen or resident, United States corporation or other United States entity taxable as a corporation, an estate the income of which is subject to United States federal income taxation regardless of its source, or a trust if a court within the United States is able to exercise primary jurisdiction over the administration of the trust and one or more United States persons have the authority to control all substantial decisions of the trust,

owns the common stock as a capital asset, generally, for investment purposes, and

owns less than 10% of our common stock for United States federal income tax purposes.

If a partnership holds our common stock, the tax treatment of a partner will generally depend upon the status of the partner and upon the activities of the partnership. If you are a partner in a partnership holding our common stock, you are encouraged to consult your tax advisor.

## Distributions

Subject to the discussion of passive foreign investment companies below, any distributions made by us with respect to our common stock to a U.S. Holder will generally constitute dividends to the extent of our current or accumulated earnings and profits, as determined under United States federal income tax principles. Distributions in excess of such earnings and profits will be treated first as a nontaxable return of capital to the extent of the U.S. Holder's tax basis in his common stock on a dollar-for-dollar basis and thereafter as capital gain. Because we are not a United States corporation, U.S. Holders that are corporations will not be entitled to claim a dividends received deduction with respect to any distributions they receive from us. Dividends paid with respect to our common stock will generally be treated as "passive category income" for purposes of computing allowable foreign tax credits for United States foreign tax credit purposes.

Dividends paid on our common stock to a U.S. Holder who is an individual, trust or estate (a "U.S. Non-Corporate Holder") will generally be treated as "qualified dividend income" that is taxable to such U.S. Non-Corporate Holder at preferential tax rates (through 2010) provided that (1) the common stock is readily tradable on an established securities market in the United States (such as the Nasdaq Global Select Market on which our common stock is traded); (2) we are not a passive foreign investment company for the taxable year during which the dividend is paid or the immediately preceding taxable year (as discussed in more detail below); (3) the U.S. Non-Corporate Holder has owned the common stock for more than 60 days in the 121-day period beginning 60 days before the date on which the common stock becomes ex-dividend; and (4) the U.S. Non-Corporate Holder is not under an obligation to make related payments with respect to positions in substantially similar or related property.

As discussed below, we expect to be treated as a passive foreign investment company, or PFIC, for its 2009 taxable year. Assuming this is the case, any dividends paid by us during 2009 and 2010 will not be treated as "qualified dividend income" in the hands of a U.S. Non-Corporate Holder. There can be no assurance that any dividends paid on our common stock will be eligible for these preferential rates in the hands of a U.S. Non-Corporate Holder. Legislation has been previously introduced in the United States Congress which, if enacted in its present form, would preclude our dividends from qualifying for such preferential rates prospectively from the date of enactment, even if the we are not treated as a PFIC. Any dividends out of earnings and profits we pay which are not eligible for these preferential rates will be taxed as ordinary income to a U.S. Non-Corporate Holder. Further, in the absence of legislation extending the term of the preferential tax rates for qualified dividend income, all dividends

received by a taxpayer in tax years beginning on January 1, 2011 or later will be taxed at ordinary graduated tax rates.

Special rules may apply to any "extraordinary dividend"—generally, a dividend in an amount which is equal to or in excess of 10% of a shareholder's adjusted basis in a common share—paid by us. If we pay an "extraordinary dividend" on our common stock that is treated as "qualified dividend income," then any loss derived by a U.S. Non-Corporate Holder from the sale or exchange of such common stock will be treated as long-term capital loss to the extent of such dividend.

#### Sale, Exchange or other Disposition of Common Stock

Assuming we do not constitute a passive foreign investment company for any taxable year, a U.S. Holder generally will recognize taxable gain or loss upon a sale, exchange or other disposition of our common stock in an amount equal to the difference between the amount realized by the U.S. Holder from such sale, exchange or other disposition and the U.S. Holder's tax basis in such stock. Such gain or loss will be treated as long-term capital gain or loss if the U.S. Holder's holding period is greater than one year at the time of the sale, exchange or other disposition. Such capital gain or loss will generally be treated as U.S.-source income or loss, as applicable, for U.S. foreign tax credit purposes. A U.S. Holder's ability to deduct capital losses is subject to certain limitations.

## Passive Foreign Investment Company Status and Significant Tax Consequences

Special United States federal income tax rules apply to a U.S. Holder that holds stock in a foreign corporation classified as a passive foreign investment company for United States federal income tax purposes. In general, we will be treated as a passive foreign investment company with respect to a U.S. Holder if, for any taxable year in which such holder held our common stock, either

at least 75% of our gross income for such taxable year consists of passive income (e.g., dividends, interest, capital gains and rents derived other than in the active conduct of a rental business), or

at least 50% of the average value of the assets held by the corporation during such taxable year produce, or are held for the production of, passive income.

For purposes of determining whether we are a passive foreign investment company, we will be treated as earning and owning our proportionate share of the income and assets, respectively, of any of our subsidiary corporations in which we own at least 25 percent of the value of the subsidiary's stock. Income earned, or deemed earned, by us in connection with the performance of services would not constitute passive income. By contrast, rental income would generally constitute "passive income" unless we were treated under specific rules as deriving our rental income in the active conduct of a trade or business.

In general, income derived from the bareboat charter of a vessel will be treated as "passive income" for this purpose and such vessels will be treated as assets which produce "passive income." On the other hand, income derived from the time charter of a vessel will not be treated as "passive income," but rather will be treated as services income; likewise, time chartered vessels will generally not be treated as assets which produce "passive income."

For its 2009 taxable year, at least 50% of the average value of our assets consisted of vessels which were bareboat chartered. Therefore, we believe that were we treated as a PFIC for our 2009 taxable year. We intend to take necessary steps in order to avoid being classified as a PFIC for 2010 and future taxable years, such as expanding its fleet through the purchase of non-passive income producing assets. However, there can be no assurance that such remedial measures will be effective to avoid PFIC status for 2010 or any future taxable year.

If we are a PFIC, then a U.S. Holder will be treated as owning his proportionate share of the stock of any of our subsidiaries which is a PFIC. We expect that certain of our subsidiaries were PFICs in 2009 and therefore a U.S. Holder will be treated as owning shares in such PFICs. The PFIC rules discussed below will apply on a company-by-company basis to us and each of our subsidiaries which is treated as a PFIC.

Assuming we are a PFIC, a U.S. Holder will be subject to different taxation rules depending on whether the U.S. Holder (1) makes an election to treat us as a "Qualified Electing Fund," which is referred to as a "QEF election," (2) makes a "mark-to-market" election with respect to our common stock, or (3) makes no election and therefore is subject to the Default PFIC Regime (as defined below). As discussed in detail below, making a QEF election or a mark-to-market election generally will mitigate the otherwise adverse United States federal income tax consequences under the Default PFIC Regime. However, the mark-to-market election may not be possible with respect to our subsidiaries which are treated as PFICs. In addition, if we were to be treated as a PFIC for any taxable year after 2010, a U.S. Holder would be required to file an annual report with the IRS for that year with respect to such holder's common stock.

## Taxation of U.S. Holders Making a Timely QEF Election

**Making the Election.** A U.S. Holder would make a QEF election with respect to any year that we are a PFIC by filing IRS Form 8621 with his United States federal income tax return. A separate QEF election will need to be made with respect to us and each of our subsidiaries that is treated as a PFIC. We intend to annually provide each U.S. Holder with all necessary information in order to make and maintain a QEF election with respect to us and each of our subsidiaries that is treated as a PFIC. A U.S. Holder who makes a QEF election for the first taxable year in which he owns common stock and we are treated as a PFIC, or an Electing Holder, will not be subject to the Default PFIC Regime (as defined below) for any taxable year. A U.S. Holder who does not make a timely QEF election would be subject the Default PFIC Regime for taxable years during his holding period in which a QEF election was not in effect, unless such U.S. Holder makes a special "purging" election. A U.S. Holder who does not make a timely QEF election is encouraged to consult such U.S. Holder's tax advisor regarding the availability of such purging election.

**Current Taxation and Dividends.** An Electing Holder must report each year for United States federal income tax purposes his pro rata share of our ordinary earnings and our net capital gain, if any, for our taxable year that ends with or within the taxable year of the Electing Holder, regardless of whether or not distributions were received from us by the Electing Holder. An Electing Holder's adjusted tax basis in his common stock will be increased to reflect any amounts currently included in income under the QEF rules. Distributions of earnings and profits that had been previously included in income will result in a corresponding reduction in the adjusted tax basis in the common stock and will not be taxed again once distributed. Any other distributions generally will be treated as discussed above under "Tax Considerations – United States Federal Income Taxation of U.S. Holders – Distributions." Income inclusions under the QEF rules described above generally should be treated as foreign-source income for United States foreign tax credit limitation purposes, but Electing Holders should consult their tax advisors in this regard.

**Sale, Exchange or Other Disposition.** An Electing Holder would generally recognize capital gain or loss on the sale, exchange, or other disposition of the common stock in an amount equal to the excess of the amount realized on such disposition over the Electing Holder's adjusted tax basis in the common stock. Such gain or loss will be treated as long-term capital gain or loss if the Electing Holder's holding period in the common stock is greater than one year at the time of the sale, exchange or other disposition. Long-term capital gains of United States Individual Holders currently are taxable at a maximum rate of 15%. An Electing Holder's ability to deduct capital losses is subject to certain limitations. Any gain or loss generally will be treated as United States-source gain or loss for United States foreign tax credit limitation purposes.

#### Taxation of U.S. Holders Making a "Mark-to-Market" Election

**Making the Election.** Alternatively, if, as is anticipated, the common stock is treated as "marketable stock," a U.S. Holder would be allowed to make a "mark-to-market" election with respect to the common stock, provided the U.S. Holder completes and files IRS Form 8621 in accordance with the relevant instructions and related Treasury Regulations. The common stock will be treated as "marketable stock" for this purpose if it is "regularly traded" on a "qualified exchange or other market." The common stock will be "regularly traded" on a qualified exchange or other market for any calendar year during which it is traded (other than in de minimis quantities) on at least 15 days during each calendar quarter. A "qualified exchange or other market" means either a United States national securities exchange that is registered with the SEC, the NASDAQ, or a foreign securities exchange that is regulated or supervised by a governmental authority of the country in which the market is located and which satisfies certain regulatory and other requirements. We believe that the Nasdaq Global Select Market should be treated as a "qualified exchange or other market" for this purpose. However, it should be noted that a separate mark-to-market election would need to be made with respect to each of our subsidiaries which is treated as a PFIC. The stock of these subsidiaries is not expected to be "marketable stock." Therefore, a "mark-to-market" election is not expected to be available with respect to these subsidiaries.

**Current Taxation and Dividends.** If the "mark-to-market" election is made, the U.S. Holder generally would include as ordinary income in each taxable year the excess, if any, of the fair market value of the common stock at the end of the taxable year over such U.S. Holder's adjusted tax basis in the common stock. The U.S. Holder would also be permitted an ordinary loss in respect of the excess, if any, of the U.S. Holder's adjusted tax basis in its common stock over its fair market value at the end of the taxable year, but only to the extent of the net amount previously included in income as a result of the mark-to-market election. Any income inclusion or loss under the preceding rules should be treated as gain or loss from the sale of common stock for purposes of determining the source of the income or loss. Accordingly, any such gain or loss generally should be treated as United States-source income or loss for United States foreign tax credit limitation purposes. A U.S. Holder's tax basis in his common stock would be adjusted to reflect any such income or loss amount. Distributions by us to a U.S. Holder who has made a mark-to-market election generally will be treated as discussed above under "Tax Considerations – United States Federal Income Taxation of

U.S. Holders – Distributions."

Sale, Exchange or Other Disposition. Gain realized on the sale, exchange, redemption or other disposition of the common stock would be treated as ordinary income, and any loss realized on the sale, exchange, redemption or other disposition of the common stock would be treated as ordinary loss to the extent that such loss does not exceed the net mark-to-market gains previously included in income by the U.S. Holder. Any loss in excess of such previous inclusions would be treated as a capital loss by the U.S. Holder. A U.S. Holder's ability to deduct capital losses is subject to certain limitations. Any such gain or loss generally should be treated as United States-source income or loss for United States foreign tax credit limitation purposes.

Taxation of U.S. Holders Not Making a Timely QEF or Mark-to-Market Election

Finally, a U.S. Holder who does not make either a QEF election or a "mark-to-market" election, or a Non-Electing Holder, would be subject to special rules, or the Default PFIC Regime, with respect to (1) any excess distribution (i.e., the portion of any distributions received by the Non-Electing Holder on the common stock in a taxable year in excess of 125% of the average annual distributions received by the Non-Electing Holder in the three preceding taxable years, or, if shorter, the Non-Electing Holder's holding period for the common stock), and (2) any gain realized on the sale, exchange, redemption or other disposition of the common stock.

Under the Default PFIC Regime:

- the excess distribution or gain would be allocated ratably over the Non-Electing Holder's aggregate holding period for the common stock;
- the amount allocated to the current taxable year and any taxable year before we became a PFIC would be taxed as ordinary income; and
- the amount allocated to each of the other taxable years would be subject to tax at the highest rate of tax in effect for the applicable class of taxpayer for that year, and an interest charge for the deemed deferral benefit would be imposed with respect to the resulting tax attributable to each such other taxable year.

Any distributions other than "excess distributions," by us to a Non-Electing Holder will be treated as discussed above under "Tax Considerations – United States Federal Income Taxation of U.S. Holders – Distributions."

These penalties would not apply to a pension or profit sharing trust or other tax-exempt organization that did not borrow funds or otherwise utilize leverage in connection with its acquisition of the common stock. If a Non-Electing Holder who is an individual dies while owning the common stock, such Non-Electing Holder's successor generally would not receive a step-up in tax basis with respect to the common stock.

#### United States Federal Income Taxation of "Non-U.S. Holders"

A beneficial owner of common stock that is not a U.S. Holder is referred to herein as a "Non-U.S. Holder."

#### Dividends on Common Stock

Non-U.S. Holders generally will not be subject to United States federal income tax or withholding tax on dividends received from us with respect to our common stock, unless that income is effectively connected with the Non-U.S. Holder's conduct of a trade or business in the United States. If the Non-U.S. Holder is entitled to the benefits of a United States income tax treaty with respect to those dividends, that income is taxable only if it is attributable to a permanent establishment maintained by the Non-U.S. Holder in the United States.

#### Sale, Exchange or Other Disposition of Common Stock

Non-U.S. Holders generally will not be subject to United States federal income tax or withholding tax on any gain realized upon the sale, exchange or other disposition of our common stock, unless:

- the gain is effectively connected with the Non-U.S. Holder's conduct of a trade or business in the United States. If the Non-U.S. Holder is entitled to the benefits of an income tax treaty with respect to that gain, that gain is taxable only if it is attributable to a permanent establishment maintained by the Non-U.S. Holder in the United States; or
- the Non-U.S. Holder is an individual who is present in the United States for 183 days or more during the taxable year of disposition and other conditions are met.

If the Non-U.S. Holder is engaged in a United States trade or business for United States federal income tax purposes, the income from the common stock, including dividends and the gain from the sale, exchange or other disposition of the stock that is effectively connected with the conduct of that trade or business will generally be subject to regular United States federal income tax in the same manner as discussed in the previous section relating to the taxation of

U.S. Holders. In addition, if you are a corporate Non-U.S. Holder, your earnings and profits that are attributable to the effectively connected income, which are subject to certain adjustments, may be subject to an additional branch profits tax at a rate of 30%, or at a lower rate as may be specified by an applicable income tax treaty.

#### Backup Withholding and Information Reporting

In general, dividend payments, or other taxable distributions, made within the United States to you will be subject to information reporting requirements. In addition, such payments will be subject to backup withholding tax if you are a non-corporate U.S. Holder and you:

- fail to provide an accurate taxpayer identification number;

are notified by the Internal Revenue Service that you have failed to report all interest or dividends required to be shown on your federal income tax returns; or

in certain circumstances, fail to comply with applicable certification requirements.

Non-U.S. Holders may be required to establish their exemption from information reporting and backup withholding by certifying their status on IRS Form W-8BEN, W-8ECI or W-8IMY, as applicable.

If you sell your common stock to or through a United States office or broker, the payment of the proceeds is subject to both United States backup withholding and information reporting unless you certify that you are a non-U.S. person, under penalties of perjury, or you otherwise establish an exemption. If you sell your common stock through a non-United States office of a non-United States broker and the sales proceeds are paid to you outside the United States then information reporting and backup withholding generally will not apply to that payment. However, United States information reporting requirements, but not backup withholding, will apply to a payment of sales proceeds, even if that payment is made to you outside the United States, if you sell your common stock through a non-United States office of a broker that is a United States person or has some other contacts with the United States. Backup withholding tax is not an additional tax. Rather, you generally may obtain a refund of any amounts withheld under backup withholding rules that exceed your income tax liability by filing a refund claim with the Internal Revenue Service.

F. Dividends and Paying Agents

Not applicable.

G. Statement by Experts

Not applicable.

H. Documents on Display

We file annual reports and other information with the SEC. You may read and copy any document we file with the SEC at its public reference room at 100 F Street, N.E., Room 1580, Washington, D.C. 20549. You may also obtain copies of this information by mail from the public reference section of the SEC, 100 F Street, N.E., Room 1580, Washington, D.C. 20549, at prescribed rates. Please call the SEC at 1-800-SEC-0330 for further information on the operation of the public reference room. Our SEC filings are also available to the public at the web site maintained by the SEC at <http://www.sec.gov>, as well as on our website at <http://www.topships.org>

I. Subsidiary Information

Not applicable.

ITEM 11. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Our risk management policy

Our primary market risks relate to adverse movements in freight rates in the product tanker market and in the Handymax and Panamax sectors of the drybulk market. In 2008, we began to implement our strategy of entering into long term period charters (either time or bareboat). As of the date of this annual report, all of our vessels are on long term period charters with duration of more than one year except for one of our tankers is on a period charter with a duration of less than one year, and therefore we believe we have mitigated this market risk until the expiration of each

charter.

Our policy is to continuously monitor our exposure to other business risks, including the impact of changes in interest rates, currency rates, and bunker prices on earnings and cash flows. We assess these risks and, when appropriate, enter into derivative contracts with credit-worthy counter parties to minimize our exposure to the risks. With regard to bunker prices, as our employment policy for our vessels has been and is expected to continue to be with a high percentage of our fleet on period employment, we are not directly exposed with respect to those vessels to increases in bunker fuel prices, as these are the responsibility of the charterer under period charter arrangements.

#### Interest rate risk

We are subject to market risks relating to changes in interest rates because we have floating rate debt outstanding under our loan agreements on which we pay interest based on LIBOR, or cost of funds for certain banks, plus a margin. In order to manage our exposure to changes in interest rates due to this floating rate indebtedness, we enter into interest rate swap agreements. Set forth below is a table of our interest rate swap arrangements as of December 31, 2008 and 2009 (in thousands of U.S. Dollars).

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Counterparty	SWAP Number (Nr)	Notional Amount December 31, 2009	Period	Effective Date	Interest Rate Payable	Fair Value - Asset (Liability)	
						December 31, 2008	December 31, 2009
RBS	1		4 years	June 30, 2005	4.66	% \$(270 )	-
SHS				December 12,			
NORDBANK	2	\$9,923	2 years	2008	4.80	% \$(701 )	\$(444 )
SHS				December 12,			
NORDBANK	3	\$9,923	2 years	2008	4.80	% \$(701 )	\$(444 )
SHS				December 12,			
NORDBANK	4	\$9,923	2 years	2008	4.80	% \$(701 )	\$(444 )
				September 30,			
RBS	5	\$10,000	7 years	2006	4.23	% \$(1,852 )	\$(907 )
				September 30,			
RBS	6	\$10,000	7 years	2006	4.11	% \$(1,812 )	\$(869 )
EGNATIA	7	\$10,000	7 years	July 3, 2006	4.76	% \$(1,650 )	\$(1,090 )
SHS							
NORDBANK	8	\$11,938	5 years	March 27, 2008	4.60	% \$(732 )	\$(620 )
SHS							
NORDBANK	9	\$6,798	5 years	March 27, 2008	4.60	% \$(468 )	\$(320 )
EMPORIKI	10	\$20,000	7 years	May 15, 2008	10.85	% \$(3,944 )	\$(5,975 )
SHS							
NORDBANK	11	\$12,345	7 years	July 15, 2008	5.55	% \$(2,344 )	\$(1,316 )
SHS							
NORDBANK	12	\$15,108	4 years	June 28, 2010	4.73	% \$(1,263 )	\$(921 )
				March, 19,			
DVB	13	\$32,695	3 years	2009	2.095	% -	\$(453 )
						\$(16,438 )	\$(13,803 )

SWAP Nr 1 - This SWAP agreement expired during May 2009.

SWAPS Nr 2, 3, 4, 12, 13 - Under these SWAP agreements, we pay a fixed rate and we receive variable three month LIBOR.

SWAPS Nr 5, 6 - Under these SWAP agreements, for the first year (2006-2007) we paid RBS a fixed rate of 4.23% and 4.11% respectively. From the second year onwards we pay a fixed rate of 4.23% and 4.11% respectively plus a coupon equal to three times the difference between 0.08% and the difference of the 10 year U.S. Dollar swap rate and the two year U.S. Dollar swap rate for the payment period (quarter) in question, plus the coupon of the previous payment period (quarter). The coupon of the previous payment period is essentially the same formula calculated for the previous payment period (quarter). The coupon payments are capped at 10.25%. We receive from RBS variable three month LIBOR.

SWAP Nr 7 - Under this SWAP agreement, we paid Egnatia a fixed rate of 4.70% for the first payment period (quarter) in 2006. From the second quarter onwards we pay a fixed rate of 4.70% plus a coupon equal to three times the difference between 0.05% and the difference of the 10 year U.S. Dollar swap rate and the two year U.S. Dollar swap rate for the payment period (quarter) in question, plus the coupon of the previous payment period (quarter). The coupon of the previous payment period is essentially the same formula calculated for the previous payment period (quarter). The coupon payment is capped at 8.80%. We receive from Egnatia variable three month LIBOR.

SWAPS Nr 8, 9 – Under these SWAP agreements, we pay a fixed rate of the three-month U.S. Dollar LIBOR multiplied with the factor 0.95 per annum if the three month U.S. Dollar LIBOR is between 1.50% and 4.84%. In case the U.S. Dollar LIBOR is lower than 1.50% or higher 4.84%, we will pay a fixed rate of 4.60% per annum for that period. We receive from HSH Nordbank variable three month LIBOR.

SWAP Nr 10 – Under this SWAP agreement, we received an upfront amount of \$1.5 million. During the first year, we received a fixed rate of 5.25% and paid a fixed rate of 5.50%. From the second year, we receive quarterly a fixed rate of 5.25% and we pay a rate of 5.10%, if either of two conditions are met: i) the difference between the 10 year Euro swap rate and the 2 year Euro swap rate is greater or equal than -0.15% and ii) the six month USD LIBOR is between 1.00% and 6.00%. Otherwise, we pay 10.85% less 5.75% multiplied by a cushion consisting of the number of days that either of the above two conditions are not met, divided by the total number of days of the period multiplied by the previous quarter's cushion. The first cushion, as of the end of the first year, was set to 1. During the third and fourth quarter of 2009, the six month USD LIBOR has been consistently below 1% and the cushion has become zero. As a result we will be paying 10.85% until the instrument's maturity date.

SWAP Nr 11 - Under this SWAP agreement, we receive the three month LIBOR and pay 5.55%, less 2.5% multiplied by the quotient of the number of days the three month LIBOR and the 10 year swap rate falls within certain fixed ranges.

As of December 31, 2009, our total bank indebtedness was \$404.3 million, (excluding unamortized financing fees of \$5.2 million), of which \$158.7 million was covered by the interest rate swap agreements described above. As set forth in the above table, as of December 31, 2009, we paid fixed rates ranging from 2.095% to 10.85% and received floating rates on the SWAPs that are based on three month LIBOR, of approximately 0.28% as well as a fixed rate of 5.25% from Swap Nr 10. As of December 31, 2009 and March 31, 2010, our interest rate swap agreements are, on an average basis, above the prevailing three month LIBOR rates over which our loans are priced due to the steep reduction in prevailing interest rates during 2009. Accordingly, the effect of these interest rate swap agreements in 2009 and the first three months of 2010 has been to increase our loss on financial instruments.

Based on the amount of our outstanding indebtedness as of December 31, 2009 that is not covered by interest swap arrangements as of December 31, 2009, a hypothetical one percentage point increase in the three month U.S. Dollar LIBOR would increase our interest rate expense for 2010, on an annualized basis, by approximately \$2.56 million. We have not and do not intend to enter into interest rate swaps for speculative purposes.

#### Foreign exchange rate fluctuation

We generate all of our revenues in U.S. Dollars but incur certain expenses in currencies other than U.S. Dollars, mainly Euro. During 2009, approximately 2% of our expenses were in other currencies and 19% were in Euro. For accounting purposes, expenses incurred in other currencies are converted into U.S. Dollars at the exchange rate prevailing on the date of each transaction. We have not hedged currency exchange risks associated with our expenses and our operating results could be adversely affected as a result. We constantly monitor the U.S. Dollar exchange rate and we try to achieve the most favorable exchange rates from the financial institutions we work with.

Based on our total expenses for the year ended December 31, 2009, and using as an exchange rate the 2009 average exchange rate of \$1.3912 / 1 Euro, a 5% decrease in the exchange rate to \$1.3217 / 1 Euro, which reflects current exchange rate levels, would result in an expense saving of approximately \$0.80 million.

#### ITEM 12. DESCRIPTION OF SECURITIES OTHER THAN EQUITY SECURITIES

Not Applicable.

PART II

ITEM 13. DEFAULTS, DIVIDEND ARREARAGES AND DELINQUENCIES

As of December 31, 2009 we were in breach of certain loan covenants (Refer to discussion of covenant breaches under "Item 5 – Operating and Financial Review And Prospects - Tabular Disclosure of Contractual Obligations – Long term debt" above. Despite these breaches, neither we nor any of our subsidiaries have been subject to a material default in the payment of principal, interest, a sinking fund or purchase fund installment or any other material default that was not cured within 30 days.

ITEM 14. MATERIAL MODIFICATIONS TO THE RIGHTS OF SECURITY HOLDERS AND USE OF PROCEEDS

Not Applicable.

ITEM 15T. CONTROLS AND PROCEDURES

a) Disclosure Controls and Procedures.

Management, under the supervision and with the participation of the Chief Executive Officer and the Chief Financial Officer, evaluated the effectiveness of the design and operation of the Company's disclosure controls and procedures pursuant to Rules 13a-15(e) or 15d-15(e) promulgated under the Securities Exchange Act of 1934 (the "Exchange Act"), as of the end of the period covered by this annual report (as of December 31, 2009).

The term disclosure controls and procedures are defined under SEC rules as controls and other procedures of an issuer that are designed to ensure that information required to be disclosed by the issuer 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 SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by an issuer in the reports that it files or submits under the Act is accumulated and communicated to the issuer's management, including its principal executive and principal financial officers, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure. There are inherent limitations to the effectiveness of any system of disclosure controls and procedures, including the possibility of human error and the circumvention or overriding of the controls and procedures. Accordingly, even effective disclosure controls and procedures can only provide reasonable assurance of achieving their control objectives.

Based upon that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that the Company's disclosure controls and procedures are effective as of December 31, 2009.

b) Management's Annual Report on Internal Control over Financial Reporting.

Our management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rule 13a-15(f) and 15d-15(f) promulgated under the Exchange Act.

Internal control over financial reporting is defined in Rule 13a-15(f) or 15d-15(f) promulgated under the Exchange Act as a process designed by, or under the supervision of, the Company's principal executive and principal financial officers and effected by the Company's Board of Directors, management and other personnel, 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 and includes those policies and procedures that:



•Pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the Company;

•Provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that our receipts and expenditures are being made only in accordance with authorizations of Company's management and directors; and

•Provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of our assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control system's objectives will be met. Our disclosure controls and procedures are designed to provide reasonable assurance of achieving their objectives. The design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Further, because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud, if any, within the Company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty and that breakdowns can occur because of simple error or mistake. Controls can also be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the controls. The design of any system of controls is based in part on certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Our management with the participation of our Chief Executive Officer and Chief Financial Officer assessed the effectiveness of the Company's internal control over financial reporting as of December 31, 2009. In making this assessment, the Company used the control criteria framework issued by the Committee of Sponsoring Organizations of the Treadway Commission, or COSO, published in its report entitled Internal Control-Integrated Framework. As a result of its assessment, the Chief Executive Officer and Chief Financial Officer concluded that the Company's internal controls over financial reporting are effective as of December 31, 2009.

This annual report does not contain an attestation report of the company's registered public accounting firm regarding internal control over financial reporting. Management's report was not subject to attestation by the company's registered public accounting firm pursuant to temporary rules of the SEC that permit the company to provide only management's report in this annual report.

c) Changes in Internal Control over Financial Reporting

There were no changes in our internal control over financial reporting that occurred during the period covered by this annual report that have materially effected or are reasonably likely to materially affect, the Company's internal control over financial reporting.

ITEM 16A. AUDIT COMMITTEE FINANCIAL EXPERT

We have established an audit committee composed of three members that is responsible for reviewing our accounting controls and recommending to the Board of Directors the engagement of our outside auditors. Each member is an

independent director under the corporate governance rules of the NASDAQ Global Select Market. The members of the audit committee are Messrs. Gibbs, Hamboullas and Economou. Mr. Gibbs meets the qualifications of an audit committee financial expert.

## ITEM 16B. CODE OF ETHICS

The Board of Directors has adopted a Corporate Code of Business Ethics and Conduct that applies to all employees, directors and officers, that complies with applicable guidelines issued by the SEC. The finalized Code of Ethics has been approved by the Board of Directors and was distributed to all employees, directors and officers. We will also provide any person a hard copy of our code of ethics free of charge upon written request. Shareholders may direct their requests to the attention of Ms. Eirini Alexandropoulou at the Company's registered address and phone numbers.

## ITEM 16C. PRINCIPAL AUDITOR FEES AND SERVICES

Aggregate fees billed to the Company for the years ended December 2008 and 2009 represent fees billed by the Company's principal accounting firm, Deloitte, the other member firms of Deloitte Touche Tohmatsu, and their respective affiliates (collectively, "Deloitte & Touche").

U.S. Dollars in thousands,	Year Ended	
	2008	2009
Audit Fees	1,439	812
Tax Fees*	-	13
Total Fees	1,439	825

\* Includes fees for PFIC Tax Services

Our audit committee pre-approves all audit, audit-related and non-audit services not prohibited by law to be performed by our independent auditors and associated fees prior to the engagement of the independent auditor with respect to such services.

## ITEM 16D. EXEMPTIONS FROM THE LISTING STANDARDS FOR AUDIT COMMITTEES

See Item 16A above.

## ITEM 16E. PURCHASES OF EQUITY SECURITIES BY THE ISSUER AND AFFILIATED PURCHASERS

During the fourth quarter of 2008, our Board of Directors authorized a share repurchase program of up to \$20 million for a share price of not more than \$2.50 per share for the duration of one year. We began share repurchases during the fourth quarter of 2008 and the transactions were made in the open market on NASDAQ under Rule 10b-18 of the Exchange Act.

As at December 31, 2008 we had repurchased and cancelled an amount of 396,949 shares from the open market at an average price of \$1.82. We continued our repurchase program until February 3, 2009 and during the first two months of 2009 we repurchased an amount of 358,601 shares from the open market at an average price of \$2.02. The outstanding amount of 358,601 shares was cancelled effective as of February 25, 2009.

## ITEM 16F. CHANGE IN REGISTRANT'S CERTIFYING ACCOUNTANT

Not applicable.

ITEM 16G. CORPORATE GOVERNANCE

The Company has certified to NASDAQ that its corporate governance practices are in compliance with, and are not prohibited by, the laws of the Republic of the Marshall Islands. Therefore, the Company is exempt from all of NASDAQ's corporate governance practices other than the requirements regarding the disclosure of a going concern audit opinion, notification of material non-compliance with NASDAQ corporate governance practices, and the establishment and composition of an audit committee that complies with SEC Rule 10A-3 and a formal written audit committee charter. The practices followed by the Company in lieu of NASDAQ's corporate governance rules are described below.

•The Company holds annual meetings of shareholders under the BCA, similar to NASDAQ requirements.

•In lieu of obtaining an independent review of related party transactions for conflicts of interests, the disinterested members of the Board of Directors approve related party transactions under the BCA.

•In lieu of obtaining shareholder approval prior to the issuance of designated securities, the Company complies with provisions of the BCA requiring that the Board of Directors approves share issuances.

•The Board of Directors does not hold regularly scheduled meetings at which only independent directors are present.

PART III

ITEM 17. FINANCIAL STATEMENTS

Not Applicable.

ITEM 18. FINANCIAL STATEMENTS

The following financial statements, together with the report of Deloitte, Hadjipavlou, Sofianos & Cambanis S.A., Certified Auditors Accountants S.A., thereon, are filed as part of this report:

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TOP SHIPS INC.

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of Top Ships Inc., Majuro, Republic of the Marshall Islands

We have audited the accompanying consolidated balance sheets of Top Ships Inc. and subsidiaries (the "Company") as of December 31, 2008 and 2009, and the related consolidated statements of operations, stockholders' equity, and cash flows for each of the three years in the period ended December 31, 2009. Our audits also included the financial statement schedule listed in the Index at Item 18. These financial statements and financial statement schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements and financial statement schedule based on our audits.

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

In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of Top Ships Inc. and subsidiaries as of December 31, 2008 and 2009, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2009, in conformity with accounting principles generally accepted in the United States of America. Also, in our opinion, such financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly in all material respects, the information set forth therein.

The accompanying consolidated financial statements for the years ended December 31, 2008 and 2009, have been prepared assuming that the Company will continue as a going concern. As discussed in Note 3 to the consolidated financial statements, the Company's inability to comply with financial covenants under its current loan agreements as of December 31, 2009 and 2008 and its negative working capital position raise substantial doubt about its ability to continue as a going concern. Management's plans concerning these matters are discussed in Note 3 to the consolidated financial statements. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

/s/ Deloitte. Hadjipavlou, Sofianos, & Cambanis S.A.  
Athens, Greece  
June 18, 2010

## TOP SHIPS INC.

CONSOLIDATED BALANCE SHEETS  
DECEMBER 31, 2008 AND 2009

(Expressed in thousands of U.S. Dollars - except share and per share data)

	December 31, 2008	December 31, 2009
<b>ASSETS</b>		
<b>CURRENT ASSETS:</b>		
Cash and cash equivalents	\$ 46,242	\$ -
Trade accounts receivable, net of provision of \$3,275 and \$1,949 as of December 31, 2008 and 2009, respectively	4,208	328
Insurance claims	173	183
Inventories (Note 7)	965	489
Advances to various creditors	776	403
Prepayments and other (Note 8)	4,724	2,384
<b>Total current assets</b>	<b>57,088</b>	<b>3,787</b>
<b>FIXED ASSETS:</b>		
Advances for vessels under construction (Note 9)	159,971	-
Vessels, net (Notes 10 and 11)	414,515	642,953
Other fixed assets, net (Note 5)	6,545	6,165
<b>Total fixed assets</b>	<b>581,031</b>	<b>649,118</b>
<b>OTHER NON CURRENT ASSETS:</b>		
Long-term receivables (Note 6)	7,681	-
Restricted cash (Notes 6 and 12)	52,575	22,244
<b>Total assets</b>	<b>\$ 698,375</b>	<b>\$ 675,149</b>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
<b>CURRENT LIABILITIES:</b>		
Current portion of long-term debt (Note 12)	\$ 342,479	\$ 399,087
Current portion of financial instruments (Note 21)	16,438	13,803

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Accounts payable	8,968	3,942
Other current liabilities (Note 13)	5,000	-
Accrued liabilities	7,435	5,546
Unearned revenue	6,614	5,575
<b>Total current liabilities</b>	<b>386,934</b>	<b>427,953</b>
<b>FAIR VALUE OF BELOW MARKET TIME CHARTER (Note 11)</b>	<b>3,911</b>	<b>-</b>
<b>DEFERRED GAIN ON SALE AND LEASEBACK OF VESSELS (Note 6)</b>	<b>15,479</b>	<b>-</b>
<b>COMMITMENTS AND CONTINGENCIES (Note 14)</b>		
<b>Total liabilities</b>	<b>406,324</b>	<b>427,953</b>
<b>STOCKHOLDERS' EQUITY:</b>		
Preferred stock, \$0.01 par value; 20,000,000 shares authorized; none issued	-	-
Common stock, \$0.01 par value; 1,000,000,000 shares authorized; 29,901,048 and 32,894,696 shares issued and outstanding at December 31, 2008 and 2009, respectively (Note 15)	283	311
Additional paid-in capital (Note 15)	271,056	276,305
Accumulated other comprehensive income	24	88
Retained earnings / (Accumulated deficit)	20,688	(29,508 )
<b>Total stockholders' equity</b>	<b>292,051</b>	<b>247,196</b>
<b>Total liabilities and stockholders' equity</b>	<b>\$ 698,375</b>	<b>\$ 675,149</b>

The accompanying notes are an integral part of these consolidated financial statements.

## TOP SHIPS INC.

CONSOLIDATED STATEMENTS OF OPERATIONS  
FOR THE YEARS ENDED DECEMBER 31, 2007, 2008 AND 2009

(Expressed in thousands of U.S. Dollars - except share and per share data)

	2007	2008	2009
<b>REVENUES:</b>			
Revenues (Notes 4 and 11)	\$ 252,259	\$ 257,380	\$ 107,979
<b>EXPENSES:</b>			
Voyage expenses (Note 18)	59,414	38,656	3,372
Charter hire expense (Note 6)	94,118	53,684	10,827
Amortization of deferred gain on sale and leaseback of vessels and write-off of seller's credit (Note 6)	(15,610 )	(18,707 )	(7,799 )
Lease termination expense (Note 6)	-	-	15,391
Vessel operating expenses (Note 18)	67,914	67,114	23,739
Dry-docking costs	25,094	10,036	4,602
Vessel depreciation (Note 10)	27,408	32,664	31,585
General and administrative expenses	25,000	31,388	23,835
Gain on sale of vessels (Note 10)	(1,961 )	(19,178 )	-
Impairment on vessels	-	-	36,638
Operating (loss) income	(29,118 )	61,723	(34,211 )
<b>OTHER INCOME (EXPENSES):</b>			
Interest and finance costs (Notes 12 and 19)	(19,518 )	(25,764 )	(13,969 )
Loss on financial instruments (Note 21)	(3,704 )	(12,024 )	(2,081 )
Interest income	3,248	1,831	235
Other, net	16	(127 )	(170 )
Total other expenses, net	(19,958 )	(36,084 )	(15,985 )
Net (loss) income	\$ (49,076 )	\$ 25,639	\$ (50,196 )
(Loss) earnings per common share, basic and diluted (Note 17)	\$ (4.09 )	\$ 0.97	\$ (1.78 )
Weighted average common shares outstanding, basic and diluted	11,986,857	25,445,031	28,230,585

The accompanying notes are an integral part of these consolidated financial statements.

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## TOP SHIPS INC.

CONSOLIDATED STATEMENTS OF STOCKHOLDERS'  
EQUITY  
FOR THE YEARS ENDED DECEMBER  
31, 2007, 2008 AND 2009

(Expressed in thousands of U.S. Dollars - except share and per share data)

	Comprehensive (Loss) Income	Common Stock # of Shares	Par Value	Additional Paid-in Capital	Accumulated Other Comprehensive (Loss) Income	Retained Earnings / Accumulated Deficit	Total
BALANCE, December 31, 2006		10,809,701	\$ 108	\$ 116,971	\$ (6 )	\$ 44,125	\$ 161,198
Net loss	\$ (49,076 )					(49,076 )	(49,076 )
Stock based compensation		213,000	2	933			935
Issuance of common stock, net		9,485,874	95	98,246			98,341
Other comprehensive income							
- Accumulated unrecognized actuarial gain	10				10		10
Comprehensive loss	\$ (49,066 )						
BALANCE, December 31, 2007		20,508,575	\$ 205	\$ 216,150	\$ 4	\$ (4,951 )	\$ 211,408
Net income	\$ 25,639					25,639	25,639
Stock based compensation		2,521,009	9	5,107			5,116
Cancellation of fractional shares		(279 )	-	(2 )			(2 )
Repurchase and cancellation of		(396,949 )	(4 )	(727 )			(731 )

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common stock (396,949 shares)							
Issuance of common stock, net	7,268,692	73	50,528				50,601
Other comprehensive income							
- Accumulated unrecognized actuarial gain	20				20		20
<b>Comprehensive income</b>	<b>\$ 25,659</b>						
<b>BALANCE, December 31, 2008</b>	<b>29,901,048</b>	<b>\$ 283</b>	<b>\$ 271,056</b>	<b>\$ 24</b>	<b>\$ 20,688</b>		<b>\$ 292,051</b>
Net loss	\$ (50,196 )					(50,196 )	(50,196 )
Stock based compensation	1,122,249	10	3,457				3,467
Cancellation of fractional shares							
Repurchase and cancellation of common stock (358,601 shares)	(358,601 )	(4 )	(728 )				(732 )
Issuance of common stock, net	2,230,000	22	2,520				2,542
Other comprehensive income							
- Accumulated unrecognized actuarial gain	64				64		64
<b>Comprehensive loss</b>	<b>\$ (50,132 )</b>						
<b>BALANCE, December 31, 2009</b>	<b>32,894,696</b>	<b>\$ 311</b>	<b>\$ 276,305</b>	<b>\$ 88</b>	<b>\$ (29,508 )</b>		<b>\$ 247,196</b>

The accompanying notes are an integral part of these consolidated financial statements.

## TOP SHIPS INC.

CONSOLIDATED STATEMENTS OF CASH FLOWS  
FOR THE YEARS ENDED DECEMBER 31, 2007, 2008 AND 2009

(Expressed in thousands of U.S. Dollars)

	2007	2008	2009
Cash Flows (used in) provided by Operating Activities:			
Net( loss) income	(49,076 )	25,639	(50,196 )
Adjustments to reconcile net (loss) income to net cash (used in) provided by operating activities:			
Depreciation	28,043	33,474	32,466
Amortization and write off of deferred financing costs	2,081	5,131	2,539
Stock-based compensation expense	935	5,116	3,467
Change in fair value of financial instruments	4,904	10,650	(2,635 )
Financial instrument termination payments	-	(7,500 )	-
Amortization of deferred gain on sale and leaseback of vessels and write-off of seller's credit	(15,610 )	(18,707 )	(7,799 )
Amortization of fair value of below market time charter	(1,413 )	(21,795 )	(3,911 )
Loss (gain) on sale of other fixed assets	69	126	165
Gain on sale of vessels	(1,961 )	(19,178 )	-
Impairment on vessels	-	-	36,638
Provision for doubtful accounts	1,302	3,142	1,017
Decrease (Increase) in:			
Trade accounts receivable	10,701	7,834	2,863
Insurance claims	(1,656 )	(3,569 )	(2,666 )
Inventories	(1,498 )	6,993	476
Advances to various creditors	2,599	332	373
Prepayments and other	(374 )	874	2,340
Increase (Decrease) in:			
Accounts payable	6,350	(12,428 )	(5,048 )
Accrued liabilities	(1,460 )	(4,451 )	(2,474 )
Unearned revenue	4,774	164	(1,039 )
Net Cash (used in) provided by Operating Activities	(11,290 )	11,847	6,576



## TOP SHIPS INC.

CONSOLIDATED STATEMENTS OF CASH FLOWS  
FOR THE YEARS ENDED DECEMBER 31, 2007, 2008 AND 2009

(Expressed in thousands of U.S. Dollars)

## Cash Flows (used in) provided by Investing Activities:

Principal payments received under capital lease		46,000	-
Principal payments paid under capital lease		(68,828 )	-
Advances for vessels acquisition / under construction	(37,343 )	(114,260 )	
Vessel acquisitions	(355,045 )	(118,142 )	(136,678 )
Insurance claims recoveries	1,852	3,447	2,656
Increase in restricted cash	-	(26,075 )	-
Decrease in restricted cash	23,500	-	30,331
Net proceeds from sale of vessels	51,975	338,143	-
Net proceeds from sale of fixed assets	74	58	156
Acquisition of other fixed assets	(3,295 )	(1,792 )	(836 )
Net Cash (used in) provided by Investing Activities	(318,282 )	58,551	(104,371 )

## Cash Flows provided by (used in) Financing Activities:

Proceeds from long-term debt	316,851	271,156	111,670
Principal payments of long-term debt	(26,955 )	(51,413 )	(44,774 )
Prepayment of long-term debt	(65,582 )	(317,150 )	(9,500 )
Financial instrument termination payments	-	-	(5,000 )
Financial instrument upfront receipt	8,500	1,500	-
Proceeds from issuance of common stock, net of issuance costs	98,341	50,601	2,569
Cancellation of fractional shares	-	(2 )	-
Repurchase and cancellation of common stock		(731 )	(732 )
Payment of financing costs	(5,563 )	(4,129 )	(2,680 )
Net Cash provided by (used in) Financing Activities	325,592	(50,168 )	51,553
Net (decrease) increase in cash and cash equivalents	(3,980 )	20,230	(46,242 )
Cash and cash equivalents at beginning of year	29,992	26,012	46,242
Cash and cash equivalents at end of year	26,012	46,242	-

## SUPPLEMENTAL CASH FLOW INFORMATION

Interest paid net of capitalized interest	13,731	19,616	16,764
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**SUPPLEMENTAL DISCLOSURE OF NON-CASH INVESTING  
ACTIVITIES**

Fair value of below market time charter	30,612	12,647	-
Amounts owed for capital expenditures at the end of year	1,215	55	52

The accompanying notes are an integral part of these consolidated financial statements.

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## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

## 1. Basis of Presentation and General Information:

The accompanying consolidated financial statements include the accounts of Top Ships Inc. (formerly Top Tankers Inc. and Ocean Holdings Inc.) and its wholly owned subsidiaries (collectively the "Company"). Ocean Holdings Inc. was formed on January 10, 2000, under the laws of Marshall Islands, was renamed to Top Tankers Inc. and Top Ships Inc. in May 2004 and December 2007 respectively.

Top Ships Inc. is the sole owner of all outstanding shares of the following subsidiaries with vessels in operations and other active companies as of December 31, 2009:

	Shipowning Companies with vessels in operations at December 31, 2009	Date of Incorporation	Country of Incorporation	Vessel
1	Lefka Shipping Company Limited ("Lefka")	March 2005	Marshall Islands	Dauntless (acquired March 2005)
2	Ilisos Shipping Company Limited ("Ilisos")	April 2005	Marshall Islands	Ioannis P. (acquired November 2005)
3	Amalfi Shipping Company Limited ("Amalfi")	July 2007	Marshall Islands	Amalfi (acquired December 2007) (Note 11)
4	Jeke Shipping Company Limited ("Jeke")	July 2007	Liberia	Voc Gallant (acquired February 2008) (Note 10, 11)
5	Japan I Shipping Company Limited ("Japan I")	August 2007	Liberia	Pepito (acquired March 2008) (Note 10)
6	Japan II Shipping Company Limited ("Japan II")	August 2007	Liberia	Astrale (acquired May 2008) (Note 10)
7	Japan III Shipping Company Limited ("Japan III")	August 2007	Liberia	Cyclades (acquired December 2007)
8	Warhol Shipping Company Limited ("Warhol")	July 2008	Liberia	Miss Marilena (delivered February 2009) (Note 9, 10)
9	Lichtenstein Shipping Company Limited ("Lichtenstein")	July 2008	Liberia	Lichtenstein (delivered February 2009) (Note 9, 10)
10		July 2008	Liberia	

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	Banksy Shipping Company Limited ("Banksy")			Ionian Wave (delivered March 2009) (Note 9, 10)
11	Indiana R Shipping Company Limited ("Indiana R")	July 2008	Liberia	Tyrrhenian Wave (delivered March 2009) (Note 9, 10)
12	Britto Shipping Company Limited ("Britto")	July 2008	Liberia	Britto (delivered May 2009) (Note 9, 10)
13	Hongbo Shipping Company Limited ("Hongbo")	July 2008	Liberia	Hongbo (delivered August 2009) (Note 9,10)
	<b>Other Companies</b>	<b>Date of Incorporation</b>	<b>Country of Incorporation</b>	<b>Activity</b>
14	Top Tankers (U.K.) Limited	January 2005	England and Wales	Representative office in London
15	TOP Tanker Management Inc.	May 2004	Marshall Islands	Management Company
16	Ierissos Shipping Inc	November 2008	Marshall Islands	Cash Manager

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

## 1. Basis of Presentation and General Information - (continued):

The Company is an international provider of worldwide seaborne crude oil and petroleum products transportation services and of drybulk transportation services, through the ownership and operation of the vessels mentioned above.

During 2007, 2008, and 2009, two, one and three charterers individually accounted for more than 10% of the Company's revenues as follows:

Charterer	Year Ended December 31,					
	2007		2008		2009	
A	23	%	17	%	22	%
B	10	%				
C					18	%
D					14	%

## The Company's Manager

TOP Tanker Management Inc. (the "Manager") is responsible for all of the chartering, operational and technical management of the Company's fleet. Each of the Company's ship-owning subsidiaries have entered into a management agreement with the Manager, under which management services are provided in exchange for a fixed monthly fee per vessel.

As of December 31, 2009, the Manager has subcontracted the day to day technical management of certain vessels to unaffiliated ship management companies, V. Ships Management Limited and Interorient Maritime Enterprises Inc. (collectively the "sub-managers"). The sub-managers provide day to day operational and technical services to the Company's vessels at a fixed monthly fee per vessel. Such fees for the years ended December 31, 2007, 2008 and 2009 totaled \$1,828, \$1,159 and \$419 respectively and are reflected in General and administrative expenses in the accompanying consolidated statements of operations. At December 31, 2008 and 2009 the amount due to the sub-managers totaled \$702 and \$306 respectively and is included in Accounts Payable in the accompanying consolidated balance sheets.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

2. Significant Accounting Policies:

- (a) Principles of Consolidation: The accompanying consolidated financial statements have been prepared in accordance with U.S generally accepted accounting principles ("US GAAP") and include the accounts and operating results of Top Ships Inc. and its wholly-owned subsidiaries referred to in Note 1. Intercompany balances and transactions have been eliminated in consolidation.
- (b) Use of Estimates: The preparation of consolidated financial statements in conformity with U.S generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Critical estimates mainly include impairment of vessels, vessel useful lives and residual values, provision for doubtful accounts and fair values of derivative instruments.
- (c) Foreign Currency Translation: The Company's functional currency is the U.S. Dollar because all vessels operate in international shipping markets, and therefore primarily transact business in U.S. Dollars. The Company's books of accounts are maintained in U.S. Dollars. Transactions involving other currencies during the year are converted into U.S. Dollars using the exchange rates in effect at the time of the transactions. At the balance sheet dates, monetary assets and liabilities, which are denominated in other currencies, are translated to reflect the year-end exchange rates. Resulting gains or losses are reflected in General and administrative expenses in the accompanying consolidated statements of operations.
- (d) Cash and Cash Equivalents: The Company considers highly liquid investments such as time deposits and certificates of deposit with an original maturity of three months or less to be cash equivalents.
- (e) Restricted Cash: The Company considers amounts that are pledged, blocked, held as cash collateral, required to be maintained with a specific bank or be maintained by the Company as an overall cash position as part of a loan agreement, as restricted (Notes 6 and 12).
- (f) Trade Accounts Receivable, net: The amount shown as Trade Accounts Receivable, net at each balance sheet date, includes estimated recoveries from charterers for hire, freight and demurrage billings, net of a provision for doubtful accounts. At each balance sheet date, all potentially uncollectible accounts are assessed individually, combined with the application of a historical recoverability ratio, for purposes of determining the appropriate provision for doubtful accounts. Provision for doubtful accounts at December 31, 2008 and 2009 totaled \$3,275 and \$1,949, and is summarized as follows:

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

## 2. Significant Accounting Policies - (continued):

	Provision for doubtful accounts
Balance, December 31, 2006	283
—Additions	1,302
—Reversals / write-offs	(784)
Balance, December 31, 2007	801
—Additions	3,866
— Reversals / write-offs	(1,392)
Balance, December 31, 2008	3,275
—Additions	1,939
— Reversals / write-offs	(3,265)
Balance, December 31, 2009	1,949

- (g) Insurance Claims: Insurance claims, relating mainly to crew medical expenses and hull and machinery incidents are recorded upon collection or agreement with the relevant party of the collectible amount when collectibility is probable.
- (h) Inventories: Inventories consist of bunkers, lubricants and consumable stores which are stated at the lower of cost or market. Cost, which consists of the purchase price, is determined by the first in, first out method.
- (i) Vessel Cost: Vessels are stated at cost, which consists of the contract price, pre-delivery costs incurred during the construction of newbuildings, capitalized interest and any material expenses incurred upon acquisition (improvements and delivery costs). Subsequent expenditures for conversions and major improvements are also capitalized when they appreciably extend the life, increase the earning capacity or improve the efficiency or safety of the vessels. Repairs and maintenance are charged to expense as incurred and are included in Vessel operating expenses in the accompanying consolidated statements of operations.
- (j) Impairment of Long-Lived Assets: Long-lived assets are reviewed quarterly for impairment or whenever events or changes in circumstances indicate that the carrying amount of the asset may not be recoverable. If the carrying value of the related asset exceeds its undiscounted future net cash flows, excluding interest charges expected to be generated by the use of the asset, the carrying value is reduced to its fair value. We did not note for 2007 any events or changes in the circumstances indicating that the carrying amount of our vessels may not be recoverable. Various future looking factors including charter rates and vessel operating costs are included in this analysis. The Company calculates future estimates based on a set of assumptions that takes into account historical and current market data as well historical operating information filtered through management's cumulative knowledge and experience of the company and the shipping market in general. In the fourth quarter of 2008, shipping market conditions deteriorated significantly, mainly in the drybulk sector, as a result of the credit crisis and the resulting

slowdown in world trade. These are conditions that the Company considered to be indicators of potential impairment. The Company performed the undiscounted cash flow test as of December 31, 2008 and determined that the carrying amounts of its vessels held for use were recoverable despite the significant drop in values of drybulk vessels. During 2009, the drybulk market

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

2. Significant Accounting Policies - (continued):

stabilized and the charter market recovered resulting in a somewhat recovery in asset values. On the contrary, the product tanker sector, to which the Company is mainly exposed to, experienced a significant drop in charter rates and as a result, a quarter on quarter drop in asset values. Despite these market conditions, on the back of expectations of a recovery in charter rates, similar to the one experienced in the drybulk market in 2009, the Company did not record an impairment charge for the first three quarters of 2009.

During the fourth quarter of 2009, the Company began exploring the re-chartering of its two oldest tanker vessels, M/T Dauntless and M/T Ioannis P, due to their upcoming charter expirations. Based on discussions with charterers the Company had indications that such vessels would need to be re-chartered at significantly lower rates upon expiration of their existing charters. As a result, during the fourth quarter of 2009, the Company performed the undiscounted cash flow test for all of its vessels as of December 31, 2009 and determined that the carrying amounts of these two vessels, M/T Dauntless and M/T Ioannis P were not recoverable by their undiscounted cash flows indicating impairment. The Company measured the impairment loss on the basis of vessels' fair market value determined based on a market approach. The resulting impairment charge of \$36,638 for the year ended December 31, 2009 is included in Impairment on vessels, which is separately reflected in the accompanying consolidated statements of operations.

(k) **Assets Held for Sale:** It is the Company's policy to dispose of vessels when suitable opportunities occur and not necessarily to keep them until the end of their useful life. The Company classifies vessels as being held for sale when: management has committed to a plan to sell the vessels; the vessels are available for immediate sale in their present condition; an active program to locate a buyer and other actions required to complete the plan to sell the vessels have been initiated; the sale of the vessels is probable, and transfer of the asset is expected to qualify for recognition as a completed sale within one year; the vessels are being actively marketed for sale at a price that is reasonable in relation to their current fair value and actions required to complete the plan to sell indicate that it is unlikely that significant changes to the plan will be made or that the plan will be withdrawn. Long-lived assets classified as held for sale are measured at the lower of their carrying amount or fair value less cost to sell. These vessels are not depreciated once they meet the criteria to be classified as held for sale. No vessels were determined to be held for sale at December 31, 2008 and 2009.

(l) **Vessel Depreciation:** Depreciation is calculated using the straight-line method over the estimated useful life of the vessels, after deducting the estimated salvage value. Each vessel's salvage value is equal to the product of its lightweight tonnage and estimated scrap rate. Management estimates the useful life of the Company's vessels to be 25 years from the date of initial delivery from the shipyard. Second hand vessels are depreciated from the date of their acquisition through their remaining estimated useful life. When regulations place limitations over the ability of a vessel to trade on a worldwide basis, its useful life is adjusted at the date such regulations are adopted.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

## 2. Significant Accounting Policies - (continued):

- (m) Other Fixed Assets, Net: Other fixed assets, net consists of furniture, office equipment, cars and leasehold improvements, stated at cost, which consists of the purchase / contract price less accumulated depreciation. Depreciation is calculated using the straight-line method over the estimated useful life of the assets, while leasehold improvements are depreciated over the lease term, as presented below:

Description	Useful Life (years)
Leasehold improvements	12
Cars	6
Office equipment	5
Furniture and fittings	5
Computer equipment	3

- (n) Accounting for Dry-Docking Costs: All dry-docking costs are accounted for under the direct expense method, under which they are expensed as incurred and are reflected separately in the accompanying consolidated statements of operations.
- (o) Sale and Leaseback Transactions: The gains on sale of vessel sale and leaseback transactions are deferred and amortized to income over the lease period.
- (p) Financing Costs: Fees incurred and paid to the lenders for obtaining new loans or refinancing existing ones are recorded as a contra to debt and such fees are amortized to interest expense over the life of the related debt using the effective interest method. Unamortized fees relating to loans repaid or refinanced are expensed when a repayment or refinancing is made and charged to interest and finance costs.
- (q) Pension and Retirement Benefit Obligations—Crew: The ship-owning companies included in the consolidation employ the crew on board under short-term contracts (usually up to nine months) and accordingly, they are not liable for any pension or post retirement benefits.
- (r) Staff leaving Indemnities – Administrative personnel: The Company's employees are entitled to termination payments in the event of dismissal or retirement with the amount of payment varying in relation to the employee's compensation, length of service and manner of termination (dismissed or retired). Employees who resign, or are dismissed with cause are not entitled to termination payments. The Company's liability on an actuarially determined basis, at December 31, 2008 and 2009 amounted to \$258 and \$266, respectively.
- (s) Accounting for Revenue and Expenses: Revenues are generated from bareboat charter, time charter and voyage charter agreements. A bareboat charter is a contract in which the vessel owner provides the vessel to the charterer for a fixed period of time at a specified daily rate,



NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

2. Significant Accounting Policies - (continued):

which is generally payable monthly in advance, and the customer generally assumes all risk and costs of operation during the charter term. A time charter is a contract for the use of a vessel for a specific period of time and a specified daily charter hire rate, which is generally payable monthly in advance. Profit sharing represents the excess between an agreed daily base rate and the actual rate generated by the vessel every quarter, if any, and is settled and recorded on a quarterly basis. Under a voyage charter the revenues, including demurrages and associated voyage costs, with the exception of port expenses which are recorded as incurred, are recognized on a proportionate performance method over the duration of the voyage. A voyage is deemed to commence upon the latest between the completion of discharge of the vessel's previous cargo and the charter party date of the current voyage and is deemed to end upon the completion of discharge of the current cargo. Demurrage income represents payments by the charterer to the Company when loading or discharging time exceeded the stipulated time in the voyage charter. Vessel operating expenses are expensed as incurred. Unearned revenue represents cash received prior to year-end related to revenue applicable to periods after December 31 of each year.

When vessels are acquired with time charters attached and the rates on such charters are below market on the acquisition date, the Company allocates the total cost between the vessel and the fair value of below market time charter based on the relative fair values of the vessel and the liability acquired. The fair value of the attached time charter is computed as the present value of the difference between the contractual amount to be received over the term of the time charter and management's estimates of the market time charter rate at the time of acquisition. The fair value of below market time charter is amortized over the remaining period of the time charter as an increase to revenues (Note 11).

As is common in the drybulk and tanker shipping industries, we pay commissions ranging from 1.25% to 6.25% of the total daily charter hire rate of each charter to ship brokers associated with the charterers.

- (t) Stock Incentive Plan: All share-based compensation related to the grant of restricted and/or unrestricted shares provided to employees and to non-employee directors, for their services as directors, is included in General and administrative expenses in the consolidated statements of operations. The shares that do not contain any future service vesting conditions are considered vested shares and recognized in full on the grant date. The shares that contain a time-based service vesting condition are considered non-vested shares on the grant date and recognized on a straight-line basis over the vesting period. The shares, vested and non-vested are measured at fair value, which is equal to the market value of the Company's common stock on the grant date.
- (u) Earnings / (Loss) per Share: Basic earnings per share are computed by dividing net income or loss available to common stockholders' by the weighted average number of common shares deemed outstanding during the year. Diluted earnings per share reflect the potential dilution that could occur if securities or other contracts to issue common stock were exercised.
- (v) Related Parties: The Company considers as related parties the affiliates of the Company; entities for which investments are accounted for by the equity method; principal owners of the Company; its management; members

of the immediate families of principal owners of the Company; and other parties with which the Company may deal if one party controls or can significantly influence the management or operating policies of the other to an extent that one of the transacting parties might be prevented from fully pursuing its own separate interests. Another party also is a related party if it can significantly influence the management or operating policies of the transacting parties and can significantly influence the other to an extent that one or more of the transacting parties might be prevented from fully pursuing its own

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

### 2. Significant Accounting Policies - (continued):

separate interests. An Affiliate is a party that, directly or indirectly through one or more intermediaries, controls, is controlled by, or has common control with the Company. Control is the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an enterprise through ownership, by contract and otherwise. Immediate Family is family members whom a principal owner or a member of management might control or influence or by whom they might be controlled or influenced because of the family relationship. Management is the persons who are responsible for achieving the objectives of the Company and who have the authority to establish policies and make decisions by which those objectives are to be pursued. Management normally includes members of the board of directors, the CEO, the CFO, Vice President in charge of principal business functions and other persons who perform similar policy making functions. Persons without formal titles may also be members of management. Principal owners are owners of record or known beneficial owners of more than 10% of the voting interests of the Company.

- (w) Derivatives and Hedging: The Company records every derivative instrument (including certain derivative instruments embedded in other contracts) in the balance sheet as either an asset or liability measured at its fair value, with changes in the derivatives' fair value recognized currently in earnings unless specific hedge accounting criteria are met. The Company has not applied hedge accounting for its derivative instruments during the periods presented.

The fair value of derivative liabilities was not adjusted for nonperformance risk as the Company, as one of the parties to a derivative transaction expects to be able to perform under the contractual terms of its derivative agreements, such as making cash payments at periodic net settlement dates or upon termination.

- (x) Segment Reporting: The Company has determined that it operates under two reportable segments, based on the way the Company's CEO reviews operating results, as a provider of international seaborne transportation services, carrying petroleum products and crude oil ("Tanker Fleet") and, drybulk commodities for the steel, electric utility, construction and agri-food industries ("Drybulk Fleet"). The accounting policies applied to the reportable segments are the same as those used in the preparation of the Company's consolidated financial statements.

The Company reports financial information and evaluates its operations by charter revenues and not by the length of ship employment for its customers (i.e., spot or time charters) or by geographical region as the charterer is free to trade the vessel worldwide and, as a result, the disclosure of geographic information is impracticable. The Company does not have discrete financial information to evaluate the operating results for each such type of charter. Although revenue can be identified for these types of charters, management cannot and does not identify expenses, profitability or other financial information for these charters.

#### (aa) Recent Accounting Pronouncements:

- (a) Fair Value Measurements and Disclosures: Was issued in September 2006 and it addresses standardizing the measurement of fair value for companies that are required to use a fair value measure of recognition

for recognition or disclosure purposes. The fair value is defined as "the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measure date". Fair Value Measurement is effective for financial statements issued for fiscal years beginning after

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

2. Significant Accounting Policies - (continued):

November 15, 2007. The Company has adopted Fair Value Measurement effective January 1, 2008 and the adoption of this statement did not have a material effect on the Company's financial position, results of operations and cash flows. In February 2008, the effective date was delayed for non financial assets and liabilities, except for items recognized or disclosed at fair value at least once a year, to fiscal years beginning after November 15, 2008. Furthermore, it was amended to cover interim periods within the fiscal years for items within its scope. The Company has adopted the amendment of Fair Value Measurement in the first quarter of 2009, which did not have a material effect on the Company's financial position, results of operations and cash flows. On October 10, 2008, Fair Value Measurement was further amended to clarify the application of Fair Value Measurements, in a market that is not active and provides an example to illustrate key considerations in determining the fair value of a financial asset when the market for that financial asset is not active. The amendment was effective upon issuance including prior periods for which financial statements have not been issued. The Company has incorporated this new guidance as it relates to the Company's derivative instruments and impaired vessels (Note 21). The adoption of this amendment did not have a material impact on the Company's financial statements.

- (b) Earnings per share ("EPS"): Was issued in June 2008 and it clarifies that all outstanding non-vested share-based payment awards that contain rights to non forfeitable dividends participate in undistributed earnings with common shareholders. Awards of this nature are considered participating securities, and the two-class method of computing basic earnings per share must be applied. The Company determined that restricted share units granted under its equity incentive plan are participating securities because the restricted share units participate in dividends. The guidance is effective for fiscal years beginning after December 15, 2008, and interim periods within those years. Early application is prohibited. It also requires that all prior-period EPS data be adjusted retroactively. The Company has adopted these requirements effective January 1, 2009 and the adoption resulted in a decrease of \$0.04 in the basic and diluted earnings per share for the year ended December 31, 2008. When it was retroactively applied to the year ended December 31, 2007 EPS data was not affected due to the fact that the Company incurred net loss and non-vested shares do not participate in losses.
- (c) Derivatives and Hedging: Was issued in March 2008 and is intended to provide users of financial statements with enhanced understanding of derivative instruments and hedging activities by requiring qualitative disclosures about objectives and strategies for using derivatives, quantitative disclosures about fair value amounts of and gains and losses on instruments, and disclosures about credit-risk-related contingent features in derivative agreements. The guidance is effective for financial statements issued for fiscal years and interim periods beginning after November 15, 2008 and it does not require comparative disclosures for earlier periods at initial adoption. The Company adopted the relevant guidance in the first quarter of 2009 and provided relevant disclosures in Note 21.
- (d)

FASB Accounting Standards Codification: Was issued in June 2009 and identifies the sources of accounting principles and the framework for selecting the principles used in the preparation of financial statements by establishing two levels of US GAAP: authoritative and nonauthoritative. This is accomplished by authorizing the "FASB Accounting Standards Codification". On June, 2009, the "FASB Accounting Standards Codification" became the single source of authoritative nongovernmental US GAAP, superseding existing FASB,

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

### 2. Significant Accounting Policies - (continued):

American Institute of Certified Public Accountants (AICPA), Emerging Issues Task Force (EITF), and related literature. After that date, only one level of authoritative GAAP exists. All other literature is considered non-authoritative. The Codification does not change US GAAP; instead, it introduces a new structure-one that is organized in an easily accessible, user-friendly online research system. This new guidance is effective for financial statements issued for interim and annual periods ending after September 15, 2009. The Company has adopted the new "FASB Accounting Standards Codification of US GAAP" in the third quarter of 2009 and revised references to US GAAP in these consolidated financial statements to reflect the guidance in the Codification.

- (e) Consolidation of variable interest entities ("VIE"). Was issued in June 2009 and responds to concerns about the application of certain key provisions of then applicable FASB interpretation, including those regarding the transparency of the involvement with VIEs. The new guidance revises the approach to determining the primary beneficiary of a VIE to be more qualitative in nature and requires companies to more frequently reassess whether they must consolidate a VIE. Specifically, the new guidance requires a qualitative approach to identifying a controlling financial interest in a VIE and requires ongoing assessment of whether an entity is a VIE and whether an interest in a VIE makes the holder the primary beneficiary of the VIE. In addition, the standard requires additional disclosures about the involvement with a VIE and any significant changes in risk exposure due to that involvement. The guidance is effective as of the beginning of the first fiscal year that begins after November 15, 2009 and early adoption is prohibited. The Company is evaluating the impact of this guidance on its consolidated financial statements.

### 3. Going Concern:

As of December 31, 2008, the Company was in breach of the minimum asset cover ratio and other vessel value related covenants contained in the Company's loan agreements. As a result of these covenant breaches and cross-default provisions, the Company has classified all its debt as current to the consolidated financial statements. During 2009, the Company received waivers for minimum asset cover as defined by each bank, as well as for adjusted net worth, EBITDA, minimum liquidity and leverage ratio with certain banks, until March 31, 2010, and has amended the terms of its loans.

As of December 31, 2009, the Company was in breach of loan covenants relating to EBITDA, overall cash position (minimum liquidity covenants), adjusted net worth, net asset value and asset cover of product tankers with certain banks not previously waived. As a result of these covenant breaches with all the banks, the Company has classified all its debt and financial instruments as current. The amount of long term debt and financial instruments that have been reclassified and presented together with current liabilities amounts to \$351,202 and \$9,916, respectively (Note 12).



## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

## 3. Going Concern – (continued):

Based on projections for 2010, the Company does not expect that existing cash reserves and cash generated from operations will be sufficient to pay loan installments and accumulated or accrued interest as they fall due under the existing credit facilities. The main reason for this shortfall is the increased loan repayments, including the repayment in July 2010 of a bridge loan provided by DVB bank for the financing of the delivery installment of M/T Hongbo. Had it not been for the bridge loan, which as of December 31, 2009 amounted to \$11,200, cash from operations would have been sufficient to cover working capital requirements and service the debt. As of the date of this annual report, the Company is in discussions with DVB in order to defer part or whole of the bridge loan for at least one year, in which case the Company expects it will meet all its obligations as they fall due. In addition to DVB, the Company is also in discussions with various other financiers that can refinance part or whole of the bridge loan. In the case where the Company is not able to extend or refinance the bridge loan, it will consider whether a sale of an asset is required. The sale and purchase market has been very liquid as of the date of this annual report, and management expects that it will continue being so in the foreseeable future, and given the high quality of assets and charters that the Company has in its portfolio, the sale of a vessel provides with a realistic alternative to the extension or refinancing of the bridge loan.

The consolidated financial statements have been prepared assuming that the Company will continue as a going concern. Accordingly, the financial statements do not include any adjustments relating to the recoverability and classification of recorded asset amounts the amounts and classification of liabilities, or any other adjustments that might result should the Company be unable to continue as a going concern, except for the current classification of debt and financial instruments.

The Company believes that it will be able to make loan installments and accumulated or accrued interest payments as they fall due under the existing senior credit facilities and, therefore, its lenders will not demand payment of the loans before their maturity, due to covenant breaches.

## 4. Segment Reporting:

The following tables present segment results for the years ended December 31, 2007, 2008 and 2009 respectively:

Year ended December 31, 2007	Tanker Fleet	Drybulk Fleet	Unallocated (1)	Total
<b>REVENUES:</b>				
Revenues	248,944	1,902	1,413	252,259
<b>EXPENSES:</b>				
Voyage expenses	59,253	161	-	59,414

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Charter hire expense	94,118	-	-	94,118
Amortization of deferred gain on sale and leaseback of vessels	(15,610 )	-	-	(15,610 )
Vessel operating expenses	67,225	689	-	67,914
Dry-docking costs	25,094	-	-	25,094
Vessel depreciation	26,560	848	-	27,408
General and administrative expenses	24,550	274	176	25,000

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## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

## 4. Segment Reporting – (continued):

Gain on sale of vessels	(1,961 )	-	-	(1,961 )
Operating (loss) income	(30,285 )	(70 )	1,237	(29,118 )
Interest and finance costs	(17,464 )	(2,054 )	-	(19,518 )
Segment (loss) income	(47,749 )	(2,124 )	1,237	(48,636 )
Fair value change of financial instruments				(3,704 )
Interest income				3,248
Other, net				16
Net loss				(49,076 )

(1) Unallocated amounts relate to the drybulk vessels' amortization of the fair value of below market time charter contracts acquired of \$1,413 less the foreign currency losses, net of \$176. These amounts are unallocated as they are not included in the financial information used by the chief operating decision maker to allocate the Company's resources.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

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(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

## 4. Segment Reporting – (continued):

Year ended December 31, 2008	Tanker Fleet	Drybulk Fleet	Unallocated (1)	Total
<b>REVENUES:</b>				
Revenues	163,995	71,590	21,795	257,380
<b>EXPENSES:</b>				
Voyage expenses	34,215	4,441	-	38,656
Charter hire expense	53,684	-	-	53,684
Amortization of deferred gain on sale and leaseback of vessels	(18,707 )	-	-	(18,707 )
Vessel operating expenses	56,272	10,842	-	67,114
Dry-docking costs	9,450	586	-	10,036
Vessel depreciation	13,867	18,797	-	32,664
General and administrative expenses	23,554	7,935	(101 )	31,388
Gain on sale of vessels	(21,347 )	2,169	-	(19,178 )
Operating income	13,007	26,820	21,896	61,723
Interest and finance costs	(11,888 )	(13,876 )	-	(25,764 )
Segment income	1,119	12,944	21,896	35,959
Fair value change of financial instruments				(12,024 )
Interest income				1,831
Other, net				(127 )
Net Income				25,639

(1) Unallocated amounts relate to the drybulk vessels' amortization of the fair value of below market time charter contracts acquired of \$21,795, the management fees related to the management of third party vessels of \$16 less the foreign currency gains, net of \$85. These amounts are unallocated as they are not included in the financial information used by the chief operating decision maker to allocate the Company's resources.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

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(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

## 4. Segment Reporting – (continued):

Year ended December 31, 2009	Tanker Fleet	Drybulk Fleet	Unallocated (1)	Total
<b>REVENUES:</b>				
Revenues	47,353	56,715	3,911	107,979
<b>EXPENSES:</b>				
Voyage expenses	1,118	2,254	-	3,372
Charter hire expense	10,827	-	-	10,827
Amortization of deferred gain on sale and leaseback of vessels and write-off of seller's credit	(7,799 )	-	-	(7,799 )
Lease Termination expense	15,391			15,391
Vessel operating expenses	15,032	8,707	-	23,739
Dry-docking costs	4,543	59	-	4,602
Vessel depreciation	12,580	19,005	-	31,585
General and administrative expenses	15,252	8,518	65	23,835
Impairment on vessels	36,638	-	-	36,638
Operating (loss) income	(56,229 )	18,172	3,846	(34,211 )
Interest and finance costs	(7,692 )	(5,519 )	(758 )	(13,969 )
Segment (loss) income	(63,921 )	12,653	3,088	(48,180 )
Loss on financial instruments				(2,081 )
Interest income				235
Other, net				(170 )
Net loss				(50,196 )

(1) Unallocated amounts relate to the drybulk vessels' amortization of the fair value of below market time charter contracts acquired of \$3,911, bridge loan fees for working capital purposes of \$758, less the foreign currency losses, net of \$65. These amounts are unallocated as they are not included in the financial information used by the chief operating decision maker to allocate the Company's resources.

A reconciliation of segment cash flows to amounts presented in the consolidated cash flow statements is as follows for the year ended December 31, 2007:

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Year ended December 31, 2007	Tanker Fleet	Drybulk Fleet	Unallocated (1)	Total
Cash paid for vessels	187,360	167,685	-	355,045
Cash paid for advances for vessel acquisition	17,028	20,315		37,343

A reconciliation of segment assets, liabilities and cash flows to amounts presented in the consolidated balance sheets and cash flow statements is as follows for the years ended December 31, 2008 and 2009 respectively:

Year ended December 31, 2008	Tanker Fleet	Drybulk Fleet	Unallocated (1)	Total
Trade accounts receivable, net	4,418	(210 )	-	4,208
Vessels, net	79,056	335,459	-	414,515

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

## 4. Segment Reporting – (continued):

Current portion of long-term debt	165,965	176,514	-	342,479
Total assets at December 31, 2008	275,932	351,331	71,112	698,375
Cash paid for vessels	-	118,142	-	118,142
Cash paid for advances for vessel acquisition	114,260	-	-	114,260

(1) Unallocated mainly relates to cash and cash equivalents and restricted cash of \$61,389 and other fixed assets of \$6,545, which are not allocated to individual segments.

Year ended December 31, 2009	Tanker Fleet	Drybulk Fleet	Unallocated (1)	Total
Trade accounts receivable, net	318	10	-	328
Vessels, net	326,500	316,453	-	642,953
Current portion of long-term debt	254,547	141,654	2,886	399,087
Total assets at December 31, 2009	337,770	326,270	11,109	675,149
Cash paid for vessels	136,678	-	-	136,678

(1) Unallocated mainly relates to cash and cash equivalents (including restricted cash) of \$2,974, other fixed assets of \$6,165, and bridge loan balance for working capital purposes of \$2,886, which are not allocated to individual segments.

## 5. Transactions with Related Parties:

(a) Pyramis Technical Co. S.A.: Pyramis Technical Co. S.A., is wholly owned by the father of the Company's Chief Executive Officer and has been responsible for the renovation of the Company's premises. As of December 31, 2008, the total contracted cost amounted to Euro 2,959 or \$4,112 (based on the U.S. Dollar/Euro exchange rate as of December 31, 2008), out of which Euro 3,402 or \$4,555 (based on the U.S. Dollar/Euro exchange rate as of December 31, 2008) was paid up to December 31, 2008 and is included in the \$4,698 renovation works. As of December 31, 2009, the total contracted cost amounted to Euro 3,110 or \$4,487 (based on the U.S. Dollar/Euro exchange rate as of December 31, 2009), out of which Euro 3,599 or \$5,193 (based on the U.S. Dollar/Euro exchange rate as of December 31, 2009) was paid up to December 31, 2009 and is included in the Euro 3,701 or \$5,340 (based on the U.S. Dollar/Euro exchange rate as of December 31, 2009) renovation works. The renovation works are included in Other fixed assets, net, which are separately presented in the accompanying December 31, 2009 consolidated balance sheet and are depreciated over the lease period, which is 12 years.

Cardiff Marine Inc. ("Cardiff"): Both Cardiff and Sphinx Investment Corp. are controlled by Mr. George Economou who has been a related party since April 2008, when the Company privately placed \$7.3 million

with various investors (Note 15). As of December 31, 2009, Sphinx Investment Corp. holds approximately 12.56% of the Company's outstanding common stock. Cardiff provides the Company with chartering and sale and purchase brokerage services. During the twelve months ended December 31, 2008 and 2009, Cardiff charged the Company \$4,245 and \$0 for commissions for vessels' acquisitions, included in Vessels, net. During the twelve months ended December 31, 2008 and 2009, Cardiff charged the Company \$570 and \$862 for chartering services, included in Voyage expenses. As of December 31, 2008, the amount due to Cardiff was \$197, which is included in Accrued Liabilities. As of December 31, 2009 the amount due to Cardiff was \$82 out of which \$33 is included in Accounts Payable and \$49 is included in Accrued Liabilities.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

6. Leases:

A. LEASE ARRANGEMENTS, UNDER WHICH THE COMPANY ACTS AS THE LESSEE

i) Sale and Leaseback of Vessels:

The Company entered into sales and leaseback transactions in 2005 and 2006 as follows:

- a) In 2005, the Company sold vessels M/T Restless, M/T Sovereign, M/T Relentless, M/T Invincible and M/T Victorious. The Company entered into bareboat charter agreements to leaseback the same five vessels for a period of seven years. The Company and the owner/lessor of vessels M/T Invincible, M/T Victorious, M/T Restless and M/T Sovereign mutually agreed to terminate the bareboat charters, following the sale of vessels to third parties. The termination of the bareboat charters became effective upon the vessels' delivery to their new owners, on July 11, 2007, August 27, 2007, September 17, 2007 and August 14, 2008, respectively.
- b) In 2006, the Company sold vessels M/T Flawless, M/T Timeless, M/T Priceless, M/T Stopless, M/T Doubtless, M/T Vanguard, M/T Faithful, M/T Spotless, M/T Limitless, M/T Endless, M/T Stainless, M/T Faultless and M/T Noiseless to three unrelated parties (buyers/lessors) for \$550,000; of which 90% or \$495,000 was received upon closing of the sale. Simultaneous with the sale of the vessels, the Company entered into bareboat charter agreements to leaseback the same vessels for a period of five to seven years with no lease renewal option. In June 2006 another unrelated party assumed the rights and obligations of one of the buyers/lessors through a novation agreement with no other changes to the terms and conditions of the agreements.

Based on the Memorandum of Agreement dated March 6, 2008, the owner and lessor of M/T Faultless agreed to sell the vessel to a third party. The Company and the lessor mutually agreed to terminate the bareboat charter, on March 31, 2008, upon the vessel's delivery to its new owners.

Based on the Memoranda of Agreement dated July 31, 2008, the owners and lessors of M/T Flawless, M/T Timeless, M/T Priceless and M/T Stopless agreed to sell the vessels to a third party. The Company and the lessors mutually agreed to terminate the bareboat charters, on September 18, 2008, upon the vessels' deliveries to their new owners.

Following the sale of M/T Faultless, the Company received part of the seller's credit. Following the sale of M/T Flawless, M/T Timeless, M/T Stopless and M/T Priceless, the Company received part of the seller's credit. Following the termination of the bareboat charters for Limitless, Endless, Stainless, Faultless, Noiseless, Flawless, Timeless, Priceless and Stopless a portion of the sales price (representing 10% of the gross aggregate sales price of the remaining vessels sold and leased back in 2006), has been withheld by the buyers/lessors and to be paid to the Company not later than three months after the end of bareboat charter period or upon the resale of the vessels, if earlier. Consequently, such unpaid sales price was recorded as a receivable at its discounted value. The discount was accreted through deferred gain on sale and leaseback of vessels over the period of the bareboat charter agreements or through the date of the resale of the vessels, if earlier.



## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

## 6. Leases-(continued):

On June 24, 2009, the Company terminated the bareboat charters, initially entered into as part of the sale and leaseback deal in 2006, and redelivered tanker vessels M/T Faithful, the M/T Doubtless, the M/T Spotless and the M/T Vanguard to their owners after paying \$11,750 in termination fees and expenses. In addition to the termination fees and expenses, the Company also paid bareboat hire up to July 15, 2009 of an amount of \$1,109 and forfeited its right to receive the Seller's credit, amounting to \$7,911 as of the date of termination, which would have been received upon expiration of the bareboat charters in 2011, and the Company has undertaken to pay for the dry-dock of the M/T Spotless which was completed during July 2009. The Company remained the manager of M/T Faithful until April 30, 2010, little after the expiration of its time charter and was reimbursed by the owners for all expenses incurred. The lease termination payments of \$11,750 and bareboat hire paid for the period subsequent to the termination of \$1,109 are included in the Lease Termination Expenses in the accompanying consolidated statements of operations.

On July 3, 2009 the Company redelivered the tanker vessel M/T Relentless to its owners and paid a termination fee of \$2,500 pursuant to a termination agreement signed in April 2009 to terminate the bareboat charter initially entered into as part of the sale and leaseback deal in 2005. In addition to the termination fee the Company had undertaken to perform certain works on the vessel prior to its redelivery which involved additional costs. The termination fee of \$2,500 is included in the Lease Termination Expenses in the accompanying consolidated condensed statements of operations. This was the last leased vessel in the Company's fleet.

The bareboat charter agreements the Company entered into in 2005 and 2006 were accounted for as operating leases and the gain on the sale was deferred and was amortized to income over the lease period. The deferred gain was calculated by deducting from the sales price the carrying amount of the vessels, the expenses related to the sale and the unpaid sales price (which is treated as a residual value guarantee and will be recognized in income upon collection).

The amortization of the deferred gain on sale and leaseback of vessels and write-off of seller's credit of \$15,610, \$18,707 and \$7,799 for the years ended December 31, 2007, 2008 and 2009, respectively, is separately reflected in the accompanying consolidated statements of operations. For the twelve months ended December 31, 2007, this amount includes accelerated amortization of deferred gain for vessels M/T Restless, M/T Victorious, M/T Invincible of \$8,248. The amount also includes \$7,362 scheduled amortization of deferred gain on sale and leaseback of the vessels. For the twelve months ended December 31, 2008, this amount includes net expenses related to the sale of the M/T Faultless, M/T Flawless, M/T Priceless, M/T Stopless, M/T Sovereign and M/T Timeless of \$12,799 and accelerated amortization of deferred gain for the same vessels of \$27,245. The amount also includes \$4,431 scheduled amortization of deferred gain from sale and leaseback of vessels and \$170 other expenses. For the twelve months ended December 31, 2009 this amount includes \$271 of scheduled amortization of deferred gain on sale and leaseback of M/T Relentless and \$1,372 of accelerated amortization of deferred gain due to lease termination of M/T Relentless. For the twelve months ended December 31, 2009 the amount also includes \$1,348 amortization of deferred gain on sale and leaseback for vessels M/T Faithful, M/T Doubtless, M/T Spotless and M/T Vanguard and \$12,719 of accelerated amortization of deferred gain on sale and leaseback of these vessels offset by write-off of the seller's credit of \$7,911, due to lease termination effective June, 24, 2009.



NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

6. Leases-(continued):

During the years ended December 31, 2007, 2008 and 2009, lease payments relating to the bareboat charters of the vessels were \$94,118, \$53,684 and \$10,827, respectively and are separately reflected as Charter hire expense in the accompanying consolidated statements of operations.

Certain of the sale and leaseback transactions entered into in 2006 contained a requirement to maintain a minimum amount of cash on deposit by the Company during the bareboat charter period. Specifically, the Company maintained consolidated cash balances of \$20,000 as at December 31, 2008. On January 8, 2009, the Company entered into a supplemental agreement relevant to the sale and leaseback transactions' financial covenants. Specifically, it was agreed that minimum cash of \$5,000 shall be maintained on deposit by the Company, which was released on June 24, 2009, following the termination of the bareboat charters of M/T Faithful, the M/T Doubtless, the M/T Spotless and the M/T Vanguard.

ii) Office lease:

In January 2006, the Manager entered into an agreement to lease office space in Athens, Greece, with an unrelated party. The office is located at 1, Vassilisis Sofias & Megalou Alexandrou Street, 151 24 Maroussi, Athens, Greece. The agreement is for duration of twelve years beginning May 2006 with a lessee's option for an extension of ten years. As of December 31, 2007, the monthly rent was Euro 120 or \$177 (based on the U.S. Dollar/Euro exchange rate as of December 31, 2007) adjusted annually for inflation increase plus 1%. In November 2007, the agreement was amended and the new monthly rent starting February 2008 became Euro 116 or \$167 (based on the U.S. Dollar/Euro exchange rate as of December 31, 2009) with all other terms remaining unchanged. General and administrative expenses for the years ended December 31, 2007, 2008 and 2009 include \$2,097, \$2,405 and \$2,041, respectively, for rent expense.

In February 2007, Top Tankers (U.K) Limited entered into a lease agreement for office space in London. The agreement was for duration of 9 months ending November 2007. The monthly lease was GBP 5 or \$10 (based on the U.S. Dollar/GBP exchange rate as of December 31, 2007), payable monthly in advance. In May 2007, Top Tankers (U.K) Limited entered into a new lease agreement for office space in London. The previous lease agreement was early terminated and therefore the lease was payable up to August 2007. The new lease agreement is valid from June 2007 and shall continue until either party shall give to the other one calendar month written notice. The new annual lease is GBP 20 or \$32 (based on the U.S. Dollar/GBP exchange rate as of December 31, 2009), payable quarterly in advance. General and administrative expenses for the years ended December 31, 2007, 2008 and 2009 include \$129, \$38 and \$31, respectively, for rent expense.

In November 2009, Top Ships Inc. entered into a lease agreement for office space in London. The agreement is for duration of one year from and including November 15, 2009 to and including November 14, 2010. As of December 31, 2009, the monthly rent is GBP 26 or \$42 (based on the U.S. Dollar/GBP exchange rate as of December 31, 2009). General and administrative expenses for the year ended December 31, 2009 include \$66, for rent expense.



## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

## 6. Leases-(continued):

## iii) Future minimum lease payments:

The Company's future minimum lease payments required to be made after December 31, 2009, related to the existing at December 31, 2009 office lease are as follows:

Year ending December 31,	Office Lease
2010	2,081
2011	2,081
2012	2,081
2013	2,081
2014	2,081
2015 and thereafter	6,933
	17,338

## B. LEASE ARRANGEMENTS, UNDER WHICH THE COMPANY ACTS AS THE LESSOR

## i) Charter agreements:

All of the Company's time charters and bareboat charters are classified as operating leases. Revenues under operating leases are recognized when a charter agreement exists, charter rate is fixed and determinable, the vessel is made available to the lessee and collection of related revenue is reasonably assured.

As of December 31, 2009, the Company operated thirteen owned vessels. As of December 31, 2009, five of the vessels were operating under long-term time charters, one under short-term time charter and seven under bareboat charters.

Future minimum time-charter receipts, based on vessels committed to non-cancellable time and bareboat charter contracts that expire in more than one year, as of December 31, 2009, are as follows:

Year ending December 31,	Time Charter receipts
2010	85,490
2011	68,935
2012	46,720
2013	35,235
2014	31,627
2015 and thereafter	104,223
	372,230

On January 11, 2010, the Company announced that it had received from the bareboat charterer of the M/T Ionian Wave and the M/T Tyrrhenian Wave, a reduced charter hire rate of \$10,000 per day, rather than the \$14,300 per day on a bareboat basis that is set forth in the charter agreement. The Company has been examining this unilateral reduction and intends to take all necessary steps to recover the amounts owed since the said charterer is considered to be in breach of the charter.

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## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

## 7. Inventories:

The amounts shown in the accompanying consolidated balance sheets are analyzed as follows:

	December 31, 2008	December 31, 2009
Lubricants	795	427
Consumable stores	170	62
	965	489

## 8. Prepayments and Other:

The amounts shown in the accompanying consolidated balance sheets are analyzed as follows:

	December 31, 2008	December 31, 2009
Prepaid expenses	1,087	310
Other receivables	3,637	2,074
	4,724	2,384

## 9. Advances for Vessels under Construction:

In October 2006, the Company entered into an agreement for the construction of six Handymax Product / Chemical tankers. The total contract price was \$285,365 and was payable in five installments as follows: 15% was payable upon arrangement of the refund guarantee, 15% was payable upon commencement of steel cutting, 20% was payable upon keel laying, 20% was payable upon launching and 30% upon delivery of the vessel. The vessels' construction was partially financed from long-term bank financing discussed in Note 12. The first installment for the six vessels of \$42,807 was paid in December 2006 and January 2007. The second installment for all vessels, the third installment for five vessels and the fourth installment for two vessels in an aggregate amount of \$109,229 was paid during 2008. The third installment for one vessel, the fourth installment for four vessels and the delivery installment for six vessels in an aggregate amount of \$133,329, was paid during 2009. All vessels were delivered as of December 31, 2009.

The advances for vessels acquisitions / under construction as of December 31, 2007, 2008 and 2009 are analyzed as follows:

	Construction installments	Acquisitions	Capitalized interest	Capitalized costs	Total
Balance, December 31, 2007	42,807	20,250	2,695	274	66,026
- Transfer to vessel cost / obligations under capital lease	-	(20,250 )	-	(65 )	(20,315 )
- Additions	109,229	-	3,873	1,158	114,260
Balance, December 31, 2008	152,036	-	6,568	1,367	159,971

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- Transfer to vessel cost	(285,365 )	(8,029 )	(3,267 )	(296,661 )
- Additions	133,329	1,461	1,900	136,690
Balance, December 31, 2009	-	-	-	-

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## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

## 10. Vessels, net:

The amounts in the accompanying consolidated balance sheets are analyzed as follows:

	Vessel Cost	Accumulated Depreciation	Net Book Value
Balance, December 31, 2007	598,266	(44,375 )	553,891
—Acquisitions	219,934	-	219,934
—Disposals	(371,039 )	44,393	(326,646 )
—Depreciation	-	(32,664 )	(32,664 )
Balance, December 31, 2008	447,161	(32,646 )	414,515
—Acquisitions	296,661		296,661
—Depreciation		(31,585 )	(31,585 )
—Impairment	(56,257 )	19,619	(36,638 )
Balance, December 31, 2009	687,565	(44,612 )	642,953

On April 1, 2008, the Company entered into an agreement to sell the vessel M/V Bertram to an unrelated party for a consideration of \$46,500. The vessel was delivered to its new owners on April 16, 2008. A loss from the sale of \$2,169 was recognized upon vessel's delivery.

On May 1, 2008, the Company took delivery of the drybulk vessel M/V Astrale.

On June 23, 2008, the Company entered into an agreement to sell the vessel M/T Stormless to an unrelated party for consideration of \$47,000. The vessel was delivered to its new owners on June 26, 2008. A gain from the sale of \$1,787 was recognized upon vessel's delivery.

In June 2008, the Company entered into agreements to sell vessels M/T Edgeless, M/T Ellen P, M/T Limitless and M/T Endless to unrelated parties for a total consideration of \$193,000. The M/T Edgeless was delivered to its new owners on July 10, 2008, while the remaining three vessels were delivered to their new owners in early September 2008. A gain from these sales of \$19,439 was recognized upon vessels' deliveries.

During 2009, the Company took delivery of six product / chemical tankers M/T Miss Marilena, M/T Lichtenstein, M/T Ionian Wave, M/T Tyrrhenian Wave, M/T Britto, and M/T Hongbo for a total book value of \$296,661.

During the year ended December 31, 2009, the Company recorded an impairment charge of \$36,638 relating to vessels M/T Dauntless and M/T Ioannis P.

## 11. Fair Value Of Below Market Time Charter:

In November and December 2007 and February 2008, the Company acquired drybulk vessels M/V Bertram, M/V Amalfi and M/V Voc Gallant, respectively, with attached time charter contracts. As a result, the purchase price of the

vessels was allocated between vessel cost and the fair value of the time charter contracts, totaling in aggregate \$43,259, which is reflected in Fair Value of Below Market Time Charter on the accompanying consolidated balance sheets. The liability is amortized to revenues over the remaining period of the time charter contracts on a straight-line basis. Following the sale of the M/V Bertram, on April 16, 2008, the then unamortized fair value of below market time charter of \$16,140 was written-off to the loss from the sale of vessel. For the year ended December 31, 2007, 2008 and 2009, the amortization of the fair value of the time charter contracts totaled \$1,413, \$21,795 and \$3,911, respectively and is included in Revenues in the accompanying consolidated statement of operations.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

## 12. Long-term Debt:

The amounts in the accompanying consolidated balance sheets are analyzed as follows:

Borrower / Vessel(s)	December 31, 2008	December 31, 2009
<b>RBS</b>		
The Company / Dauntless, Ioannis P	60,599	50,466
<b>HSH</b>		
Amalfi / Amalfi	24,570	22,461
Jeke / Papillon (ex VOC Gallant)	28,074	23,991
Warhol / Miss Marilena	22,697	37,907
Indiana / Tyrrhenian Wave	16,266	27,525
Britto / Britto	16,266	33,714
<b>DVB</b>		
Banksy / Ionian Wave	16,169	32,132
Hongbo / Hongbo	9,479	25,534
Hongbo / Bridge Loan	-	10,374
Japan II / Astrale	40,532	27,458
<b>ALPHA</b>		
Japan III / Cyclades	36,816	27,854
Lichtenstein / Lichtenstein	24,489	36,896
<b>EMPORIKI</b>		
Japan I / Pepito	46,522	39,889
<b>CAPE MANUEL SHIPPING COMPANY LIMITED</b>		
The Company	-	2,886
Total	342,479	399,087
Less-current portion	(342,479 )	(399,087 )
Long-term portion	-	-

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

12. Long-term Debt-(continued):

(a) RBS:

At December 31, 2009, the Company had a revolving credit facility outstanding of \$50,777, maturing in August 2013, excluding unamortized financing fees of \$311, with no undrawn amount. The revolving credit facility bears interest at LIBOR plus a margin (as of December 31, 2009 the margin was 2.5%). The applicable interest rate as of December 31, 2009 is 2.75%.

The facility contained various covenants, including (i) security value maintenance whereby the market value of the vessels and the market value of any additional security is required to be greater than or equal to 130% of the outstanding loan and the fair value of outstanding swaps, (ii) market value adjusted net worth required to be greater than or equal to \$250,000 and greater than to 35% of total assets, and (iii) EBITDA required to be greater than 120% of fixed charges, (iv) minimum liquid funds of \$10,000 or \$500 per group vessel and (v) a minimum balance of \$5,000 to be maintained in the operating accounts.

On July 31, 2009, the Company amended the loan with RBS to (i) waive the minimum security covenant until March 31, 2010, (ii) amend the repayment schedule, (iii) decrease the operating account balance to be maintained with RBS from \$5,000 to \$200, (iv) amend the definition of the EBITDA waiver to exclude one-off lease termination fees, (v) adjust the margin to 2.5% and (vi) add a cash sweep mechanism whereby a certain amount of cash earned by M/T Ioannis P and M/T Dauntless will be applied in the inverse order of maturity to the amount outstanding under the loan agreement.

On August 28, 2009 the Company signed a side letter to the agreement with RBS whereby, at any time after June 29, 2009, the group liquidity should not be less than \$15,000, of which a minimum of \$5,000 or \$385 per group vessel should be unencumbered.

As of December 31, 2009, the Company was not in compliance with the security value maintenance covenant, for which it has received a waiver until March 31, 2010, the EBITDA covenant and the minimum liquid funds covenant. The Company is currently in discussions with the bank in relation to these breaches

(b) HSH:

As of December 31, 2009, the Company's subsidiaries had a total outstanding balance with HSH of \$147,401, excluding unamortized financing fees of \$1,803, under two facilities (bulker financing and product tanker financing), as follows:

Bulker Financing

Amalfi: At December 31, 2009, Amalfi had a loan outstanding of \$22,658, maturing in December 2014, excluding unamortized financing fees of \$197, which bears interest at LIBOR plus a margin (as of December 31, 2009 the margin was 2.5%). The applicable interest rate as of December 31, 2009 is 2.75%.

Jeke: At December 31, 2009, Jeke had a loan outstanding of \$24,282, maturing in February 2015, excluding unamortized financing fees of \$291, which bears interest at LIBOR plus a margin (as of

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

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(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

12. Long-term Debt-(continued):

December 31, 2009 the margin was 2.5%). The applicable interest rate as of December 31, 2009 is 2.78%.

The facility contained various covenants, including (i) asset maintenance whereby the fair market value of the vessel and the fair value of any additional security is required to be greater than or equal to a required percentage of the outstanding loan and the fair value of the outstanding swaps. As per the initial loan agreement the minimum required percentage had been set at 130% for the first four years and 135% from then on until maturity. During 2008 these figures were adjusted to 140% and 145% respectively as a result of waiver received for a breach of the EBITDA covenant, (ii) market value adjusted net worth required to be greater than or equal to \$250,000 and greater than 35% of total assets, and (iii) EBITDA greater than 120% of fixed charges, (iv) minimum liquid funds of \$25,000 or \$500 per group vessel. During 2008 minimum liquid funds were adjusted to \$30,000 as a result of waiver received for a breach of the EBITDA covenant, (v) No dividend payout in excess of 70% of net income per year and full dividend restriction in case of breach of covenant.

On May 11, 2009, the Company amended the loan with HSH. The loan amendment, among other things, provides for the following: (i) The Company to maintain a pledged amount of \$6,549, which is applied against future installments of the bulker financing starting from August 2009; 50% pro rata against the 12 installments starting from August 2009, and 50% pro rata against all remaining installments of the facility including the balloon payment, starting from August 2009. This pledge, amounted to \$4,807 and \$3,784 as of December 31, 2009 and as of June 16, 2010, respectively (ii) increase in margin of bulker financing from 1.35% to 2.50% from March 24, 2009 until March 31, 2010 and after March 31, 2010, (1) 1.00% while each of the Vessels are employed under time charter party agreements acceptable to the Agent for periods of at least twelve months and (2) 1.125% at all other times. As of the date of this annual report, due to covenant breaches, the margin continues being 2.5%. Once covenant breaches have been rectified, the margin will be reset to the loan agreement levels, (iii) waiver for asset maintenance until March 31, 2010. Thereafter, the required percentage will be adjusted to that of the initial loan agreement, (iv) amendment of adjusted net worth up to March 31, 2010 and replacement of the minimum of \$250,000 by \$125,000 and the minimum of 35% by 15%, (v) waiver for EBITDA to fixed charges until March 31, 2010 and at all times thereafter, EBITDA greater than 120% of fixed charges, (vi) amendment of minimum liquid funds to \$25,000 until March 31, 2010, inclusive of all pledged deposits and cash held with all banks and afterwards minimum liquid funds of \$25,000 or \$500 per group vessel, (vii) cross collateralization of the two facilities.

As of December 31, 2009, the Company was not in compliance with the asset maintenance and the EBITDA covenant, for which it has received a waiver until March 31, 2010. Furthermore, the Company was not in compliance with the adjusted net worth and the minimum liquid funds covenants. The facility provides that default rate of two percent (2%) on top of the applicable rate shall apply for as long as there is an event of default. As of the date of this annual report, HSH has not imposed such a rate on any of the two facilities.

The Company is currently in discussions with the bank in relation to these breaches.

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## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

### 12. Long-term Debt-(continued):

#### Product Tanker Financing

Warhol: At December 31, 2009, Warhol had a loan outstanding of \$38,345, maturing in February 2019, excluding unamortized financing fees of \$438, which bears interest at LIBOR plus a margin (as of December 31, 2009 the margin was 2.0%). The applicable interest rate as of December 31, 2009 is 2.58%.

Indiana: At December 31, 2009, Indiana had a loan outstanding of \$27,957, maturing in March 2019, excluding unamortized financing fees of \$432, which bears interest at LIBOR plus a margin (as of December 31, 2009 the margin was 2.0%). The applicable interest rate as of December 31, 2009 is 2.65%.

Britto: At December 31, 2009, Britto had a loan outstanding of \$34,159, maturing in May 2019, excluding unamortized financing fees of \$445, which bears interest at LIBOR plus a margin (as of December 31, 2009 the margin was 2.0%). The applicable interest rate as of December 31, 2009 is 2.56%.

The facility contained various covenants, including (i) asset maintenance whereby the fair market value of the vessel and vessels and of any additional security is required to be greater than or equal to a required percentage of the outstanding loan and the fair value of outstanding swaps. As per the initial loan agreement the minimum required percentage had been set at 120% for the first four years and 125% from then on until maturity. During 2008, these initial required percentage was adjusted to 125% as a result of waiver received for a breach of the EBITDA covenant, (ii) market value adjusted net worth required to be greater than or equal to \$250,000 and greater than or equal to 35% of total assets, and (iii) EBITDA required to be greater than 120% of fixed charges, (iv) minimum liquid funds of \$25,000 or \$500 per group vessel.

During 2008 minimum liquid funds were adjusted to \$30,000 as a result of waiver received for a breach of the EBITDA covenant v) No dividend payout in excess of 70% of net income per year and full dividend restriction in case of breach of covenant.

On May 11, 2009, the Company amended the loan with HSH. The loan amendment, among other things, provides for the following: i) amendment of the minimum required percentage, which has been set at 125% until March 31, 2010, at 120% from April 1, 2010 until the fourth anniversary of this Credit Facility Agreement (October 2012) and at 125% at all times thereafter, ii) amendment of the market value adjusted net worth to \$125,000 up to March 31, 2010 and to 15% of total assets up to March 31, 2010, iii) waiver of EBITDA covenant up to March 31, 2010, iv) amendment of the minimum liquid funds to \$25,000 until March 31, 2010, inclusive of all pledged deposits and cash held with all banks and afterwards minimum liquid funds of \$25,000 or \$500 per group vessel, v) increase in margin of Product Tanker Financing from 1.75% to 2.0% until 31 March 31, 2010, thereafter the margin will be reduced to 1.75% until maturity of the loan while each of the vessels is employed under time charter party agreements acceptable to the

lender for periods of at least twelve (12) months and 1.125% per annum at all other times. As of the date of this annual report, due to covenant breaches, the margin continues being 2.0%. Once covenant breaches have been rectified, the margin will be reset to the loan agreement levels, vi) a restructuring fee of \$150.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

12. Long-term Debt-(continued):

As of December 31, 2009, the Company was not in compliance with the EBITDA covenant, for which it has received a waiver until March 31, 2010. Furthermore, the Company was not in compliance with the asset maintenance, the adjusted net worth and the minimum liquid funds covenants. The facility provides that default rate of two percent (2%) on top of the applicable rate shall apply for as long as there is an event of default. As of the date of this annual report, HSH has not imposed such a rate on any of the two facilities.

The Company is currently in discussions with the bank in relation to these breaches.

(c) DVB:

As of December 31, 2009, the Company's subsidiaries had a total outstanding balance with DVB of \$98,051, excluding unamortized financing fees of \$2,553, under two facilities (bulker financing and product tanker financing).

Bulker Financing

Japan II: At December 31, 2009, Japan II had a loan outstanding of \$28,000, maturing in October 2015, excluding unamortized financing fees of \$542, which bears interest at LIBOR plus a margin (as of December 31, 2009 the margin was 1.5%). The applicable interest rate as of December 31, 2009 is 2.12%.

The facility contained various covenants, including (i) asset maintenance whereby the fair market value of the vessel and of any additional security is required to be greater than or equal to 140% of the outstanding loan and swaps for the first two years and 130% thereafter, (ii) a Net Asset Value that is required to be greater than 125,000, (iii) Stockholder's equity required to be greater than \$100,000, and (iv) minimum cash balances of \$25,000.

On March 24, 2009, the Company signed a waiver letter and on July 31, 2009 the Company signed an amendment to its \$80,000 newbuildings loan which contained certain provisions affecting the drybulk facility. This waiver letter and the amendment of the \$80,000 loan agreement, among other things, provide for the following: (i) asset maintenance whereby the fair market value of the mortgaged vessels under the bulker and the product tanker financing and of any additional security is required to be greater than or equal to 100% until March 31, 2010, 105% until March 31, 2011, 110% until March 31, 2012 and 120% thereafter of the outstanding loan (excluding Top Up Loan) and the fair value of the outstanding swaps (ii) amendment of Net Asset Value covenant to \$0 up to March 31, 2010, to be calculated on an annual basis (every 31st of December) except for June 30, 2010, (iii) minimum cash balance of \$20,000 as per the waiver letter dated March 24, 2009, which then became \$5,000 unencumbered up to September, 30, 2010 and thereafter \$25,000 or \$500 per vessel (\$250 per vessel as cash in hand may be included), according to the amendment of the newbuildings loan, (iv) a cash sweep mechanism for the period commencing after the end of April 2010 until the maturity of the loan agreement whereby 60% of any excess cash earned by the M/V Astrale will be applied in the inverse order of maturity to the amount outstanding under the loan agreement. Excess cash is defined as net earnings less: (i) aggregate operating expenses and general and administrative capped at \$10,000 per day as adjusted for an

annual increase of 3%, (ii) scheduled installment repayments and (iii) interest costs. The cash sweep mechanism will cease to apply in the event the

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

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(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

12. Long-term Debt-(continued):

ratio of the vessel's charter free fair market value over the outstanding loan is equal or greater than 140% for a period of more than 3 consecutive months, v) change in the repayment schedule of the loan, vi) a restructuring fee of \$80 on top of the \$240 fee provided in the loan agreement for renewing the drybulk facility.

As of December 31, 2009, the Company was not in compliance with the net asset value and the minimum cash balance covenants. The Company is currently in discussions with the bank in relation to these breaches.

Product Tanker Financing

Banksy: At December 31, 2009, Banksy had a loan outstanding of \$32,695, excluding unamortized financing fees of \$563, which bears interest at LIBOR plus a margin (as of December 31, 2009 the margin was 1.75%). The applicable interest rate as of December 31, 2009 is 2.35%.

Hongbo: At December 31, 2009, Hongbo had a loan outstanding of \$26,156, excluding unamortized financing fees of \$622, which bears interest at LIBOR plus a margin (as of December 31, 2009 the margin was 1.55%). The applicable interest rate as of December 31, 2008 is 2.15%.

Top Up Loan: On July 31, 2009, the Company amended its \$80,000 product tanker facility with DVB in order to take account of a bridge loan of \$12,512 used in the financing of the delivery installment of the M/T Hongbo. As of December 31, 2009 the outstanding amount was \$11,200, excluding unamortized financing fees of \$826, which bears interest at LIBOR plus a margin (as of December 31, 2009 the margin was 6%). The applicable interest rate as of December 31, 2009 is 6.6%. The bridge loan is payable in full on July 30, 2010. Furthermore, the facility includes a cash sweep mechanism whereby 100% of the aggregate of any excess cash being hire earned by M/T Hongbo and M/T Ionian Wave above capital repayments in connection with the relevant loan tranches and interest expenses in connection with relevant tranches and the Top Up Loan, is applied on a quarterly basis as prepayment against the outstanding Top Up Loan, starting on September 16, 2009.

During 2009, the Company has prepaid a total amount of \$1,313 of the Top Up Loan in accordance with the cash sweep mechanism. In March and June 2010, the Company prepaid an additional amount of \$550 and \$587, respectively.

In connection with this amendment and bridge loan, we issued 12,512,400 common shares to Hongbo Shipping Company Limited, our wholly owned subsidiary, who pledged these shares in favor of DVB. This pledge was granted as security and must remain in an amount equal to 180% of the outstanding bridge loan, which amount will be tested at the end of each quarter. We also agreed to file a registration statement for the resale of the Hongbo Shipping shares and use our best efforts to keep the registration statement effective during the security period. Based on fair value of Company's common stock and outstanding balance of the loan measured at December 31, 2009, the Company is required to issue and pledge 7,447,756 additional shares of common stock. As of March 31, 2010, this amount increased to 9,756,488.



NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

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(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

12. Long-term Debt-(continued):

The facility contained various covenants, including (i) asset maintenance whereby the fair market value of the vessel is required to be greater than or equal to 110% of the outstanding loan for the predelivery period, 115% for the first five years and 125% thereafter, (ii) a Net Asset Value that is required to be greater than \$225,000, (iii) Stockholder's equity required to be greater than \$180,000, (iv) minimum cash balances of the higher of \$25,000 or \$500 per group vessel, and (v) Interest cover ratio of no less than 1.2 times (defined as EBITDA divided by interest expense) pre delivery and 1.5 times post delivery.

On March 24, 2009, the Company signed a waiver letter and on July 31, 2009 the Company signed an amendment to its \$80,000 newbuildings loan. This waiver letter and the amendment of the \$80,000 loan agreement, among other things, provides for the following: (i) asset maintenance whereby the fair market value of the mortgaged vessels and of any additional security is required to be greater than or equal to 115% for the first five years, up to August, 2014 and 125% thereafter of the outstanding loan (excluding Top Up Loan) and the fair value of the outstanding swaps. In case of breach of the minimum security cover, the borrowers would be obliged to reduce the tranche relating to M/T Ionian Wave and M/T Hongbo by 55% and 45% of shortfall respectively and increase the Top Up Loan by the shortfall. Thereafter, in case the security cover shows an excess by at least \$1 million, the tranche relating to M/T Ionian Wave and M/T Hongbo to be increased by 55% and 45% of the shortfall and the Top Up Loan to be reduced by the shortfall, (ii) amendment of Net Asset Value covenant to \$0 up to March 31, 2010, to be calculated on an annual basis (every 31st of December) except for June 30, 2010, (iii) minimum cash balance of \$20,000 as per the waiver letter dated March 24, 2009, which then became \$5,000 unencumbered up to September, 30, 2010 and thereafter \$25,000 or \$500 per vessel (\$250 per vessel as cash in hand may be included), according to the amendment of the newbuildings loan, (iv) amendment of Interest cover ratio.

According to notice received from DVB, as of March 16, 2010, the Company was not in compliance with the minimum security cover for an amount of \$2,959 based on valuations dated December 31, 2009. The Company reduced the tranche relating to M/T Ionian Wave by \$1,627 and the tranche relating to M/T Hongbo by \$1,332 representing the 55% and the 45% of shortfall respectively and increased the Top Up Loan by \$2,959.

Additionally, as of December 31, 2009, the Company was not in compliance with the net asset value and the minimum cash balance covenants. The Company is currently in discussions with the bank in relation to these breaches.

(d) ALPHA:

As of December 31, 2009, the Company's subsidiaries had a total outstanding balance with ALPHA of \$65,200, excluding unamortized financing fees of \$450 under two facilities (bulker financing and product tanker financing).

Bulker Financing

Japan III: At December 31, 2009, Japan III had a loan outstanding of \$28,000, maturing in December 2015, excluding unamortized financing fees of \$146 , which bears interest at LIBOR plus a margin (as of December 31, 2009 the margin was 3.0%). The applicable interest rate as of December 31, 2009 is 3.31%.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

12. Long-term Debt-(continued):

The facility contained various covenants, including (i) asset maintenance whereby the fair market value of the vessel and any additional security is required to be greater than or equal to 130% of the outstanding loan, (ii) market value adjusted net worth greater than or equal to \$250,000 (iii) book equity (total assets less consolidated debt) required to be greater than \$100,000, and (iv) minimum cash balances of \$25,000.

On April 3, 2009, the Company signed a supplemental agreement with Alpha. The supplemental agreement, among other things, provides for the following: (i) a cash pledge of \$4,000 to be maintained with the lender; this amount will be applied towards the financing in case of renegotiation or cancellation of the existing time charter agreement of M/V Cyclades. \$2,000 of the pledged cash will be released on December 31, 2009 subject to the above and no other event of default. The remaining \$2,000 will be released on March 31, 2010 given that: a) no renegotiation or cancellation of the existing time charter agreement will be effected until then, b) no event of default has occurred in the respective loan facility. As of the date of this annual report, due to covenant breaches, the cash pledge has not been released, (ii) increase in margin from 1.30% to 2.50%, (iii) minimum liquidity is reduced to \$15,000 from \$25,000 until March 31, 2010, (iv) waivers of the asset maintenance and the adjusted net worth covenants up to March 31, 2010, (v) cross collateralization of this facility with the facility under (g).

On May 21, 2009, the Company signed a second supplemental agreement with Alpha, whereby Alpha agreed to replace the requirement contained in the first supplemental agreement regarding the registration of a second mortgage over the M/T Lichtenstein with an addendum to such mortgage.

On November 25, 2009, the Company signed a third supplemental agreement with Alpha. The third supplemental agreement mainly provides for the following: i) increase in margin from 2.5% to 3% from September 17, 2009 up to March 31, 2010. Thereafter, the margin would be adjusted to 2.25%. As of the date of this annual report, due to covenant breaches, the margin continues being 3%, ii) minimum liquidity is waived from the date of this agreement up to March 31, 2010.

As of December 31, 2009, the Company was not in compliance with the asset maintenance, the adjusted net worth and the minimum cash balance covenants, for which it has received waivers until March 31, 2010. The Company is currently in discussions with the bank in relation to these breaches.

Product Tanker Financing

Lichtenstein: At December 31, 2009, Lichtenstein had a loan outstanding of \$37,200, maturing in February 2019, excluding unamortized financing fees of \$304, which bears interest at LIBOR plus a margin (as of December 31, 2009 the margin was 3.0%). The applicable interest rate as of December 31, 2009 is 3.31%.

The facility contained various covenants, including (i) asset maintenance whereby the fair market value of the vessel and any additional security is required to be greater than or equal to 130% of the outstanding loan, (ii) market value adjusted net worth required to be greater than or equal to \$250,000 (iii) book equity (total assets less consolidated debt) required to be greater than \$100,000, and (iv) minimum cash balances of \$25,000.



NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

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(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

12. Long-term Debt-(continued):

On February 23, 2009, the Company signed a first supplemental agreement with Alpha to take account of the replacement of the initial bareboat charterer (Daelim H&L Co., Ltd.) by Daelim Corporation following the latter's merger ..

On April 3, 2009, the Company signed a second supplemental agreement with Alpha. The second supplemental agreement, among other things, provides for the following: i) increase in margin from 1.65% to 2.25%, iii) minimum liquidity is reduced to \$15,000 from \$25,000 until March 31, 2010, iv) waivers of the asset maintenance and the adjusted net worth covenants up to March 31, 2010, v) cross collateralization of this facility with the facility under (c).

On November 25, 2009, the Company signed a third supplemental agreement with Alpha. The third supplemental agreement mainly provides for the following: i) increase in margin from 2.25% to 3% from October 26, 2009 up to March 31, 2010. Thereafter, the margin would be adjusted to 2.25%, As of the date of this annual report, due to covenant breaches, the margin continues being 3%, ii) minimum liquidity is waived from the date of this agreement up to March 31, 2010.

As of December 31, 2009, the Company was not in compliance with the asset maintenance, the adjusted net worth and the minimum cash balance covenants, for which it has received waivers until March 31, 2010. The Company is currently in discussions with the bank in relation to these breaches

(e) EMPORIKI:

At December 31, 2009, Japan I had a loan outstanding of \$39,988, maturing in March 2015, excluding unamortized financing fees of \$99, which bears interest at LIBOR plus a margin (as of December 31, 2009 the margin was 2.5%). The applicable interest rate as of December 31, 2009 is 2.76%.

The facility contained various covenants, including (i) asset maintenance whereby the fair market value of the vessel and of any additional security is required to be greater than or equal to 125% of the outstanding loan ad swap, (ii) leverage ratio (total liabilities divided by total assets adjusted for fair market values of vessels) required to be less than 75% (iii) Interest cover ratio of no less than 2.5 times, (iv) minimum cash balances of no less than the aggregate of next 6 months of senior debt principal payments and (v) maintenance in the earnings account of average monthly balances of \$1,000.

On August 5, 2009, the Company signed a supplemental agreement with Emporiki. The supplemental agreement, among other things, provides for the following: i) waiver of the minimum security requirement up to March 31, 2010, ii) waiver of the maximum leverage ratio up to March 31, 2010, iii) increase in margin from 1.1 to 2.5% from March 31, 2009 until March 31, 2010 and to 1.75% thereafter. As of the date of this annual report, due to covenant breaches, the margin continues being 2.5%.

As of December 31, 2009, the Company was not in compliance with the asset maintenance and the minimum leverage ratio covenants, for which it has received waivers until March 31, 2010 and the minimum liquid funds covenant. The Company is currently in discussions with the bank in relation to these breaches.

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## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

### 12. Long-term Debt-(continued):

#### Other loans

On July 27, 2009, the Company entered into an unsecured bridge loan financing facility with an unrelated party. The purpose of this loan was to provide working capital financing due to the temporary liquidity shortage experienced following the termination of the leases and the delivery of six newbuilding vessels during 2009. The loan was of a principal amount of Euro 2,500 or \$3,607 (based on the U.S. Dollar/Euro exchange rate as of December 31, 2009), had a term of three months and carried a margin of 9.0% per annum. On July 29, 2009 an amount of Euro 1,000 or \$1,443 (based on the U.S. Dollar/Euro exchange rate as of December 31, 2009) was drawn down. On September 14, 2009, the Company amended the bridge loan financing facility by changing the drawdown schedule of the principal amount and undertaking to repay each advance along with relevant interest and fees accrued in connection with the facility within three months from its drawdown. On September 24, 2009 an amount of Euro 1,000 or \$1,443 (based on the U.S. Dollar/Euro exchange rate as of December 31, 2009) was draw down. On October 29, 2009, the Company further amended the bridge loan financing facility by changing the repayment schedule and undertaking to repay the first advance including relevant interest and fees accrued, on January 29, 2009. As of December 31, 2009 the Company had an undrawn amount of Euro 500 or \$721 (based on the U.S. Dollar/Euro exchange rate as of December 31, 2009) to be drawn within three months from the second advance. On January 14, 2010, the loan was further amended by changing the loan principal to Euro 4,000 or \$5,771 (based on the U.S. Dollar/Euro exchange rate as of December 31, 2009), by allowing an additional drawdown of \$1,500. The repayment schedule of the loan was also amended to allow repayment of all outstanding advances along with accrued interest and finance costs by April 15, 2010 in cash or shares or combination as demanded by lender. On April 15, 2010, the Company repaid the first advance of Euro 1,000 or \$1,364 (based on the U.S. Dollar/Euro exchange rate as of April 15, 2010) along with all accrued interest and finance costs by then. Finally, the repayment of the second drawdown and relevant accrued interest from April 15, 2010 was extended up to July 31, 2010.

As of December 31, 2009, an amount of Euro 460 or \$664 (based on the U.S. Dollar/Euro exchange rate as of December 31, 2009) related to fees connected with the loan is included in the interest and finance costs in the accompanying consolidated statements of operations.

Loans Securities: The loans are secured as follows:

- Mortgages over the Company's vessels;
- Assignments of insurance and earnings of the mortgaged vessels;
- Corporate guarantee of TOP Ships Inc;
- Pledge over the earnings accounts of the vessels.

Debt Covenants:

As of December 31, 2008, the Company was not in compliance with certain covenants. In accordance with guidance relating to Debt and more specifically "Classification of Obligations that are Callable by the Creditor", the Company has classified all its debt and financial instruments as

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## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

## 12. Long-term Debt-(continued):

current at December 31, 2008 as a result of noncompliance with loan covenants and cross default provisions included in guarantees provided by the Company to financing institutions in favor of its subsidiaries. A cross default provision means that if the Company defaults on one loan it immediately defaults on all loans that contain such a provision. As of December 31, 2009, the Company was in breach of loan covenants relating to EBITDA, overall cash position (minimum liquidity covenants), adjusted net worth, the net asset value and the asset cover of product tankers with certain banks. As a result of these covenant breaches with all the banks, the Company has classified again all its debt and financial instruments as current.

Interest Expense: Interest expense for the years ended December 31, 2007, 2008 and 2009, amounted to \$16,562, \$18,270 and \$11,009 respectively and is included in interest and finance costs in the accompanying consolidated statements of operations (Note 19).

Financing Costs: The additions in deferred financing costs amounted to \$4,129 and \$3,219 during the years ended December, 31 2008 and 2009. For 2009 this figure is mainly due to obtaining loan covenant waivers.

The weighted average interest rates, as of December 31 2008 and 2009, excluding all swaps, were 4.41% and 2.84%, respectively.

Scheduled Principal Repayments: The annual principal payments required to be made after December 31, 2009, are as follows:

Year ending December 31,	Amount
2010	404,303
Excluding unamortized financing fees	(5,216)
	399,087

## 13. Other current Liabilities:

Interest Rate Derivative Product: In November 2007, the Company entered into an interest rate derivative product. Under this agreement, the Company received an upfront payment of \$8,500 and would have to pay five annual interest payments on a notional amount of \$85,000. Based on the cumulative performance of a portfolio of systematic foreign exchange trading strategies, the interest payments would have a minimum floor at 0.00% and a cap at 7.50%.

On September 15, 2008, the parent company of the counterparty in this derivative product, announced its intention to file a petition under Chapter 11 of the U.S. Bankruptcy Code with the United States Bankruptcy Court for the Southern District of New York.

On December 30, 2008, the Company signed an agreement with the counterparty terminating the interest rate derivative product against a one-off termination payment of \$5,000 by the Company. As of December 31, 2008 the Company classified the \$5,000 termination payment within its current liabilities representing the fair value of the

interest rate derivative product as of that date. This payment was made on January 5, 2009 (Note 21).

14. Commitments and Contingencies:

Various claims, suits, and complaints, including those involving government regulations and product liability, arise in the ordinary course of the shipping business. In addition, losses may arise from disputes with charterers, agents, insurance and other claims with suppliers relating to the operations of the Company's vessels. Currently, management is not aware of any such claims or contingent liabilities, which should be disclosed, or for which a provision should be established in the accompanying consolidated financial statements.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

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(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

14. Commitments and Contingencies-(continued):

The Company accrues for the cost of environmental liabilities when management becomes aware that a liability is probable and is able to reasonably estimate the probable exposure. Currently, management is not aware of any such claims or contingent liabilities, which should be disclosed, or for which a provision should be established in the accompanying consolidated financial statements. A minimum of up to \$1 billion of the liabilities associated with the individual vessels actions, mainly for sea pollution, are covered by the Protection and Indemnity (P&I) Club insurance.

15. Common Stock and Additional Paid-In Capital:

Reverse Stock Split: On March 20, 2008, the Company effected a 1-for-3 reverse stock split of its common stock. There was no change in the number of authorized common shares of the Company.

Private placement: In April 2008, the Company privately placed 7,268,692 common unregistered shares for aggregate net proceeds of \$50,601 with various investors. The shares were sold for \$7.00 per share, which represents a discount of 15.5 percent based on the closing share price of \$8.28 on April 23, 2008. On July 3, 2008 the Company filed a registration statement on form F-3 to register those shares, which was declared effective on July 15, 2008.

Share Repurchase Program: During the fourth quarter of 2008, the Board of Directors authorized a share repurchase program up to \$20 million for a share price of not more than \$2.50 per share with a duration of one year.

Share repurchases started during the fourth quarter of 2008 and the transactions were open market based through the NASDAQ under Rule 10b-18 of the Exchange Act.

As at December 31, 2008, the Company has repurchased and cancelled an amount of 396,949 shares from the open market. As a result, the Company's common stock and additional paid-in capital were reduced by \$4 and \$727 respectively.

The Company continued its repurchase program until February 3, 2009. During the first two months of 2009 the Company repurchased an amount of 358,601 shares from the open market. As a result, the Company's common stock and additional paid-in capital were reduced by \$4 and \$728 respectively

All the outstanding shares that have been repurchased under this program are held initially as treasury stock and are subsequently cancelled. Consequently, the outstanding amount of 358,601 shares was cancelled effective as of February 25, 2009.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

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(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

### 15. Common Stock and Additional Paid-In Capital – (continued):

Issuance of common stock: On July 1, 2009, the Company entered into a standby equity distribution agreement (the "SEDA") with YA Global Master SPV Ltd.

Under the SEDA the Company issued an amount of 2,230,000 shares of common stock. As a result, the Company's common stock and additional paid-in capital were increased by \$22 and \$2,520, respectively as of December 31, 2009, net of issuance costs. The total net proceeds, after commissions, amounted to \$2,936.

### 16. Stock Incentive Plan:

Starting on July 1, 2005 and on various grant dates (the "grant dates") thereafter, as outlined below, the Company granted shares pursuant to the Company's 2005 Stock Incentive Plan as from time to time amended ("the Plan"), which was adopted in April 2005 to provide certain key persons (the "Participants"), on whose initiatives and efforts the successful conduct of the Company's business depends, and who are responsible for the management, growth and protection of the Company's business, with incentives to: (a) enter into and remain in the service of the Company, a Company's subsidiary, or Company's joint venture, (b) acquire a proprietary interest in the success of the Company, (c) maximize their performance, and (d) enhance the long-term performance of the Company (whether directly or indirectly) through enhancing the long-term performance of a Company subsidiary or Company joint venture. The granted shares have no exercise price and constitute a bonus in nature.

In the case where restricted shares were granted, there were signed "Restricted Stock Agreements" between the Company and the Participants on the respective grant dates. Under these agreements, the Participants have the right to receive dividends and the right to vote the shares, subject to the following restrictions:

- i. Grants to Company's CEO. The Company's CEO shall not sell, assign, exchange, transfer, pledge, hypothecate or otherwise dispose of or encumber any of the shares other than to a company, which is wholly owned by the Company's CEO. The restrictions lapse on the earlier of (i) the time specified in the relevant Restricted Stock Agreement or (ii) the termination of the Company's CEO employment with the Company for any reason. As the shares granted to the Company's CEO do not contain any future service vesting conditions, all such shares are considered vested shares on the grant date.
- ii. Grants to Other Participants. The Participants (officers, independent and executive members of the Board, Company's employees and consultants) shall not sell, assign, exchange, transfer, pledge, hypothecate or otherwise dispose of or encumber any of the shares. The restrictions lapse on the time specified in the relevant Restricted Stock Agreement conditioned upon the Participant's continued employment with the Company from the date of the agreement until the date the restrictions lapse (the "vesting period").

In the event the Participant's employment with the Company terminates for any reason before the end of the vesting period, that Participant shall forfeit all rights to all Shares that have not yet vested as of such date of termination.

Dividends earned during the vesting period will not be returned to the Company, even if the unvested shares are ultimately forfeited. As these Shares granted to other than

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

16. Stock Incentive Plan – (continued):

the CEO Participants contain a time-based service vesting condition, such shares are considered non-vested shares on the grant date.

On January 3, 2006, the Company's Board of Directors identified 29 key persons (including the Company's CEO and other 8 officers and independent members of the Board) to whom shares of restricted common stock of the Company were granted. For this purpose 41,666 new shares were granted, out of which 26,666 shares were granted to the Company's CEO, 12,666 shares to 8 officers and independent members of the Board and the remaining 2,334 shares were granted to 20 employees. From the total of 15,000 shares granted to officers, independent members of the Board and employees, 366 shares were forfeited prior to the vesting date.

On July 6, 2006, the Company's Board of Directors identified 60 key persons (including the Company's CEO and other 8 officers and independent members of the Board) to whom shares of restricted common stock of the Company were granted. For this purpose 106,666 new shares were granted, out of which 73,750 shares were granted to the Company's CEO, 22,666 shares to 8 officers and independent members of the Board and the remaining 10,250 shares were granted to 51 employees. From the total of 32,916 shares granted to officers, independent members of the Board and employees, 916 shares were forfeited prior to the vesting date.

On July 11, 2007, the Company granted 213,333 restricted shares pursuant to the Plan. Of the 213,333 new shares granted, 113,333 shares were granted to 6 Directors and the remaining 100,000 shares were granted to 2 officers and employees.

The shares vest proportionally over a period of 4 years in equal installments.

On January 22, 2008, the Company granted 197,560 restricted shares pursuant to the Plan. These Shares were granted to two officers and employees and proportionally vest over a period of four years in equal annual installments.

On July 1, 2008, 500,000 restricted shares were granted to the Company's CEO. 125,000 shares were vested on the grant date and the remainders of the shares are vested over a period of three years in equal annual installments beginning one year from the grant date. However, as the shares granted to our CEO do not contain any future service vesting conditions, all such shares are considered vested shares on the grant date.

On July 10, 2008, the Company granted to an officer 2,666 restricted shares pursuant to the Plan. The shares vested over a period of 6 months.

On September 2, 2008, the Company granted to an officer 2,666 restricted shares pursuant to the Plan. The shares vested over a period of 6 months.

On September 2, 2008, the Company granted to an employee 10,000 restricted shares pursuant to the Plan. The shares vest over a period of 3 years.

On September 2, 2008, the Company granted to the non-executive directors 375,000 restricted shares pursuant to the Plan. The shares vest over a period of 5 years.

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## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

## 16. Stock Incentive Plan – (continued):

On September 4, 2008, the Company's CEO waived his right to receive pursuant to his employment contract with the Company three years' annual base salary in the event of a change in control of the Company, in exchange for receiving 1,472,438 shares, which are restricted shares and which will vest in the event of such change of control. Consequently, the compensation expense for these shares will not be recognized until the vesting becomes probable. In addition, the dividends that might be declared in the future on those shares will be recognized in the consolidated financial statements as additional compensation expense in the consolidated statement of operations, since the vesting period of those shares is indefinite.

On October 21, 2009, the Company granted to an officer 30,326 unrestricted shares pursuant to the Plan. The shares vested immediately.

On December 21, 2009, the Company granted 150,000 restricted shares to each of the Company's two new non-executive directors pursuant to the Plan. The shares vest over a period of 5 years.

On December 21, 2009, the Company granted to the CEO 500,000 Shares, pursuant to the Plan with a vesting period of six months. However, as the shares granted to our CEO do not contain any future service vesting conditions, all such shares are considered vested shares on the grant date

On December 21, 2009, the Company granted 300,000 Shares to the CFO, pursuant to the Company's Plan out of which 100,000 shares vested immediately, and the remainder of the shares vest over a period of 2 years.

All share amounts have been adjusted for the 1:3 reverse stock split effected on March 20, 2008.

A summary of the status of the Company's non-vested shares as of December 31, 2009 and movement during the year ended December 31, 2009, is presented below:

Non-vested Shares		Weighted average grant date fair value
As of January 1, 2009	2,077,264	\$6.42
Granted	1,130,326	\$0.98
Vested	(958,404)	\$3.63
Forfeited	(8,077)	\$12.45
As of December 31, 2009	2,241,109	\$4.85

The compensation expense recognized in the years ended December 31, 2007, 2008 and 2009 was \$935, \$5,116 and \$3,467 and is included in General and administrative expenses in the consolidated statements of operations. As of December 31, 2009, the total unrecognized

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## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

### 16. Stock Incentive Plan – (continued):

compensation cost related to non-vested share awards is \$2,812, which is expected to be recognized by December 31, 2014.

The total fair value of shares vested during the years ended December 31, 2007, 2008 and 2009 was \$978, \$3,770 and \$1,115 respectively.

The Company estimates the future forfeitures of non-vested shares to be immaterial. The Company will, however, re-evaluate the reasonableness of its assumption at each reporting period.

No dividends were paid in the years ended December 31, 2007, 2008 and 2009.

### 17. Earnings (loss) Per Common Share:

All shares issued (including non-vested shares issued under the Plan) are the Company's common stock and have equal rights to vote and participate in dividends and in undistributed earnings. Non-vested shares do not have a contractual obligation to share in the losses. Dividends declared during the period for non-vested common stock as well as undistributed earnings allocated to non-vested stock are deducted from net income / (loss) attributable to common shareholders for the purpose of the computation of basic earnings per share in accordance with two-class method as required by relevant guidance. The denominator of the basic earnings per common share excludes any non-vested shares as such are not considered outstanding until the time-based vesting restriction has elapsed.

On January 1, 2009, the Company adopted the requirements of the guidance related to Earnings per share, which clarifies that non-vested share-based payment awards that contain rights to receive non forfeitable dividends or dividend equivalents (whether paid or unpaid) are participating securities, and thus, should be included in the two-class method of computing earnings per share. This standard was applied retroactively to all periods presented. Non-vested, participating shares did not impact basic and diluted loss per share for the periods ended December 31, 2007 and 2009 due to losses. However, the adoption resulted in a decrease of \$0.04 in the basic and diluted earnings per share for the year ended December 31, 2008 once retroactively adjusted in 2009. Refer to Note 2 (aa), "Recently Issued Accounting Pronouncements," for additional information related to Earnings per share guidance.

For purposes of calculating diluted earnings per share the denominator of the diluted earnings per share calculation includes the incremental shares assumed issued under the treasury stock method weighted for the period the non-vested shares were outstanding, with the exception of the 1,472,438 shares, granted to the Company's CEO, which will vest in the event of change of control. Consequently, those shares are excluded from the remaining non-vested shares.



## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

## 17. Earnings (loss) Per Common Share – (continued):

The components of the calculation of basic and diluted earnings per share for the years ended December 31, 2007, 2008 and 2009 are as follows:

	Year Ended December 31,		
	2007	2008	2009
Net (loss) income	\$ (49,076 )	\$ 25,639	\$ (50,196 )
Less: Undistributed earnings allocated to non-vested shares	\$ -	\$ (912 )	\$ -
Net (loss) income available to common shareholders	\$ (49,076 )	\$ 24,727	\$ (50,196 )
Weighted average common shares outstanding, basic and diluted	\$ 11,986,857	\$ 25,445,031	\$ 28,230,585
(Loss) income per common share, basic and diluted	\$ (4.09 )	\$ 0.97	\$ (1.78 )

For the years ended December 31 2007, 2008 and 2009, 213,333, 2,077,264 and 2,241,109, shares respectively, which constitute the number of non-vested shares as at the end of each year, were not included in the computation of diluted earnings per share because to do so would have been antidilutive for the periods presented.

## 18. Voyage and Vessel Operating Expenses:

The amounts in the accompanying consolidated statements of operations are as follows:

Voyage Expenses	Year Ended December 31,		
	2007	2008	2009
Port charges	15,473	5,377	24
Bunkers	36,867	23,877	(12 )
Commissions	7,074	9,402	3,360
Total	59,414	38,656	3,372

  

Vessel Operating Expenses	Year Ended December 31,		
	2007	2008	2009
Crew wages and related costs	27,721	26,673	11,439
Insurance	6,191	7,210	3,021

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Repairs and maintenance	18,758	19,791	4,323
Spares and consumable stores	15,177	13,294	4,832
Taxes (Note 20)	67	146	124
Total	67,914	67,114	23,739

19. Interest and Finance Costs:

The amounts in the accompanying consolidated statements of operations are analyzed as follows:

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## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

Interest and Finance Costs	Year Ended December 31,		
	2007	2008	2009
Interest on long-term debt (Note 12)	19,223	22,143	12,470
Less: Capitalized interest (Note 9)	(2,661 )	(3,873 )	(1,461 )
Interest on capital leases	-	1,219	-
Commitment fees		392	153
Bank charges	875	752	382
Amortization and write-off of financing fees	2,081	5,131	2,425
<b>Total</b>	<b>19,518</b>	<b>25,764</b>	<b>13,969</b>

## 20. Income Taxes:

Marshall Islands, Cyprus and Liberia do not impose a tax on international shipping income. Under the laws of Marshall Islands, Cyprus and Liberia, the countries of the companies' incorporation and vessels' registration, the companies are subject to registration and tonnage taxes, which have been included in vessels' operating expenses in the accompanying consolidated statements of operations.

Pursuant to the United States Internal Revenue Code of 1986, as amended (the "Code"), U.S. source income from the international operations of ships is generally exempt from U.S. tax if the company operating the ships meets both of the following requirements, (a) the Company is organized in a foreign country that grants an equivalent exemption to corporations organized in the United States and (b) either (i) more than 50% of the value of the Company's stock is owned, directly or indirectly, by individuals who are "residents" of the Company's country of organization or of another foreign country that grants an "equivalent exemption" to corporations organized in the United States (50% Ownership Test) or (ii) the Company's stock is "primarily and regularly traded on an established securities market" in its country of organization, in another country that grants an "equivalent exemption" to United States corporations, or in the United States (Publicly-Traded Test).

Under the regulations, a Company's stock will be considered to be "regularly traded" on an established securities market if (i) one or more classes of its stock representing more than 50 percent of its outstanding shares, by voting power and value, is listed on the market and is traded on the market, other than in minimal quantities, on at least 60 days during the taxable year; and (ii) the aggregate number of shares of stock traded during the taxable year is at least 10% of the average number of shares of the stock outstanding during the taxable year.

The Marshall Islands, Cyprus and Liberia, the jurisdictions where the Company and its ship-owning subsidiaries are incorporated, grant an "equivalent exemption" to United States corporations. Therefore, the Company is exempt from United States federal income taxation with respect to U.S.-source shipping income if either the 50% Ownership Test or the Publicly-Traded Test is met. The Company believes that for periods prior to its initial public offering in July 2004, it satisfied the 50% Ownership Test. The Company also believes that for periods subsequent to its initial public offering, it satisfies the Publicly-Traded Test on the basis that more than 50% of the value of its stock is primarily and regularly traded on the Nasdaq National Market and, therefore, the Company and its subsidiaries are entitled to exemption from U.S. federal income tax, in respect of their U.S. source shipping income.

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## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

## 21. Financial Instruments:

The principal financial assets of the Company consist of cash on hand and at banks and accounts receivable due from charterers. The principal financial liabilities of the Company consist of long-term loans, accounts payable due to suppliers, interest rate swap agreements and an interest rate derivative product.

- a) Interest rate risk: The Company is subject to market risks relating to changes in interest rates because it has floating rate debt outstanding under its loan agreements on which it pays interest based on LIBOR, or cost of funds for certain banks, plus a margin. In order to manage part or whole of its exposure to changes in interest rates due to this floating rate indebtedness, the Company might enter into interest rate swap agreements.
- b) Concentration of Credit risk: Financial instruments, which potentially subject the Company to significant concentrations of credit risk, consist principally of cash and trade accounts receivable.

The Company places its temporary cash investments, consisting mostly of deposits, with high credit qualified financial institutions. The Company performs periodic evaluations of the relative credit standing of those financial institutions with which it places its temporary cash investments. The Company limits its credit risk with accounts receivable by performing ongoing credit evaluations of its customers' financial condition and generally does not require collateral for its accounts receivable.

- c) Fair value: The carrying values of cash and cash equivalents, accounts receivable and accounts payable are reasonable estimates of their fair value due to the short-term nature of these financial instruments. The carrying amount of the Company's credit facilities (as further discussed in Note 12) approximates its fair value. The fair value of the interest rate swaps, except the swap under viii below, was determined using a discounted cash flow method based on market-based LIBOR swap yield curves, taking into account current and future interest rates and the creditworthiness of both the financial instrument counterparty and the Company. The fair value of the derivative product and the swap under viii below is the amount the Company would pay to terminate it.

The estimated fair values of the Company's derivatives, seen below, equal carrying values.

SWAP	Notional Amount December 31, 2009	Period	Effective Date	Interest Rate Payable	Fair Value - Asset (Liability)	
					December 31, 2008	December 31, 2009
1		4 years	June 30, 2005	4.66%	(\$270)	-
2	\$9,923	2 years	December 12, 2008	4.80%	(\$701)	(\$444)
3	\$9,923	2 years	December 12, 2008	4.80%	(\$701)	(\$444)
4	\$9,923	2 years	December 12, 2008	4.80%	(\$701)	(\$444)
5	\$10,000	7 years	September 30, 2006	4.23%	(\$1,852)	(\$907)
6	\$10,000	7 years	September 30, 2006	4.11%	(\$1,812)	(\$869)
7	\$10,000	7 years	July 3, 2006	4.76%	(\$1,650)	(\$1,090)
8	\$11,938	5 years	March 27, 2008	4.60%	(\$732)	(\$620)

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9	\$6,798	5 years	March 27, 2008	4.60%	(\$468)	(\$320)
10	\$20,000	7 years	May 15, 2008	10.85%	(\$3,944)	(\$5,975)
11	\$12,345	7 years	July 15, 2008	5.55%	(\$2,344)	(\$1,316)
12	\$15,108	4 years	June 28, 2010	4.73%	(\$1,263)	(\$921)
13	\$32,695	3 years	March 19, 2009	2.095%	-	(\$453)
					(\$16,438)	(\$13,803)

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## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

## 21. Financial Instruments – (continued):

The Company enters into interest rate swap transactions to manage interest costs and the risk associated with changing interest rates with respect to its variable interest rate loans and credit facilities. These interest rate swap transactions fix the interest rates based on predetermined ranges in current LIBOR rates. As of December 31, 2009, the Company's outstanding interest rate swaps had a combined notional amount of \$158,653.

The Company follows the accounting guidance for Fair Value Measurements and Disclosures. This guidance enables the reader of the financial statements to assess the inputs used to develop those measurements by establishing a hierarchy for ranking the quality and reliability of the information used to determine fair values. The statement requires that assets and liabilities carried at fair value should be classified and disclosed in one of the following three categories:

Level 1: Quoted market prices in active markets for identical assets or liabilities;

Level 2: Observable market based inputs or unobservable inputs that are corroborated by market data;

Level 3: Unobservable inputs that are not corroborated by market data.

The Company pays a fixed rate and receives a variable rate for its interest rate swaps. The variable rate is based on the LIBOR swap rates. LIBOR swap rates are observable at commonly quoted intervals for the full terms of the swaps and therefore are considered Level 2 items. The fair values of those derivatives determined through Level 2 of the fair value hierarchy are derived principally from or corroborated by observable market data. Inputs include quoted prices for similar assets, liabilities (risk adjusted) and market-corroborated inputs, such as market comparables, interest rates, yield curves and other items that allow value to be determined.

As of December 31, 2009, no fair value measurements for assets or liabilities under Level 1 or level 3 were recognized in the Company's consolidated financial statements.

The following table summarizes the valuation of our financial instruments as of December 31, 2009:

	Total	Fair Value Measurement at Reporting Date Using Quoted		
		Active Markets for Identical Assets (Level 1)	Prices in Significant Other Observable Inputs (Level 2)	Significant Other Unobservable Inputs (Level 3)
Interest rate swaps	\$13,803	-	\$13,803	-

The following table summarizes the valuation of our assets measured at fair value on a non-recurring basis as of the valuation date:

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## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

## 21. Financial Instruments – (continued):

## Items Measured at Fair Value on a Nonrecurring Basis

	Fair Value Measurements				
	Quoted prices in active markets	Significant other observable inputs	Significant other unobservable inputs	Unobservable inputs	Gains/ (Losses)
Non – Recurring Measurements:	December 31, 2009	for identical assets Level 1	inputs Level 2	Inputs Level 3	
Long-lived assets held and used	\$38,000		\$38,000		\$36,638

In accordance with the provisions of relevant guidance, long-lived assets held and used with a carrying amount of \$74,638 were written down to their fair value of \$38,000, resulting in an impairment charge of \$36,638, which was included in the accompanying consolidated statement of operations for December 31, 2009 (Note 10).

The fair value of the impaired vessels was determined based on a market approach, which consisted of quotations from well respected brokers regarding vessels with similar characteristics as compared to our vessels. As a result, the Company has classified long-lived assets held and used as Level 2.

The Company's interest rate swaps did not qualify for hedge accounting. The Company marks to market the fair market value of the interest rate swaps at the end of every period and reflects the resulting unrealized gain or loss during the period in "Gain / (loss) on financial instruments" in its consolidated statement of operations as well as presents the fair value at the end of each period in the balance sheet. Information on the location and amounts of derivative fair values in the consolidated balance sheets and derivative losses in the consolidated statements of operations are presented below:

## Liability Derivatives

	December 31, 2008		December 31, 2009	
	Balance Sheet Location	Fair Value	Balance Sheet Location	Fair Value
Derivatives not designated as hedging instruments				
Interest rate swaps	Current liabilities – Current portion of financial instruments	\$16,438	Current liabilities – Current portion of financial instruments	\$13,803
		\$16,438		\$13,803

Total Derivatives  
not designated as  
hedging  
instruments

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## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2008 AND 2009

(Expressed in thousands of United States Dollars – except share and per share data, unless otherwise stated)

## 21. Financial Instruments – (continued):

Derivative Instruments not designated as hedging instruments	Location of (Loss) or Gain recognized in Income on Derivative	Amount of (Loss) or Gain Recognized in Statement of Operations		
		December 31, 2007	December 31, 2008	December 31, 2009
Interest rate swaps	(Loss) / gain on financial instruments	\$2,728	\$16,326	(\$2,635)
Interest rate derivative product	(Loss) / gain on financial instruments	\$2,176	(\$5,676)	-
Total (Loss) / Gain on Derivatives		\$4,904	\$10,650	(\$2,635)

## 22. Subsequent Events:

- (a) New Time Charter: In March 2010, the Company's vessel M/T Dauntless entered into a time charter agreement for two years, starting in March 2010, at a gross daily rate of \$10,500 plus 50/50 profit share with a first class charterer.

## Schedule I- Condensed Financial Information of Top Ships Inc. (Parent Company Only)

## Balance Sheets

December 31, 2008 and 2009

(Expressed in thousands of U.S. Dollars – except for share and per share data)

	2008	December 31, 2009
<b>ASSETS</b>		
<b>CURRENT ASSETS</b>		
Cash and cash equivalents	49,154	-
Due from subsidiaries	301,543	330,109
Other current assets	686	248
Total current assets	351,383	330,357
<b>NON CURRENT ASSETS</b>		
Investments in subsidiaries	311,178	328,826
Restricted cash	5,081	473
Other non-current assets	118	99
Total non-current assets	316,377	329,398
Total assets	667,760	659,755
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
<b>CURRENT LIABILITIES</b>		
Current portion of long term debt	60,599	53,351
Due to subsidiaries	302,862	354,121
Current portion of financial instruments	5,584	2,866
Other current liabilities	6,623	2,166
Total current liabilities	375,668	412,504
<b>NON CURRENT LIABILITIES</b>		
Other non-current liabilities	41	55
Total non-current liabilities	41	55
<b>STOCKHOLDERS' EQUITY</b>		
Preferred stock, \$0.01 par value; 20,000,000 shares authorized; none issued	-	-
Common stock \$0.01 par value; 1,000,000,000 shares authorized 29,901,048 and 32,894,696 shares issued and outstanding at December 31, 2008 and 2009	283	311
Additional paid-in capital	271,056	276,305
Accumulated other comprehensive income	24	88
Retained earnings / Accumulated deficit	20,688	(29,508 )
Total stockholders' equity	292,051	247,196
Total liabilities and stockholders' equity	667,760	659,755

## Schedule I- Condensed Financial Information of Top Ships Inc. (Parent Company Only)

## Statements of Operations

For the years ended December 31, 2007, 2008 and 2009

(Expressed in thousands of U.S. Dollars – except for share and per share data)

	2007	December 31, 2008	2009
<b>EXPENSES</b>			
General and administrative expenses	9,493	14,365	12,910
Foreign currency losses / (gains), net	49	(96 )	(17 )
Operating loss	(9,542 )	(14,269 )	(12,893 )
<b>OTHER INCOME / (EXPENSES)</b>			
Interest and finance costs	(11,264 )	(6,896 )	(2,457 )
Loss / (gain) on financial instruments	(3,704 )	(3,701 )	1,439
Interest income	2,142	1,252	148
Other, net	-	-	46
Total Other (expenses), net	(12,826 )	(9,345 )	(824 )
Equity in (loss) / earnings of subsidiaries	(26,708 )	49,253	(36,479 )
Net (loss) / income	(49,076 )	25,639	(50,196 )
<b>(Loss) / earnings per common share, basic and diluted</b>			
	(4.09 )	0.97	(1.78 )
Weighted average common shares outstanding, basic and diluted	11,986,857	25,445,031	28,230,585

## Schedule I- Condensed Financial Information of Top Ships Inc. (Parent Company Only)

## Statements of Cash Flows

For the years ended December 31, 2007, 2008 and 2009

(Expressed in thousands of U.S. Dollars)

	2007	December 31, 2008	2009
Net cash (used in) Operating Activities	(45,569 )	(77,474 )	(11,006 )
<b>Cash flows from Investing Activities</b>			
Return of investment from subsidiaries	75,954	243,531	-
Investment in subsidiaries	(129,272 )	(64,213 )	(32,181 )
Decrease (Increase) in Restricted cash	-	10,000	4,608
Acquisition of fixed assets	-	(112 )	-
Net cash (used in) / provided by Investing Activities	(53,318 )	189,206	(27,573 )
<b>Cash flows from Financing Activities</b>			
Proceeds from long-term debt	10,000	30,000	2,886
Principal payments of long-term debt	(34,080 )	(164,994 )	(10,149 )
Issuance of common stock, net of issuance costs	98,341	50,601	2,569
Repurchase and cancellation of common stock	-	(733 )	(732 )
Financial instrument termination payments	-	-	(5,000 )
Financial instrument upfront receipt	8,500	-	-
Payment of financing costs	-	-	(149 )
Net cash provided by / (used in) Financing Activities	82,761	(85,126 )	(10,575 )
Net (decrease) / increase in cash and cash equivalents	(16,126 )	26,606	(49,154 )
Cash and cash equivalents at beginning of year	38,674	22,548	49,154
Cash and cash equivalents at end of year	22,548	49,154	

Schedule I- Condensed Financial Information of Top Ships Inc. (Parent Company Only)  
(Figures in thousands of U.S. Dollars)

In the condensed financial information of the Parent Company, the Parent Company's investment in subsidiaries is stated at cost plus equity in undistributed earnings of subsidiaries less equity in undistributed loss of subsidiaries, distributions from subsidiaries as return on investment and return of investment.

The Parent Company's subsidiaries made the following distributions to the Parent Company during the years ended December 31, 2007, 2008 and 2009:

Return on Investment	19,456	96,774	1,549
Return of Investment	75,954	243,531	
Total cash from subsidiaries	95,410	340,305	1,549

The Parent Company is a borrower under the RBS and the Cape Manuel facilities and guarantor under the remaining loans outstanding at December 31, 2009. Refer to Note 12 "Long-term Debt" to the consolidated financial statements.

The principal payments required to be made after December 31, 2009 for these are as follows:

Year ending December 31, 2010	53,662
Less financing fees	(311)
	53,351

The vessel-owning subsidiary companies with outstanding loans had restricted net assets amounting to \$100,175 and \$151,571 as of December 31, 2008 and 2009, respectively.

The condensed financial information of the Parent Company should be read in conjunction with the Company's consolidated financial statements.

ITEM 19. EXHIBITS

Number	Description of Exhibits
1.1	Second Amended and Restated Articles of Incorporation of TOP SHIPS INC.
1.2	Amended and Restated By-Laws of the Company, as adopted on February 28, 2007 (1)
2.1	Form of Share Certificate (2)
4.1	TOP SHIPS INC. Amended and Restated 2005 Stock Incentive Plan
4.2	Credit Facility between the Company and the Royal Bank of Scotland dated November 1, 2005 (3)
4.3	Supplement to Credit Facility between the Company and the Royal Bank of Scotland dated December 21, 2006 (4)
4.4	Shareholder Rights Agreement with Computershare Investor Services, LLC, as Rights Agent as of August 19, 2005 (5)
4.5	Credit Facility between Jeke Shipping Company Limited, Noir Shipping S.A., Amalfi Shipping Company Limited and HSH Nordbank AG, dated November 8, 2007 (6)
4.6	Secured Loan Agreement between Japan III Shipping Company Limited and Alpha Bank A.E, dated December 17, 2007 (7)
4.7	Supplemental Agreement between Japan III Shipping Company Limited, Lichtenstein Shipping Company Limited and Alpha Bank A.E., dated April 3, 2009, to Secured Loan Facility Agreement dated December 17, 2007 (8)
4.8	Loan Agreement between Emporiki Bank of Greece S.A. and Japan I Shipping Company Limited, dated March 5, 2008 (9)
4.9	Supplemental Agreement, dated March 26, 2008 to Facilities Agreement between TOP SHIPS INC. and the Royal Bank of Scotland plc, dated November 1, 2005 (10)
4.10	Loan Agreement between Japan II Shipping Company Limited, TOP SHIPS INC., DVB Bank AG and DVB Bank America N.V., dated April 24, 2008 (11)
4.11	Secured Loan Agreement between Lichtenstein Shipping Company Limited and Alpha Bank A.E., dated August 18, 2008 (12)

- 4.12 First Supplemental Agreement between Lichtenstein Shipping Company Limited and Alpha Bank A.E, dated February 23, 2009, to Secured Loan Agreement dated August 18, 2008 (13)
- 4.13 Second Supplemental Agreement between Lichtenstein Shipping Company, Japan III Shipping Company Limited and Alpha Bank A.E., dated April 3, 2009, to Secured Loan Agreement dated August 18, 2008 (14)
- 4.14 Credit Facility between Warhol Shipping Company Limited, Indiana R Shipping Company Limited, Britto Shipping Company Limited and HSH Nordbank AG, dated October 1, 2008 (15)
- 4.15 Loan Agreement between Banksy Shipping Company Limited, Hongbo Shipping Company Limited and DVB Bank America N.V., dated October 6, 2008 (16)
- 4.16 Amendment Letter between Banksy Shipping Company Limited, Hongbo Shipping Company Limited and DVB Bank America N.V. dated July 31, 2009, to Loan Agreement dated October 6, 2008
- 4.17 Fourth Supplemental Agreement between The Royal Bank of Scotland plc and TOP Ships Inc. dated July 30, 2009, to Facilities Agreement dated November 1, 2005
- 4.18 Second Supplemental Agreement between Japan III Shipping Company Limited, Lichtenstein Shipping Company Limited and Alpha Bank A.E., dated May 21, 2009, to Secured Loan Facility Agreement dated December 17, 2007
- 4.19 Third Supplemental Agreement between Japan III Shipping Company Limited, Lichtenstein Shipping Company Limited and Alpha Bank A.E., dated November 25, 2009, to Secured Loan Facility Agreement dated December 17, 2007
- 4.20 Third Supplemental Agreement between Lichtenstein Shipping Company Limited and Alpha Bank A.E, dated November 25, 2009, to Secured Loan Agreement dated August 18, 2008
- 4.21 First Supplemental Agreement, between Emporiki Bank of Greece S.A. and Japan I Shipping Company Limited, dated August 5, 2009, to Loan Agreement dated March 5, 2008
- 4.22 Amendment No. 1 between Jeke Shipping Company Limited, Noir Shipping S.A., Amalfi Shipping Company Limited and HSH Nordbank AG, dated May 11, 2009, to Credit Facility dated November 8, 2007
- 4.23 Amendment No. 1 between Warhol Shipping Company Limited, Indiana R Shipping Company Limited, Britto Shipping Company Limited and HSH Nordbank AG, dated May 11, 2009, to Credit Facility dated October 1, 2008

- 4.24 Loan Agreement between Top Ships Inc. and Cape Manuel Shipping Company Limited, dated July 27, 2009
  - 8.1 List of subsidiaries of the Company
  - 12.1 Rule 13a-14(a)/15d-14(a) Certification of the Company's Principal Executive Officer
  - 12.2 Rule 13a-14(a)/15d-14(a) Certification of the Company's Principal Financial Officer
  - 13.1 Certification of the Company's Principal Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
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- 13.2 Certification of the Company's Principal Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
- 15.1 Consent of Independent Registered Public Accounting Firm

(1) Incorporated by reference from Exhibit 2.1 to the Company's Annual Report on Form 20-F, filed on June 29, 2009 (File No. 000-50859).

(2) Incorporated by reference from the Company's 6-K filed on March 9, 2007.

(3) Incorporated by reference from Exhibit 4.4 to the Company's Annual Report on Form 20-F, filed on April 13, 2006 (File No. 000-50859)

(4) Incorporated by reference from Exhibit 4.4.1 to the Company's Annual Report on Form 20-F, filed on April 20, 2007 (File No. 000-50859)

(5) Incorporated by reference to Exhibit 4.1 to the Company's Registration Statement on Form 8A (File No. 000-50859).

(6) Incorporated by reference from exhibit 4.72 to the Company's Annual Report on Form 20-F, filed on June 29, 2009 (File No. 000-50859)

(7) Incorporated by reference from exhibit 4.73 to the Company's Annual Report on Form 20-F, filed on June 29, 2009 (File No. 000-50859)

(8) Incorporated by reference from exhibit 4.74 to the Company's Annual Report on Form 20-F, filed on June 29, 2009 (File No. 000-50859)

(9) Incorporated by reference from exhibit 4.75 to the Company's Annual Report on Form 20-F, filed on June 29, 2009 (File No. 000-50859)

(10) Incorporated by reference from exhibit 4.76 to the Company's Annual Report on Form 20-F, filed on June 29, 2009 (File No. 000-50859)

(11) Incorporated by reference from exhibit 4.77 to the Company's Annual Report on Form 20-F, filed on June 29, 2009 (File No. 000-50859)

(12) Incorporated by reference from exhibit 4.78 to the Company's Annual Report on Form 20-F, filed on June 29, 2009 (File No. 000-50859)

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(13) Incorporated by reference from exhibit 4.79 to the Company's Annual Report on Form 20-F, filed on June 29, 2009 (File No. 000-50859)

(14) Incorporated by reference from exhibit 4.80 to the Company's Annual Report on Form 20-F, filed on June 29, 2009 (File No. 000-50859)

(15) Incorporated by reference from exhibit 4.81 to the Company's Annual Report on Form 20-F, filed on June 29, 2009 (File No. 000-50859)

(16) Incorporated by reference from exhibit 4.82 to the Company's Annual Report on Form 20-F, filed on June 29, 2009 (File No. 000-50859)

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SIGNATURES

The registrant hereby certifies that it meets all of the requirements for filing on Form 20-F and that it has duly caused and authorized the undersigned to sign this annual report on its behalf.

TOP SHIPS INC.  
(Registrant)

Date: June 18, 2010

By:

/s/ Evangelos Pistiolis  
Evangelos Pistiolis  
President, Chief Executive Officer, and  
Director

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