

Sanswire Corp.  
Form 10-K/A  
September 22, 2009

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

Amendment No. 1 to the  
FORM 10-K

(Mark One)

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

For the fiscal year ended December 31, 2008

OR

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number: 0-23532

SANSWIRE CORP.  
(formerly GlobeTel Communications Corp.)

(Exact name of Registrant as specified in its charter)

Delaware  
(State or other jurisdiction of incorporation)

88-0292161  
(I.R.S. Employer Identification No.)

101 NE 3rd Ave, Suite 1500, Fort Lauderdale, Florida 33301  
(Address of Principal Executive Offices) (Zip Code)

Issuer's telephone number: (954) 332-3759

Securities registered under Section 12 (b) of the Exchange Act:

Title of each class

Name of exchange on which registered

Securities registered pursuant to Section 12 (g) of the Exchange Act: Common Stock Par Value \$.00001 per share

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

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

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

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

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  Smaller Reporting Company

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

State issuer's revenues for its most recent fiscal year ended December 31, 2008: \$0.

As of September 14, 2009, there were 226,070,599 shares of the issuer's common stock issued and outstanding. Affiliates of the issuer own 6,735,586 shares of the issuer's issued and outstanding common stock and the remaining 219,335,013 shares are held by non-affiliates. The aggregate market value of the shares held by non-affiliates at September 14, 2009 was \$28,513,552.

DOCUMENTS INCORPORATED BY REFERENCE:

There are documents incorporated by reference in this Annual Report on Form 10-K, which are identified in Part III, Item 13.

(\*) Affiliates for the purposes of this Annual Report refer to the officers, directors of the issuer and subsidiaries and/or persons or firms owning 5% or more of issuer's common stock, both of record and beneficially.

EXPLANATORY NOTE:

The purpose of this Amendment No. 1 to Form 10-K ("Amendment") is to amend our initial filing of an Annual Report on Form 10-K for the year ended December 31, 2008 filed with the Securities and Exchange Commission ("SEC") on April 9, 2009 and to amend our initial filing of an Annual Report on Form 10-K for the year ended December 31, 2007, filed with the Securities and Exchange Commission ("SEC") on October 8, 2008 (collectively, the "Initial Filing"). Defined terms used in this Amendment but not defined herein have the meanings ascribed to them in the Initial Filing.

On September 11, 2009, we filed a Current Report on Form 8-K with the SEC disclosing that our management concluded that an accounting error had been made in the Company's historical December 31, 2008 and 2007 financial statements in relation to the recording of derivative liabilities related to the conversion feature and associated warrants issued with convertible notes during 2006, 2007, and 2008. As a result, the Company's financial statements for the years ended December 31, 2008 and 2007 must be restated (the "Restatements"). In light of the Restatements, the financial statements and other financial information included in the Initial Filing are being restated in this Amendment.

Unless specified, the disclosures provided in this document have not been updated for more current information. Therefore, this Amendment should be read in conjunction with our other filings made with the SEC subsequent to the date of the Initial Filing.

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## PART I

### Forward-Looking Statements and Risk Factors

Certain information included in this amended Form 10-K and other materials filed or to be filed by Sanswire Corp. ("Sanswire," "GlobeTel," the "Company", "we", "us" or "our") with the Securities and Exchange Commission (as well as information included in oral or written statements made from time to time by us, may contain forward-looking statements about our current and expected performance trends, business plans, goals and objectives, expectations, intentions, assumptions and statements concerning other matters that are not historical facts. These statements may be contained in our filings with the Securities and Exchange Commission, in our press releases, in other written communications, and in oral statements made by or with the approval of one of our authorized officers. Words or phrases such as "believe", "plan", "will likely result", "expect", "intend", "will continue", "is anticipated", "estimate", "project", "may", "could", "would", "should" and similar expressions are intended to identify forward-looking statements. These statements, and any other statements that are not historical facts, are forward-looking statements.

Those statements include statements regarding our intent, belief or current expectations, and those of our officers and directors and the officers and directors of our subsidiaries as well as the assumptions on which such statements are based. Prospective investors are cautioned that any such forward-looking statements are not guarantees of future performance and involve risks and uncertainties, and that actual results and the timing of certain events may differ materially from those contemplated by such forward-looking statements.

We are filing the following summary to identify important factors, risks and uncertainties that could cause our actual results to differ materially from those projected in forward-looking statements made by us, or on our behalf. These cautionary statements are to be used as a reference in connection with any forward-looking statements. The factors, risks and uncertainties identified in these cautionary statements are in addition to those contained in any other cautionary statements, written or oral, which may be made or otherwise addressed in connection with a forward-looking statement or contained in any of our subsequent filings with the Securities and Exchange Commission. Because of these factors, risks and uncertainties, we caution against placing undue reliance on forward-looking statements. Although we believe that the assumptions underlying forward-looking statements are reasonable, any of the assumptions could be incorrect, and there can be no assurance that forward-looking statements will prove to be accurate. Forward-looking statements speak only as of the date on which they are made. We do not undertake any obligation to modify or revise any forward-looking statement to take into account or otherwise reflect subsequent events, or circumstances arising after the date that the forward-looking statement was made.

The following risk factors may affect our operating results and the environment within which we conduct our business. If our projections and estimates regarding these factors differ materially from what actually occurs, our actual results could vary significantly from any results expressed or implied by forward-looking statements. These risk factors include, but are not limited to, changes in general economic, demographic, geopolitical or public safety conditions which affect consumer behavior and spending, including the armed conflict in Iraq or other potential countries; various factors which increase the cost to develop airships, including factors under the influence and control of government agencies and others; fluctuations in the availability and/or cost of helium, carbon fiber or other resources necessary to successfully assemble our airships; our Company's ability to raise prices sufficiently to offset cost increases, including increased costs for resources; the feasibility and commercial viability of our Stratellite project; related contemplated funding from third parties to finance the project, and necessary cooperation with various military and non-military agencies of the United States government, and similar agencies of foreign governments; depth of management and technical expertise and source of intellectual and technological resources; adverse publicity about us and our airships; relations between our Company and its employees and partners; legal claims and litigation against the Company; including the recently commenced SEC lawsuit; the availability, amount, type, and cost of capital for the Company and the deployment of such capital, including the amounts of planned capital expenditures;

changes in, or any failure to comply with, governmental regulations; the amount of, and any changes to, tax rates and the success of various initiatives to minimize taxes; and other risks and uncertainties referenced in this amended Annual Report on Form 10-K. This statement, and any other statements that are not historical facts, are forward-looking statements.

This annual report also contains certain estimates and plans related to the airship industry. The estimates and plans assume that certain events, trends and activities will occur, of which there can be no assurance. In particular, we do not know what level of growth will exist, if any, in the market for lighter than air unmanned aerial vehicles. Our growth will be dependent upon our ability to compete with larger, well-established companies. If our assumptions are wrong about any events, trends and activities, then our estimates for the future growth of Sanswire and our consolidated business operations may also be wrong. There can be no assurance that any of our estimates as to our business growth will be achieved.

## ITEM 1. DESCRIPTION OF BUSINESS

### General

Sanswire Corp. ("Sanswire," "Globetel", "we", "us", "our", or the "Company") is focused on the design, construction and marketing of various aerial vehicles most of which would be capable of carrying payloads that provide persistent surveillance and security solutions at various altitudes. The airships and auxiliary products are intended for end users that include military, defense and government-related entities.

From 2002 to 2007, the Company was involved in the following business sectors: stored value card services; wholesale telecommunications services; voice over IP; wireless broadband; and high altitude airships. These businesses were run through various subsidiaries. The Company discontinued operations in all but the high altitude airship sector.

In 2007, we began focusing exclusively on opportunities through our wholly-owned subsidiary at the time, Sanswire Networks. The opportunities associated with Sanswire Networks were related to the Lighter Than Air (LTA) Unmanned Aerial Vehicle (UAV) market, and we, through the subsidiary, sought to build and run a UAV business that includes low-, mid- and high-altitude, lighter-than-air vehicles intended to provide customers advanced seamless wireless broadband capabilities and surveillance sensor suites.

On September 22, 2008, we effected a name change to Sanswire Corp. in recognition of the entity that contained our sole business focus (See "Recent Developments"). Thus, moving forward, the Company is Sanswire Corp., whose primary business is the design, construction and marketing of a variety of aerial vehicles through a joint venture with TAO Technologies, Stuttgart, Germany, named Sanswire-TAO Corp.

The High Altitude class of prospective airships are generally referred to as HAAs (High Altitude Airships) but have also been called HAPs and HALEs (High Altitude Platforms, High Altitude Long Endurance). They have been designed to be able to keep a station in one location in the Stratosphere, at approximately 65,000 ft for durations of 30 days or more.

### Reverse Stock Split

Sanswire is authorized to issue up to 250,000,000 shares of Common Stock, par value \$0.00001 per share, (subsequent to a 15-for-1 reverse stock split on May 23, 2005 and subsequent to an increase in the authorized shares from 150,000,000 to 250,000,000 at the shareholder meeting on June 21, 2006) and 10,000,000 shares of Preferred Stock, par value \$0.001. The post split share calculation will be used throughout this report, unless noted. 760,000 shares of Preferred Stock has been allocated into different series of issuance and the remaining 9,240,000 shares is a so-called "blank check" preferred, meaning that its terms such as dividends, liquidation and other preferences, are to be fixed by our Board of Directors at the time of issuance.

### Recent Developments

On October 5, 2007, Sanswire received a "Wells Notice" from the Securities and Exchange Commission (the "SEC") in connection with the SEC's ongoing investigation of the Company. The Wells Notice provides notification that the staff of the SEC intends to recommend to the Commission that it bring a civil action against the Company for possible violations of the securities laws including violations of Sections 5 and 17(a) of the Securities Act of 1933; Sections 10(b), 13(a), and 13(b)(2)(A) & (B) of the Securities Exchange Act of 1934 ("Exchange Act") and Rules 10b-5, 12b-20, 13a-1, 13a-11, and 13a-13 thereunder; and seeking as relief a permanent injunction, civil penalties, and disgorgement with prejudgment interest. The staff is also considering recommending that the SEC authorize and institute

proceedings to revoke the registration of the Company's securities pursuant to Section 12(j) of the Exchange Act.



On November 26, 2007 the SEC announced that it had filed a civil lawsuit against two former employees of Sanswire alleging that Joseph J. Monterosso, former Chief Operating Officer of Sanswire and former president of the Company's Centerline Communications Subsidiary, and Luis Vargas, an employee of Centerline, engaged in a scheme to create \$119 million in revenue that was subsequently reported in the Company's financial statements as filed with the Commission. Securities and Exchange Commission v. Joseph J. Monterosso and Luis E. Vargas, Civil Action No. 07-61693 (S.D. Fla., filed on November 21, 2007).

On May 2, 2008, the Securities and Exchange Commission ("SEC") filed a lawsuit in the United States District Court for the Southern District of Florida against GlobeTel Communications Corp. (the "Company") and three former officers of the Company, Timothy J. Huff, Thomas Y. Jimenez and Lawrence E. Lynch. The SEC alleges, among other things, that the Company recorded \$119 million in revenue on the basis of fraudulent invoices created by Joseph Monterosso and Luis Vargas, two individuals formerly employed by the Company who were in charge of its wholesale telecommunications business.

The SEC alleges that the Company violated Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933, as amended, Sections 10(b), 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and Rules 10b-5, 12b-20, 13a-1, 13a-11 and 13a-13 under the Exchange Act. The SEC seeks as relief a permanent injunction, civil penalties, and disgorgement with prejudgment interest. The Commission subsequently consolidated this action with another pending action involving former officers of the Company. The Commission has also moved to amend its complaint against the Company to include additional allegations of wrongdoing beginning in 2002, but which does not add any new defendants. The Company has been vigorously defending itself in this action.

#### Background

We were previously a wholly-owned subsidiary of American Diversified Group, Inc. ("ADGI"). At a special meeting of stockholders of ADGI held on July 24, 2002, the stockholders of ADGI approved a plan (the "Plan") for the exchange of all outstanding shares of ADGI for an equal number of shares of Sanswire.

ADGI was incorporated under the laws of the State of Nevada as Terra West Homes, Inc. on January 16, 1979. On March 15, 1995, its name was changed to "American Diversified Group, Inc." During the period ended July 24, 2002, ADGI's business activities included (i) sale of telecommunication services primarily involving Internet telephony using VoIP through its Global Transmedia Communications Corporation subsidiary ("Global"), and (ii) wide area network and local area network services provided through its NCI Telecom, Inc. subsidiary ("NCI").

Global was acquired by ADGI on February 19, 2000, and NCI was acquired on June 29, 2000. During 2002, Global and NCI were merged with and into ADGI, with ADGI as the surviving corporation.

When ADGI exchanged all of its outstanding shares of common stock for Sanswire common stock, ADGI became a wholly-owned subsidiary of Sanswire and Sanswire began conducting the business formerly conducted by ADGI.

In 2004, we formed wholly-owned subsidiaries: Sanswire Networks, LLC ("Sanswire-FL") for our Stratellite project; and Centerline Communications, LLC, ("Centerline" or "CLC") and its wholly-owned subsidiaries, EQ8, LLC, G Link Solutions, LLC, Volta Communications, LLC, and Lonestar Communications, LLC for the purpose of the recording and managing the sale of wholesale minutes and related network management functions. We have since closed Centerline and its subsidiaries.

In 2004, we acquired a 73.15% interest in Consolidated Global Investments, Ltd. (“CGI”), formerly known as Advantage Telecommunications, Ltd. (“ATC”), an Australian company. CGI was to be utilized in the carrier sales sector of our business and was later to be a licensee of the Sanswire Networks, LLC in Australia. However, we have since sold our shares in CGI back to the Company and no longer have any interest in CGI. Certain shares of Sanswire acquired by CGI were sold by CGI. The Securities and Exchange Commission has questioned the validity of the exemption used for the sale of such shares as more fully discussed below in Item 3 “Legal Proceedings.”

In 2008 we incorporated Sanswire Corp., a Florida corporation and wholly-owned subsidiary, to deal directly with airship opportunities based upon our agreement with TAO Technologies, GmbH. We also incorporated Sanswire-TAO Corp., a Florida corporation that is a 50/50 joint venture with TAO Technologies. The agreements with TAO are discussed below.

On September 22, 2008 we filed a Certificate of Merger with the Secretary of State of the State of Delaware pursuant to which our wholly owned subsidiary, Sanswire Corp., a Delaware corporation, was merged into us. As a result of the filing of the Certificate of Merger, our corporate name was changed from GlobeTel Communications Corp. to Sanswire Corp.

#### Business of Sanswire

Sanswire Corp. has sharply refined its operating model focusing exclusively on opportunities in Lighter Than Air (LTA) Unmanned Aerial Vehicles (UAV). We seek to build and run a UAV business that includes low-, mid- and high-altitude, lighter-than-air vehicles; adding value to their security, surveillance and broadcasting abilities through the integration of wireless technologies with a wide array of customer payloads. Our long-term objective is to provide commercial and government customers advanced seamless wireless broadband capabilities and surveillance sensor suites utilizing a state of the art High Altitude Airship technology. Building upon this high altitude technology, Our near term goal is to penetrate the military/government use market for low to mid altitude unmanned airships

Our main products are airships, which provide a platform to transmit wireless capabilities from air to ground.

The High Altitude class of prospective airships are generally referred to as HAAs (High Altitude Airships) but have also been called HAPs and HALEs (High Altitude Platforms, High Altitude Long Endurance). They have been designed to be able to keep a station in one location in the Stratosphere, at approximately 65,000 ft for durations of 30 days or more. 65,000 ft is the sweet spot in the stratosphere for optimal wind conditions to keep station using the least amount of power.

STRATELLITE™ The brand name for our HAA offering is the Stratellite™, so named because they offer the functionality of a satellite, but in the stratosphere. This class of airship will consist of several models to suit various purposes. Stratellites™ were conceived to help solve infrastructure issues that plague many parts of the world, including the so called "last mile" (building expensive ground based infrastructure for very low density areas) issues. The Stratellite™ can bring a full range of telecommunications or broadcasting capabilities to any area of the world, accessible to people with customer premise equipment that is inexpensive and available. We are not yet producing the Stratellite.

The Stratellite™ is a high altitude long endurance airship intended to populate “near space” with telecommunications capability. A presence in near space with high tech sensors and communications suites offers enormous potential for both commercial and government applications. Whether hovering at 65,000 feet or flying a variety of mission profiles, the Stratellite offers many of the features of satellites with cost savings, refurbishment ability, and opportunity for regular system upgrades.

There is a great need for information-transmission in the future performed by High Altitude Platforms in various fields;

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- mobile broadband communications
- emergencies, use in disaster areas
  - marine radio service
- new traffic engineering systems
  - weather observation
- water surveillance (pollution)
- ozone and smog monitoring
- radiation monitoring (UV and radioactive)
- astronomic and terrestrial observation
- documentation of conditions in the upper atmosphere
- border control, coastal surveillance
- private communication services e.g. cellular phones
- transmission of radio- and television programmers etc.

#### SANSWIRE-TAO

Sanswire first entered into an agreement with TAO Technologies GmbH, Stuttgart, Germany, in 2005. At that time, TAO provided engineering support to the efforts of former subsidiary Sanswire Networks, LLC then working out of facilities in California. In September 2007, the companies reached an agreement in principle to share sales and marketing rights of various aerial vehicles developed and currently owned by TAO. Additionally, upon closing of definitive agreements, TAO will grant to Sanswire-TAO the respective patents and intellectual property rights covering the products, including the AirChain segmented airship.

In November 2007, the Company entered into a Licensing and Technical Cooperation Agreement with TAO. TAO granted to Sanswire an exclusive license for the territories of the US, Canada, Mexico and Chile for the marketing and distribution of airships based upon the technologies patented and developed by TAO. TAO will also provide testing and engineering support for the development of airships to meet the criteria required by Sanswire customers. Sanswire was obligated to provide TAO with engineering orders of at least \$1,000,000 per year and certain cash and stock payments on a quarterly basis.

On June 3, 2008 Sanswire and TAO restructured the November 2007 agreement and entered into a new agreement to form a 50/50 US based joint venture to place, among other things, the rights to the TAO intellectual property in US, Canada, and Mexico into the US based JV company to be called Sanswire-TAO. This integration of Sanswire and Stuttgart, Germany-based TAO Technologies GmbH took place to create various strategic advantages for both companies. Each group entered the relationship with synergistic, yet very distinct core competencies. Sanswire's business development, its inroads into the U.S. Government review process as well as inroads into overseas markets and other marketing resources complement TAO's vast airship product research and development ability.

On June 19, 2008, we announced that we had agreed to form and commence operations of Sanswire-TAO Corp., a Florida corporation equally owned by the Company and TAO, for the customized production, marketing and sales of unmanned aerial vehicles for the markets of the United States, Canada and Mexico.

The Sanswire-TAO research and development efforts are centered in Stuttgart, taking advantage of the relationship between TAO and the University of Stuttgart. This relationship provides cost-effective access to aerospace testing facilities including wind tunnels, environmental test chambers, structural testing devices, computer aided design and a legion of aerospace and physics professionals along with their more than 10 years of solar powered airship experience. The Sanswire-TAO joint venture provides the following:

- (1) Multiple Airship Platforms – Ranging from short range low altitude platforms to Stratospheric solutions.

- (2) Access to Resources – Through contractual relationships with world-renowned universities, including their hometown University of Stuttgart.
- (3) Research and Development – More than a decade of knowledge and experience resulting from significant data gathered from vital airship testing.

- (4) Proprietary Systems – Custom developed systems from the design and modeling of airships to specialized flight control systems.
  - (5) Intellectual Property – Patented designs and concepts providing worldwide protection.
  - (6) Constructed Airships – Several platforms built for demonstrations
- (7) Testing Facilities – Including aerospace laboratories, assembly and storage hangars, wind tunnels, certified launch and flight facilities, and certified manufacturing and production facilities.

#### Competitive Business Conditions

We are aware of other companies that are also developing high altitude platforms similar in nature to our Stratellite project. Our competitors, though, may have more resources available to develop their respective products. Even if a properly functioning, commercially viable product is established there can be no assurance that revenues will be achieved from the sales of Stratellites or other airships or that the costs to produce such revenues will not exceed the revenues or that the project will otherwise be profitable. There can be no assurance that we will be able to successfully achieve the results we anticipate with this project.

#### Sources and Availability of Hardware and Software

Equipment for the Stratellite, SAS-51 and the prototypes thereof are custom made for those products and are dependent upon either single or limited number of suppliers for certain goods. Failure of a supplier could cause significant delays in delivery of the airships if another supplier cannot be promptly found.

#### Sources and Availability of Technical Knowledge and Component Parts

The Sanswire project requires a high level of technological knowledge and adequately functioning component parts and sub-assemblies to continue the project and achieve commercial viability. We have current and contemplated arrangements for supply of both internal and external technical knowledge to provide the intellectual capital to continue with this project. Similarly, we have current and contemplated arrangements for supply required component parts, both internally developed, as well as, outsourced from specialty contractors to provide component parts to continue with this project in the near term.

#### Dependence on a Few Customers

As discussed below in Item 6, Management Discussion and Analysis and Plan of Operation, we are currently dependent on a limited number of customers. As we expand our products, services, and markets, we expect to substantially broaden our customer base and reduce our dependence upon just a few customers. However, there is no guarantee that we will be able to broaden our customer base.

#### Trademarks

We have filed for registration of the names "Stratellite" and "Sanswire" under the Madrid Protocol (that includes the United States) and in many non-Madrid Protocol countries.

We have additionally entered into an agreement with TAO Technologies GmbH, with whom Sanswire has collaborated with since 2005. The current agreement provides exclusive licensing and existing and future patent rights for TAO's airship technologies and allows Sanswire to register the TAO patents in the United States. As soon as the design and engineering for the Stratellite are finalized, we intend to file for patents covering unique design and intellectual property.

Regulatory Matters

The export of the airship products may be subject to United States State Department restrictions on the transfer of technology. We are currently investigating whether or not the export of the Sanswire products would require export licenses and how the production of these vehicles in Germany through our agreement with TAO Technologies, GmbH would impact this.

During 2007 and 2008, Sanswire and its subsidiaries incurred payroll tax liability during the normal course of business at each payroll cycle. The Company submitted certain withholding tax payments during the first quarter through a payroll processor, ADP. Subsequent thereto, the Company no longer processed its payroll through ADP. During this time, the Company did not file the appropriate tax forms or deposit the appropriate withholding amounts. The Company has recognized this issue and contacted the IRS accordingly to bring its filings up-to-date and pay any taxes due. The Company may be subject to penalties and interest from the IRS.

#### Number of Total Employees and Number of Full-Time Employees

As of September 14, 2009 we have 5 full-time employees, including our executive officers and employees of our subsidiaries. We do not believe that we will have difficulty in hiring and retaining qualified individuals for our general operations and any technical personnel required for the aerospace projects will primarily be hired overseas to work with the existing TAO personnel.

## ITEM 2. PROPERTIES

Sanswire's corporate offices are now located at 101 NE 3 rd Ave., Suite 1500, Fort Lauderdale, FL 33301. Base rent is \$575 per month plus the cost of services used by Sanswire. The lease is for a period of 6 months and terminates on September 30, 2009. We believe our facilities are adequate for our current and near-term needs.

GlobeTel previously leased office facilities at 9050 Pines Blvd., Suite 110, Pembroke Pines, Florida 33024, as of April 1, 2004, and vacated the premises in March 2006, having turned over the space as part of the sale of the Stored Value assets. However, there was unpaid rent due on both the first and second floor suites. In August 2007, the landlord received a judgment in the amount of \$206,730.

Until September 2007, GlobeTel leased a 66,000 square foot space hanger in Palmdale, California. The initial lease, between Sanswire Networks, LLC and the City of Los Angeles World Airports, was for a term of three months, ended July 22, 2005 with a monthly rent of \$19,990. On June 8, 2005 the lease term was amended for fifteen months, commencing June 8, 2005 through September 7, 2006, with two one-year options. Concurrently with the signing of the amended lease, the parties entered into a reimbursement agreement to share the cost of certain improvements.

As of October 2007, the Company no longer occupies a hangar at Palmdale Regional Airport, the monthly cost of this space was \$20,847. This facility was adjacent to the United States Air Force's Plant 42 and Edwards Air Force Base. Sanswire constructed and tested Stratellite and Sky Sat prototypes at the facility. The hangar also included administrative office space. Sanswire is indebted to Los Angeles World Airports, the lessor of the hangar, in the amount of \$161,761.

## ITEM 3. LEGAL PROCEEDINGS

### Securities and Exchange Commission

On September 28, 2006, the Company received a formal order of investigation from the SEC. The formal order only named the Company and was not specific to any particular allegations. Through the use of subpoenas, the SEC has requested documentation from certain officers and directors of the Company. In subsequent subpoenas, the SEC has asked for additional documents and information.

On October 5, 2007, Sanswire received a "Wells Notice" from the SEC in connection with the SEC's ongoing investigation of the Company. The Wells Notice provides notification that the staff of the SEC intends to recommend to the Commission that it bring a civil action against the Company for possible violations of the securities laws



including violations of Sections 5 and 17(a) of the Securities Act of 1933; Sections 10(b), 13(a), and 13(b)(2)(A) & (B) of the Securities Exchange Act of 1934 (“Exchange Act”) and Rules 10b-5, 12b-20, 13a-1, 13a-11, and 13a-13 thereunder; and seeking as relief a permanent injunction, civil penalties, and disgorgement with prejudgment interest. The staff is also considering recommending that the SEC authorize and institute proceedings to revoke the registration of Company’s securities pursuant to Section 12(j) of the Exchange Act.

On May 2, 2008, the Securities and Exchange Commission (“SEC”) filed a lawsuit in the United States District Court for the Southern District of Florida against Sanswire Corp. (the “Company”) and three former officers of the Company, Timothy J. Huff, Thomas Y. Jimenez and Lawrence E. Lynch. The SEC alleges, among other things, that the Company recorded \$119 million in revenue on the basis of fraudulent invoices created by Joseph Monterosso and Luis Vargas, two individuals formerly employed by the Company who were in charge of its wholesale telecommunications business.

The SEC alleges that the Company violated Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933, as amended, Sections 10(b), 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and Rules 10b-5, 12b-20, 13a-1, 13a-11 and 13a-13 under the Exchange Act. The SEC seeks as relief a permanent injunction, civil penalties, and disgorgement with prejudgment interest. The Commission subsequently consolidated this action with another pending action involving former officers of the Company. The Commission has also moved to amend its complaint against the Company to include additional allegations of wrongdoing beginning in 2002, which motion to amend is still pending with the Court. On March 23, 2009 the Court granted the SEC’s motion and extended the fact discovery deadline in the case until July 31, 2009. The parties are currently engaged in discovery. The Company has been vigorously defending itself in this action.

#### Joseph Monterosso

In October 2007 the Company filed a lawsuit in the Circuit Court for Broward County, Florida against Joseph J. Monterosso alleging Libel, Slander and Defamation, Tortuous Interference, Violations of FS § 836.05 (Threats Extortion) and violations of FS §517 (Securities Fraud). Mr. Monterosso has not yet been served with the complaint pending additional information arising from the SEC lawsuit. This action has been dismissed for lack of prosecution but may be refiled by the Company in the future.

#### Hudson Bay Fund LP et al.

Hudson Bay Fund LP and Hudson Bay Overseas Fund Ltd. filed an action in Supreme Court of the State of New York, New York County against the Company claiming declaratory judgment, specific performance, and breach of contract relating to the warrants it acquired in connection with its investment. . The Hudson Bay entities are seeking to reprice the warrants, increase the number of shares they can purchase pursuant to the warrants, certain equitable remedies, and unspecified damages. The Company has retained outside counsel and has filed an answer and affirmative defenses in the case. The Company intends to vigorously defend the action, but the outcome of the action cannot be predicted.

#### Wachovia v. GlobeTel

In connection with the operations of Globetel Wireless Europe GmbH and the acquisition of Altvater GmbH, the Company guaranteed a letter of credit in the amount of \$600,000. Upon Globetel Wireless Europe GmbH ceasing operations, the letter of credit was drawn upon. The letter of credit was not collateralized. In September 2007, Wachovia filed a lawsuit in Broward County in an attempt to recover the amount through arbitration with the American Arbitration Association. On June 2, 2008, the American Arbitration Association awarded Wachovia \$762,902.

#### Richard Stevens v. GlobeTel

The Company and its directors were sued in the case RICHARD STEVENS vs. GLOBETEL COMMUNICATIONS CORP., et al. Case No.: 06-cv 21071. The original allegations of the complaint were that the Company’s proposed transaction to build wireless networks in Russia was a sham. The amended complaint alleged that the transaction was

not a sham, but that the Company refused to accept payment of \$300 million. Recently, the officers and directors with the exception of Timothy Huff have been dismissed from the case.

In February 2008, the Company and the Plaintiff reached a settlement in principle that has been filed with the Court for approval. Under the terms of the proposed settlement agreement in the class action, the Company's D&O insurance carrier will make a cash payment to the class of \$2,300,000, less up to \$100,000 for potential counsel fees and expenses. All claims in the class action will be dismissed with prejudice. The US District Court for the Southern District of Florida has approved the settlements reached in its pending securities class action and a shareholder derivative action on February 4, 2008.

#### Derivative Action

On July 10, 2006 a derivative action was filed against the officers and directors of Sanswire alleging that they have not acted in the best interest of the Company or the shareholders and alleged that the transaction to install wireless networks in Russia was a sham. The lawsuit is pending in the Federal District Court for the Southern District of Florida (Civil Case No. 06-60923). The Company believes that the suits are without merit and will vigorously defend against it. The Company has hired outside counsel to defend it in this action. The Company and the Plaintiff have reached an agreement in principle to settle this action and have submitted such settlement with the Court for its approval. Under the terms of the settlement, Company's D&O insurance carrier will pay \$60,000 in attorneys' fees to plaintiff's counsel, the Company will implement or maintain certain corporate governance changes, and all claims will be dismissed with prejudice.

#### Mitchell Siegel v. GlobeTel

On February 2, 2007, the Company was sued in the Circuit Court for Broward County, Florida entitled Mitchell Siegel v. GlobeTel Communications Corp. , Case no. 0702456 ("the Siegel Lawsuit"). In this action, Siegel sued the Company for breach of contract in regards to a Key Executive Employment Agreement. On February 15, 2008, both parties entered into a settlement agreement whereas Mr. Siegel would receive \$175,000 worth of stock, payable over 12 months, and 50% of the gross proceeds, up to a total amount of \$300,000, received from an October 2006 agreement. During 2008 the Company paid \$131,250 in the Company's common stock associated with the settlement agreement. During 2009, the Company paid the remaining \$43,750 in the Company's common stock.

#### Former Consultants

The Company is a defendant in two lawsuits filed by Matthew Milo and Joseph Quattrocchi, two former consultants, filed in the Supreme Court of the State of New York (Richmond County, Case no. 12119/00 and 12118/00). These matters were subsequently consolidated as a result of an Order of the court and now bear the singular index number 12118/00. The original lawsuits were for breach of contract. The complaint demands the delivery of 10,000,000 pre split shares of ADGI stock to Milo and 10,000,000 to Quattrocchi. Sanswire was entered into the action as ADGI was the predecessor of the Company. The suit also requests an accounting for the sales generated by the consultants and attorneys fees and costs for the action.

The lawsuits relate to consulting services that were provided by Mr. Milo and Mr. Quattrocchi and a \$50,000 loan advanced by these individuals, dated May 14, 1997, of which \$35,000 has been repaid.

The Company entered into an agreement with Mr. Milo and Mr. Quattrocchi as consultants on June 25, 1998. The agreement was amended on August 15, 1998. On November 30, 1998, both Mr. Milo and Mr. Quattrocchi resigned from their positions as consultants to the Company without fulfilling all of their obligations under their consulting agreement. The Company issued 3 million pre split shares each to Mr. Milo and Mr. Quattrocchi as consideration under the consulting agreement. The Company has taken the position that Mr. Milo and Mr. Quattrocchi received compensation in excess of the value of the services that they provided and the amounts that they advanced as loans.

Mr. Milo and Mr. Quattrocchi disagreed with the Company's position and commenced action against us that is pending in the Supreme Court of the State of New York. Mr. Milo and Mr. Quattrocchi claim that they are entitled to an additional 24,526,000 pre split shares of common stock as damages under the consulting agreement and to the repayment of the loan balance. The Company believes that it has meritorious defenses to the Milo and Quattrocchi action, and the Company has counterclaims against Mr. Milo and Mr. Quattrocchi.

With regard to the issues related to original index number 12119/00, as a result of a summary judgment motion, the plaintiffs were granted a judgment in the sum of