FORCE PROTECTION INC
Form PRE 14A
September 23, 2008

Use these links to rapidly review the document
Table of Contents
Table of Contents

Table of Contents

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

SCHEDULE 14A

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

Filed by the Registrant ý

Filed by a Party other than the Registrant o

Check the appropriate box:

ý Preliminary Proxy Statement

o **Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**

o Definitive Proxy Statement

o Definitive Additional Materials

o Soliciting Material Pursuant to §240.14a-12

FORCE PROTECTION, INC.

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

ý No fee required.

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

(3) Filing Party:

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Table of Contents

Force Protection, Inc.
9801 Highway 78, Building 1
Ladson, SC 29456

October , 2008

Dear Shareholder:

On behalf of your Board of Directors, I am pleased to invite you to attend the 2008 Annual Meeting of Shareholders of Force Protection, Inc. (the "Company") to be held on November 21, 2008, at 10:00 a.m. Eastern Time at the Embassy Suites Hotel Airport / Convention Center, 5055 International Boulevard, North Charleston, South Carolina 29418.

At the meeting, management will review the Company's operations and discuss the financial statements for the year ended December 31, 2007, as well as our plans for the future. A question and answer session for shareholders will follow the management presentation.

The attached Notice of Annual Meeting of Shareholders and Proxy Statement describe the business to be conducted at the meeting, including the election of two directors, the proposed amendments to the Company's Amended Articles of Incorporation, the ratification of the appointment of the Company's independent registered public accounting firm, and the approval of the Force Protection, Inc. 2008 Stock Plan.

Your vote is important. Even if you do not plan to attend the meeting in person, we hope you will vote by telephone or Internet as described in the proxy voting instructions set forth in the enclosed Proxy Statement or by completing, signing, and returning the enclosed proxy card.

We look forward to seeing you at the meeting. Directions to the Embassy Suites Hotel Airport / Convention Center appear on the back cover of these materials.

Cordially,

Michael Moody
Chief Executive Officer & President
and Chairman of the Board

Table of Contents

Notice of Annual Meeting of Shareholders
Force Protection, Inc.

The 2008 Annual Meeting of Shareholders of Force Protection, Inc. will be held on November 21, 2008 at 10:00 a.m. Eastern Time at the Embassy Suites Hotel Airport / Convention Center, 5055 International Boulevard, North Charleston, South Carolina 29418 to consider and take action with respect to the following matters:

1. Election of two directors for a term of three years;

2. Approval of the proposed amendments to Force Protection, Inc.'s Amended Articles of Incorporation;

3. Ratification of the Audit Committee's appointment of Grant Thornton LLP, as Force Protection, Inc.'s independent registered public accounting firm for the fiscal year ended December 31, 2007 and the fiscal year ending December 31, 2008;

4. Approval of the Force Protection, Inc. 2008 Stock Plan; and

5. Such other business as may properly be brought before the meeting or any adjournment thereof.

This summary is qualified in its entirety by the detailed information contained within the enclosed Proxy Statement.

The close of business on September 26, 2008 has been set as the record date for the determination of shareholders entitled to receive notice and to vote at the meeting or any adjournment thereof. The enclosed Proxy Statement is being mailed to those shareholders on or about October , 2008.

Shareholders who do not expect to attend the meeting in person are requested to vote their shares over the Internet, by telephone or by completing, signing and dating the included proxy card and returning it as instructed.

By order of the Board of Directors,

Lenna Ruth Macdonald
Chief Strategy Officer, General Counsel and Corporate Secretary

Force Protection, Inc.
9801 Highway 78, Building 1
Ladson, South Carolina 29456

Table of Contents

PROXY STATEMENT

Table of Contents

Table of Contents

Table of Contents

Force Protection, Inc.
9801 Highway 78, Building 1
Ladson, SC 29456

PROXY STATEMENT

This Proxy Statement is furnished to you in connection with the solicitation of proxies by our board of directors of Force Protection, Inc. (the "Company" or "Force Protection") to be used at the 2008 Annual Meeting of Shareholders ("Annual Meeting") to be held on November 21, 2008 at 10:00 a.m. Eastern Time at the Embassy Suites Hotel Airport / Convention Center, 5055 International Boulevard, North Charleston, South Carolina (the "Annual Meeting"). This Proxy Statement contains information about the items being voted on at the Annual Meeting and information about the Company.

Notice of the meeting and availability of the voting materials, which include this Proxy Statement and a proxy card, was mailed to shareholders on or about October , 2008. Our principal executive offices are located at 9801 Highway 78, Building 1 Ladson, SC 29456. Our phone number is (843) 574-7000.

QUESTIONS AND ANSWERS ON THE ANNUAL MEETING

Who can vote at the Annual Meeting?

Shareholders who were owners of common stock of the Company at the close of business on September 26, 2008, (the "Record Date") are entitled to receive notice of the Annual Meeting and may attend and vote at the meeting. If you were a shareholder of record on that date, you will be entitled to vote at the Annual Meeting or any postponement or adjournment of the meeting all of the shares that you held on the record date. Each share of common stock is entitled to one vote. As of the Record Date for the Annual Meeting, there were shares of common stock of the Company outstanding and entitled to vote.

What may I vote on?

Each shareholder is being asked to vote on:

The election of two nominees to serve on our board of directors.

The proposed amendments to the Company's Amended Articles of Incorporation.

The ratification of the appointment of the Company's independent registered public accounting firm for the fiscal year ended December 31, 2007 and the fiscal year ending December 31, 2008.

The approval of the Force Protection, Inc. 2008 Stock Plan.

Table of Contents

How does the Board of Directors recommend I vote on the proposals?

The board of directors recommends votes:

FOR the nominees for our board of directors.

FOR the approval of the proposed amendments to the Company's Amended Articles of Incorporation.

FOR the ratification of the appointment of the Company's independent registered public accounting firm for the fiscal year ended December 31, 2007 and the fiscal year ending December 31, 2008.

FOR the approval of the Force Protection, Inc. 2008 Stock Plan.

How do I vote?

Your vote is important. Because many shareholders cannot attend the Annual Meeting in person, it is necessary that shareholders be represented by proxy. Most shareholders have a choice of voting either (1) over the Internet, (2) using a toll-free telephone number, (3) by completing the proxy card and mailing it in the postage-prepaid envelope provided, or (4) in person by attending the Annual Meeting. Please refer to your proxy card or the information forwarded by your bank, broker or other nominee through which you hold your shares to determine which method of voting is available to you.

You may vote over the Internet or by telephone.

If you are a shareholder of record, you may vote via the Internet or telephone by following the instructions set forth on your proxy card mailed with this Proxy Statement. The deadline for voting electronically or by telephone is 6:00 a.m. Eastern Time on November 21, 2008.

Internet and telephone voting procedures are designed to authenticate each shareholder by use of a control number which can be found on your proxy card and to allow you to confirm that your instructions have been properly recorded. Please be aware that if you vote over the Internet or by telephone you may incur costs such as telephone and Internet access charges for which you will be responsible.

If your shares are held in "street name," please check your proxy card or contact your bank, broker or other nominee to determine whether you will be able to vote electronically or by telephone. Holding shares in "street name" means you hold shares through a bank, broker or other nominee, and they are not held in your individual name.

You may vote by mail.

You may vote by mail by completing and properly signing your proxy card and mailing it in the enclosed postage-prepaid envelope. If you mark your voting instructions on the proxy card, your shares will be voted as you have instructed. If you do not mark your voting instructions on the proxy card, your shares will be voted as our board of directors recommends.

Table of Contents

You may vote in person at the Annual Meeting.

Written ballots will be available to any shareholder who wants to vote in person at the Annual Meeting. However, if you hold your shares in "street name," you must request a proxy from your bank, broker or other nominee in order to cast your votes at the Annual Meeting.

If matters other than those outlined in this Proxy Statement are properly presented for consideration at the Annual Meeting, including consideration of a motion to adjourn the Annual Meeting to another time or place, the persons named as proxies and acting thereunder will have discretion to vote the matters according to their judgment to the same extent as the person delivering the proxy would be entitled to vote. As of the date that this Proxy Statement was printed, the Company did not anticipate that any other matters would be raised at the Annual Meeting.

What does it mean if I receive more than one proxy card?

It means that you have multiple accounts listed with the Company's stock transfer agent. If you received a proxy card, the shares on your proxy card or cards are all of the shares of common stock registered in that name with our stock transfer agent on the Record Date. If you have shares registered in the name of a bank, broker, or other nominee, they will not appear on your proxy card and your bank, broker or other nominee will send you instructions on how to vote.

How do I vote shares held by a broker or bank?

If a bank, broker or other nominee holds shares of common stock for your benefit, and the shares are not in your name on the stock transfer agent's records, then you are considered a "beneficial owner" of those shares. If your shares are held this way, sometimes referred to as being held in "street name", your bank, broker or other nominee will send you instructions on how to vote. If you have not heard from the bank, broker or other nominee who holds your shares, please contact them as soon as possible.

How will my proxy be voted?

If you sign and return your proxy card without instructions as to how it is to be voted, the proxy holders identified on the proxy card will vote your shares as follows:

FOR the nominees for our board of directors.

FOR the approval of the proposed amendments to the Company's Amended Articles of Incorporation.

FOR the ratification of the appointment of the Company's independent registered public accounting firm for the fiscal year ended December 31, 2007 and the fiscal year ending December 31, 2008.

FOR the approval of the Force Protection, Inc. 2008 Stock Plan.

If you indicate voting instructions on your proxy card, the proxy holders will follow your instructions in casting all votes.

Table of Contents

How are shares held by a broker voted?

The Company is listed on the Nasdaq Capital Market ("Nasdaq"), which has rules that govern brokers who have record ownership of listed common stock held in brokerage accounts for their clients who beneficially own the shares. Under these rules, brokers who do not receive voting instructions from their clients have the discretion to vote uninstructed shares on certain matters ("discretionary matters"), but do not have discretion to vote uninstructed shares as to certain other matters ("non-discretionary matters"). A broker may return a proxy card on behalf of a beneficial owner from whom the broker has not received instructions that casts a vote with regard to discretionary matters, but expressly states that the broker is not voting as to non-discretionary matters. The broker's inability to vote with respect to the non-discretionary matters is referred to as a "broker non-vote." Broker non-votes will be counted for the purpose of determining the presence of a quorum. Broker non-votes will have no effect on the election of directors (Proposal One), the ratification of the appointment of the Company's independent registered public accounting firm (Proposal Three) or the approval of the Force Protection, Inc. 2008 Stock Plan (Proposal Four). Broker non-votes will have the effect of counting as a vote against approval of the proposed amendments to the Company's Amended Articles of Incorporation (Proposal Two).

An abstention is counted as present and entitled to vote for purposes of determining a quorum. An abstention will have no effect on the election of directors (Proposal One), the ratification of the appointment of the Company's independent registered public accounting firm (Proposal Three) or the approval of the Force Protection, Inc. 2008 Stock Plan (Proposal Four). An abstention will have the effect of counting as a vote against approval of the proposed amendments to the Company's Amended Articles of Incorporation (Proposal Two).

Who counts the votes?

Representatives of our stock transfer agent, National City Bank, will tabulate and certify the votes and act as the independent inspectors of election. The Company's inspectors of election will tabulate the votes cast at the meeting over the telephone or over the internet or, together with the votes cast by proxy, whether in person, over the telephone or over the internet.

May I change my vote?

Yes. You may revoke your proxy at any time before the Annual Meeting by submitting (i) a second later dated proxy card and returning it before the polls close at the Annual Meeting or (ii) a later telephone or on-line vote, or by attending the Annual Meeting and giving notice of revocation in person.

If you are mailing a written notice of revocation or a later proxy, send it to the Corporate Secretary of Force Protection, Inc., 9801 Highway 78, Building No. 1, Ladson, South Carolina 29456. You may also hand deliver a written notice of revocation or a later proxy to the Company at the Annual Meeting, at or before the taking of any vote.

If you hold your shares through a bank, broker or other nominee and have instructed the bank, broker or other nominee as to how to vote your shares, you must follow directions received from such bank, broker or nominee in order to change your vote or to vote at the Annual Meeting.

Table of Contents

What constitutes a "quorum" for the Annual Meeting?

A quorum is necessary to hold a valid Annual Meeting of shareholders. One third or 33 1/3% of the outstanding shares entitled to vote on a matter, present or represented by proxy, constitutes a "quorum." If you vote (including by Internet, telephone and proxy card) your shares voted will count towards the "quorum" of the Annual Meeting. Abstentions or broker "non-votes" are counted as present and entitled to vote for purposes of determining whether a quorum exists. A broker "non-vote" occurs when a nominee holding shares for a beneficial owner does not vote on a particular proposal because the nominee does not have a discretionary voting power with respect to that item and has not received voting instructions from the beneficial owner.

What is the appropriate conduct for the Annual Meeting?

To ensure that the Annual Meeting is conducted in an orderly fashion and that the shareholders wishing to speak at the meeting have a fair opportunity to speak, the Company will have certain guidelines and rules for the conduct of the meeting, which will be explained at the meeting.

What vote is necessary to pass the items of business at the Annual Meeting?

Election of directors.

The two director nominees receiving the highest number of votes for election will be elected. If you vote, your shares will be voted for election of the director nominees unless you give instructions to "withhold" your vote for the director nominee. Withheld votes will not influence election results. Abstentions are not recognized as to election of directors.

Approval of the Proposed Amendments to the Company's Amended Articles of Incorporation.

The approval of the proposed amendments to the Company's Amended Articles of Incorporation will require that a majority of the Company's outstanding shares of common stock, vote in favor of the proposed amendments. Abstentions will have the have the effect of a vote against the approval of the proposed amendments.

Ratification of appointment of independent registered public accounting firm.

The appointment of Grant Thornton LLP as the Company's independent registered public accounting firm will be ratified if a majority of the votes cast at the meeting vote in favor of such ratification of the appointment. Abstentions are not recognized as to ratification of the appointment of Grant Thornton LLP as the Company's independent registered public accounting firm.

Approval of the Force Protection, Inc. 2008 Stock Plan.

The approval of the Force Protection, Inc. 2008 Stock Plan ("2008 Stock Plan") will require that a majority of the votes cast at the meeting, vote in favor of adoption of the plan. Abstentions are not recognized as to approval of the 2008 Stock Plan.

Table of Contents

How will voting on any other business be conducted?

As of the date that this Proxy Statement was printed, the Company was not aware of any business or proposals to be considered at the Annual Meeting other than the items described in this Proxy Statement. If any other business is properly proposed and the chairman of the Annual Meeting permits it to be presented at the Annual Meeting, the signed proxies received from you and other shareholders give the persons voting the proxies the authority to vote on the matter according to their judgment to the same extent as you or such other shareholders would be entitled to vote on such matters.

When are shareholder proposals for the 2009 Annual Meeting due?

Our 2009 annual meeting of shareholders is expected to be held on May 8, 2009 ("2009 Annual Meeting"). Any shareholder who intends to present a proposal at the 2009 Annual Meeting must deliver the proposal in writing or in person to the Corporate Secretary of Force Protection, Inc., 9801 Highway 78, Building 1, Ladson, South Carolina 29456, on or after November 9, 2008, but no later than January 8, 2009, pursuant to our First Amended and Restated Bylaws. To be considered adequate, the notice must contain specified information about the matter to be presented at the meeting and the shareholder proposing the matter, as specified in our bylaws. Pursuant to Rule 14a-8 of the Exchange Act, shareholders who wish to present proposals for inclusion in the proxy materials to be distributed by us in connection with our 2009 Annual Meeting must submit their proposal no later than January 8, 2009, or if the date of the 2009 Annual Meeting is changed by more than 30 days, then no later than a reasonable time before we begin to print and send the proxy materials. A proposal received after January 8, 2009, will be considered untimely and will not be entitled to be presented at the meeting. See "Shareholder Proposals and Director Nominations for our 2009 Annual Meeting" for additional information.

What are the costs of this proxy solicitation?

In addition to using the mail, our directors, officers, employees, and agents may solicit proxies by personal interview, telephone, telegram, or otherwise, although they will not be paid any additional compensation. The Company will bear all expenses of solicitation. We will also reimburse banks, brokers, and other custodians, nominees, and fiduciaries for their reasonable out-of-pocket expenses incurred in connection with forwarding the Company's Annual Meeting materials to you because they hold title to your common stock.

May I inspect the shareholder list?

For a period commencing the earlier of 2 days after this Proxy Statement is mailed to shareholders or 10 days prior to the Annual Meeting, a list of shareholders registered on the books of our stock transfer agent as of the Record Date will be available for examination by registered shareholders during normal business hours at the Company's principal offices at 9801 Highway 78, Building No. 1, Ladson, South Carolina 29456, provided the examination is for a purpose germane to the meeting.

Table of Contents

How can I get materials for the Annual Meeting?

This Proxy Statement and the accompanying proxy card are first being mailed to shareholders on or about October , 2008. Each registered and beneficial owner of common stock on the Record Date, including Company employees, should receive a copy of the Company's annual report on Form 10-K for the fiscal year ended 2007, including consolidated financial statements (the "Annual Report") with this Proxy Statement.

In addition, a copy of the Company's Annual Report is available to each shareholder without charge on the Securities and Exchange Commission's website at www.sec.gov and upon written request sent to Investor Relations, Force Protection, Inc., 9801 Highway 78, Building 1, Ladson, South Carolina 29456.

Are the proxy materials and Annual Report available electronically?

This Proxy Statement and the Annual Report are available on the Company's website at www.forceprotection.net, under "Investor Relations".

Registered shareholder's can elect to view future proxy statements and annual reports over the Internet instead of receiving paper copies in the mail. You can choose this option and save the Company the cost of producing these documents by completing the relevant portion of your proxy card or by following the instructions provided when voting on the Internet or by telephone.

After electing to view future proxy statements and annual reports over the Internet, you will receive a card in the mail with instructions containing the Internet address of those materials. You choice will remain in effect until you call Shareholder Services toll-free number (800) 622-6757, write National City Bank, Department 5352, Shareholder Services, PO Box 92301, Cleveland, Ohio 44101-430 or contact the Company.

If you hold our common stock through a bank, broker, or other nominee, please refer to the information provided by your bank, broker or nominee regarding the availability of electronic delivery.

How can I reach the Company to request materials or information referred to in these Questions and Answers?

You may reach us by mail addressed to:

Corporate Secretary
Force Protection, Inc.
9801 Highway 78, Building 1
Ladson, South Carolina 29456
or call 843.574.3900, or by send a message to:
investorrelations@forceprotection.net

Table of Contents

PROPOSAL ONE: ELECTION OF DIRECTORS

Our board of directors is currently comprised of five directors. Our board of directors is divided into three classes for purposes of election, with terms of office ending in successive years.

Director Nominees

Our board of directors has nominated each of John S. Day and John W. Paxton, Sr., incumbent directors, whose terms are currently scheduled to expire at the Annual Meeting, for election to a three-year term expiring at the Annual Meeting in 2011. The nominees, if elected as directors, are expected to continue in office until their respective term expires, or until his earlier death, resignation, or retirement.

Our board of directors has no reason to believe that the nominees will not serve if elected. If the nominees are unavailable for election at the time of the Annual Meeting, the Company representatives named on the proxy card will vote for another nominee proposed by our board of directors or, as an alternative, our board of directors may reduce the number of positions on our board.

Board Recommendation:

**THE BOARD OF DIRECTORS RECOMMENDS A VOTE "FOR"
THE ELECTION OF THE DIRECTOR NOMINEES**

Table of Contents

Information about Board Nominees and Continuing Directors

Current as of September 15, 2008, set forth below is the personal and business experience information for the nominees for election to our board of directors. In addition, set forth below is the personal and business experience information for each of the current members of our board of directors who will continue to serve as our directors until such time as their next election. The nominees have consented to being nominated as directors and have agreed to serve if elected. The nominees are currently directors.

Board Nominees

John S. Day
Director since September 2007
Committees Audit Committee, Chair
Age: 59
Expiration of term, if elected, 2011 (Class III)

Mr. Day has been a director of Force Protection, Inc. since September 2007. Mr. Day has over 30 years of experience in the accounting profession serving a broad range of publicly and privately owned clients. Mr. Day joined Arthur Andersen LLP in 1976 and was admitted as an audit partner in 1986. In 2002, he joined Deloitte & Touche LLP in Atlanta as a Director. Mr. Day retired from Deloitte in December 2005. Mr. Day was appointed to the board of Lenbrook Square Foundation, Inc., a non-profit organization, effective July 1, 2007 where he serves as a member of the finance and governance committees. Mr. Day holds a Bachelor of Arts in Economics from the University of North Carolina and a Master of Business Administration from Harvard Graduate School of Business.

John W. Paxton, Sr.
Director since February 2008
Committees Audit Committee, Compensation Committee
Age: 71
Expiration of term, if elected, 2011 (Class III)

Mr. Paxton has been a director of Force Protection, Inc. since February 2008. He has over 30 years of experience in the aerospace, wireless voice and data, logistics and manufacturing industries. Currently, Mr. Paxton is the Chairman and Chief Executive Officer of Pro Mach, Inc., an integrated packaging solutions provider, and has been the Chairman of Mobilisa, a provider of

wireless internet solution to the DoD, since 2002. From 2007 until the present, Mr. Paxton has been the Vice Chairman of IntelliCheck Mobilisa, Inc. From 1998 until 2002, Mr. Paxton was the Chairman and Chief Executive Officer of Telxon Corporation. Mr. Paxton served on the Board of Directors of TransDigm, Inc., a supplier of proprietary aerospace components used in commercial and military aircraft. Mr. Paxton holds a Bachelor of Science and Master of Science in business administration from LaSalle University, and is a registered professional engineer.

Table of Contents

Continuing Directors

Major General Jack A. Davis, USMC (RET.)
Director since March 2006
Committees Audit Committee and Compensation Committee, Chair
Age: 62
Expiration of term, 2009 (Class I)

MGen. Davis has been a director of Force Protection, Inc. since March 2006 and has a diverse background of senior level management and leadership positions in business, law enforcement and the military. With over 40 years experience, he is highly regarded in each of these fields. MGen. Davis served in the U.S. Marine Corps, both active and reserve, from 1968 to 2005 where he held the rank of Major General. MGen. Davis' career included command at every level from platoon to division in addition to numerous staff assignments. MGen. Davis attended numerous high level schools both here and abroad. MGen. Davis' law enforcement career included both federal and state agencies where he retired in 1999 with 30 years of distinguished service. MGen. Davis is also the founder of J.A. Davis and Associates, a security and leadership training company. In addition to his service with Force Protection, MGen. Davis currently serves on the Board of Advisors of two publicly held and one privately held company. MGen. Davis holds undergraduate and masters degrees from Indiana State University and a Master of Urban Administration from University of North Carolina Charlotte.

Michael Moody
Director since September 2006
Committees None
Chairman, Board of Directors
Age: 62
Expiration of term, 2010 (Class II)

Mr. Moody was appointed President of Force Protection, Inc. in September 2007, the Interim Chief Executive Officer on January 30, 2008 and appointed as the Chief Executive Officer on February 29, 2008. Mr. Moody has more than thirty years of senior management experience in operational management, reorganizations, acquisitions and business transformations. From 2005 - 2007 he provided business and financial advisory services to privately held businesses. Mr. Moody was the Chief Operating Officer at the London

American General Agency and Senior Vice President of Corporate Development for Magna Carta Companies, a mutual insurance company, where he also served on the Board of Directors. Mr. Moody is a CPA (Australia) and an associate with the Australian Society of Accountants, and holds a Bachelor of Arts in Economics from Macquarie University in Sydney, Australia.

Table of Contents

Lieutenant General Roger G. Thompson, Jr., USA (RET.)
Director since December 2006
Lead Director since January 2008
Committees Audit Committee and Compensation Committee
Age: 63
Expiration of term, 2010 (Class II)

LTG. Thompson has been a director of Force Protection, Inc. since December 2006. LTG. Thompson is Vice President of the Association of the United States Army where he is responsible for all operational events including symposia, the largest landpower exhibition and conference in North America and four exhibitions in four overseas trade shows. Additionally, he provides executive leadership of 124 AUSA Chapters worldwide and management of membership programs totaling over 5,300 major, midsize and small defense oriented companies. He currently serves on the Board of Advisors of a privately held company. A veteran with 34 years of experience on active duty, LTG. Thompson commanded at all levels of the Army, including field artillery and transportation units. While with the Department of Army Staff, LTG. Thompson served as Deputy Assistant Secretary of the Army, Financial Management and Comptroller (Director of the Army Budget). LTG. Thompson completed his military career as the Deputy Commander in Chief, United States Transportation Command. In this position he was responsible for the daily operations supporting all military and commercial transportation for the entire DoD. LTG. Thompson holds a Bachelor of Science from the United States Military Academy, a Master of Business Administration from Syracuse University, and a Master's degree in National Security and Strategic Studies from the Naval War College. He graduated from the Army's Command and General Staff College and the Naval War College.

Policies Governing Director Nominations

In recommending candidates for election to our board of directors, the independent members of our board of directors consider nominees recommended by directors, officers, employees, shareholders and others, using the same criteria to evaluate all candidates. All of the independent directors of our board of directors, or a special committee of the independent directors of our board of directors may be appointed to evaluate each candidate's qualifications, including whether a candidate possesses any of the specific qualities and skills desirable in members of our board of directors.

Evaluations of candidates generally involve a review of background materials, internal discussions and interviews as appropriate. Generally the independent directors, or special committee, as the case may be, will consider various criteria in considering whether to make a recommendation. These criteria include an expectation that directors have substantial accomplishments in their professional backgrounds, are able to make independent, analytical inquiries and exhibit sound judgment. Director candidates should possess the highest personal and professional ethics, honesty, integrity and values, be committed to promoting the long-term interests of our shareholders and be able and willing to devote the necessary time to carrying out their duties and responsibilities as members of our board of directors. Further, directors should come from diverse backgrounds and experience basis. In addition, if a director will be serving on the Audit Committee they must meet our standards for independence and be free from potential conflicts of interest. Upon selection of a qualified candidate, the independent directors, or special committee, as the case may be, recommends the candidate for consideration by our full board of directors. A majority of the board's independent directors must approve the director nominee. The independent

11

Table of Contents

directors, or special committee, may engage consultants or third-party search firms to assist in identifying and evaluating potential nominees.

Our board of directors will consider all shareholder recommendations for candidates for the board of directors, which should be sent to the Board of Directors, c/o Corporate Secretary, Force Protection, Inc. 9801 Highway 78, Building 1, Ladson, South Carolina 29456. When submitting candidates for nomination to be elected at the Company's annual meeting of shareholders, shareholders must follow the notice procedures, which procedures are described under the heading "Shareholder Proposals and Director Nominations for 2009 Annual Meeting".

Table of Contents

CORPORATE GOVERNANCE

Role of the Board of Directors

Our day-to-day business is managed by our employees under the direction and oversight of our board of directors which has responsibility for establishing broad corporate policies and for the overall strategic direction of the Company. Members of our board of directors are kept informed of the Company's business by reviewing materials and various documents provided by management, visits to the Company's office, participating in board and committee meetings, and through discussions regarding operations and financial reports prepared by or under the direction of the Chief Executive Officer and President, the Chief Financial Officer and other members of management.

The board of directors, in accordance with the provisions of the Company's Amended Articles of Incorporation and bylaws, is comprised of five directors. The board of directors has approved amendments to the Company's Amended Articles of Incorporation and has requested that the Company's shareholders approve such amendments, including the proposal to provide for a range of no less than one or more than fifteen directors, with the number of directors to be set by our board of directors, as more particularly described under "Proposal Two Approval of Proposed Amendments to Company's Amended Articles of Incorporation".

Our board of directors is divided into three classes, with each class of directors serving a staggered three year term. The term of one class expires each year. Directors are encouraged to attend the Company's annual meetings of shareholders. All members of our board of directors serving at such time attended the Annual Meeting in 2007.

Director Independence

In determining independence, our board of directors determines whether directors have a material relationship with the Company that would interfere with the exercise of independent judgment in carrying out the responsibilities of directors. When assessing materiality, our board of directors considers all relevant facts and circumstances including, without limitation, transactions between the Company and the director, family members of directors, or organizations with which the director is affiliated. Our board of directors further considers the frequency and dollar amounts associated with any of these transactions and whether the transactions were in the ordinary course of business and were consummated on terms and conditions similar to those with unrelated parties.

On an annual basis, each member of our board of directors is required to complete a questionnaire designed in part to provide information to assist our board of directors in determining whether the director is independent under the rules and regulations of Nasdaq, the rules and regulations of the Securities Exchange Commission ("SEC") and other applicable laws. In addition, each director or potential director has an affirmative duty to disclose to our board of directors relationships between and among that director (or an immediate family member), the Company, and/or the management of the Company.

As of September 3, 2008, our board of directors has affirmatively determined that all of our current directors, other than Mr. Michael Moody, President & Chief Executive Officer of the

Table of Contents

Company, were independent in that each such person has no material relationship with the Company, our management or our independent registered public accounting firm, and otherwise met the independence standards under the rules and regulations of Nasdaq, the rules and regulations of the SEC and other applicable laws. Our board of directors determined that Michael Moody is not independent due to his status as an executive officer of Force Protection.

Related Party Transactions

Our board of directors recognizes that transactions with related persons can present actual or potential conflicts of interest and wants to ensure that Company transactions are based solely on the best interests of the Company and our shareholders. Accordingly, our board of directors has delegated responsibility to the audit committee of our board of directors ("Audit Committee") to review transactions between the Company and related persons. The Audit Committee has adopted a written policy providing procedures for review, approval and ratification of related person transactions.

The Audit Committee has adopted procedures regarding the review, approval and ratification of related party transactions. A related party transaction is a transaction between the Company and (a) a director, officer or 5% shareholder; (b) an immediate family member of a director, officer or 5% shareholder; or (c) other entity in which any of these persons have a material interest. All reportable related party transactions must be reviewed, approved or ratified by the Audit Committee. In determining whether to approve or ratify such transactions, the Audit Committee will take into account, among other factors and information it deems appropriate: (1) the related person's relationship to Force Protection and interest in the transaction; (2) the material facts of the transaction; (3) the benefits to Force Protection of the transaction; (4) an assessment of whether the transaction is (to the extent applicable) in the ordinary course of business, at arm's length, at prices and terms customarily available to unrelated third-party vendors or customers generally, and whether the related person had any direct or indirect personal interest in, or received any personal benefit from such transaction; and (5) if applicable, the availability of other sources of comparable products and services. The Audit Committee chairperson is authorized to approve related party transactions when it is impractical or undesirable to wait until the next committee meeting for approval. Such transactions must be reported to the Audit Committee at the next meeting.

Our board of directors reviews all disclosed relationships and transactions for compliance with the independence standards and makes a determination of the independence of each director. For those directors identified as independent, the Company and our board of directors are aware of no relationships or transactions with the Company or management other than of a type deemed immaterial in accordance with the guidelines described above.

On August 26, 2008, the Audit Committee was informed by our interim Chief Financial Officer that in connection with the exercise of stock options in January 2007 and Gordon McGilton's subsequent sale of common stock received through such exercise, the proper amount of Mr. McGilton's share of Medicare taxes relating to such exercise was not collected from Mr. McGilton. As a result, Mr. McGilton owed us $315,085 for payment of such tax withholding, which may be considered a violation of applicable U.S. law prohibiting loans by public companies to their directors and executive officers. Upon learning of this administrative oversight, the Audit Committee instructed management to contact Mr. McGilton to seek repayment of the payment of

Table of Contents

taxes. On September 11, 2008, Mr. McGilton paid us $315,085 to satisfy all outstanding obligations with respect to withholding of his taxes relating to such stock option exercise. We believe that the under withholding of the taxes was the result of the mistaken belief of Company's former chief financial officer that the proper amount of taxes upon Mr. McGilton's stock option exercise were withheld. Subsequently, we have instituted additional controls on the withholding of taxes and monitoring of Internal Revenue Service Chapter Section 162(m).

Previously, we disclosed that Mr. McGilton was a principal of APT Leadership, a consulting firm the Company hired to provide various business consulting services, training seminars and certain business software. For the years ended December 31, 2007 and 2006, APT Leadership billed us a total of $545,299 and $606,396, respectively, for such services, training and software. Mr. McGilton disclosed to our board of directors each year that he did not receive any dividends, distributions or other compensation from APT Leadership at any time while an employee of the Company. Further, Mr. McGilton disclosed that as of December 31, 2007 he transferred his interest in APT Leadership to the other owner for $1 consideration.

In addition, we have entered into an agreement with APT Leadership pursuant to which APT Leadership has granted us a non-exclusive right and license to use the diagrams, methods, concepts and business operating system functionality contained in APT Leadership's "APT Tool" software and we purchased certain software to be used in the analysis of process capability. Under the terms of such agreement we paid a one-time license fee of $60,000 and agreed to pay an annual license fee thereafter of $50,000 per Company operating site.

Compensation Committee and Board of Director Interlocks and Insider Participation

None of our executive officers serve as a member of the board of directors or compensation committee, or other committee serving an equivalent function, of any other entity that has one or more of its executive officers serving as a member of our board of directors or compensation committee of our board of directors ("Compensation Committee"). None of the current members of our Compensation Committee is now or has ever been an officer or employee of Force Protection or any subsidiary of Force Protection. See "Related Party Transactions" above for a discussion of the Company's transactions with related parties.

Presiding Lead Director; Executive Sessions

As of January 8, 2008, the Board of Directors appointed Lieutenant General Roger G. Thompson, Jr. USA (Ret.) as our presiding Lead Director. Our Lead Director serves at the chair of the non-management executive sessions. Prior to the appointment of a Lead Director, our board of directors' executive sessions were led by a rotation of independent directors. The independent directors met regularly without the Chief Executive Officer or other members of management present in executive sessions. Our board of directors intends to hold executive sessions of the non-management directors in conjunction with each regularly scheduled in-person meeting of the board of directors. Executive sessions were regularly scheduled during the board of directors' in-person meetings during 2007. In addition, the Chief Executive Officer performance review is conducted in executive session, and the Audit and the Compensation Committees periodically meet in executive session.

Table of Contents

Committees of the Board of Directors

Our board of directors has two standing committees, the Audit Committee and the Compensation Committee, which operate under written charters approved by the full board of directors. Each committee is composed entirely of directors meeting the applicable independence standards of Nasdaq and the rules and regulations of the Securities Exchange Act of 1934, as amended ("Exchange Act") and our board of directors has determined in its business judgment that all of them are "independent" from the Company and its management in accordance with the guidelines described above under "Director Independence." Generals Davis and Thompson and Messrs. Day and Paxton are the members of our Audit Committee. Our board of directors has determined that Mr. Day is an "audit committee financial expert" defined by applicable SEC rules. Our Compensation Committee is comprised of Mr. Paxton and Generals Davis and Thompson. The charters for each of the committees can be viewed on the Company's website at www.forceprotection.net under "Investor Relations" and are available in print at no charge to any shareholder upon request to the Corporate Secretary of Force Protection, Inc., 9801 Highway 78, Building No. 1, Ladson, South Carolina 29456.

Presently, the Company does not have a standing nominating committee and therefore does not have a nominating committee charter. The board believes that the addition of a standing nominating committee at this time in the Company's development would result in additional and unnecessary expenses to the Company. The board intends to review this policy in 2009. For information regarding our process to nominate members to our board of directors, see the section "Policies Governing Director Nominations" above.

The chart below identifies the members of each standing committee, the number of meetings held by each committee, and the committee chairs, during 2007.

Name	Audit	Compensation
J. Day	Chair	
J. Davis	X	Chair
F. Kavanaugh(1)		
G. McGilton(2)		
M. Moody(3)	O	O
R. Thompson	X	X
2007 Meetings	17	4

(1) Frank Kavanaugh was not appointed to a committee during 2007; Mr. Kavanaugh resigned as Chairman and as a director effective June 21, 2007. The Board did not appoint another Chairman until the election of Mr. Moody as Chairman on January 8, 2008.

(2) Mr. McGilton retired as a director effective January 31, 2008. Mr. Paxton was elected and qualified by the Board of Directors on February 20, 2008 to fill the remainder of Mr. McGilton's term. Mr. Paxton currently serves on the Audit and Compensation Committees.

(3) Mr. Moody was elected as President on September 18, 2007 and, concurrent therewith, resigned from the Audit and Compensation Committees and as chairman of the Audit and Compensation Committees.

Board Meeting Attendance

Our board of directors met 20 times during our fiscal year ended December 31, 2007. Board of directors and committee attendance averaged in excess of 90% for our board of directors as a

16

Table of Contents

whole, and no director attended less than 90% of the combined total of meetings of the board and the committees on which they were serving. From June 21, 2007 until January 8, 2008, the board of directors did not appoint a Chairman and meetings were led by a rotation of independent directors on a meeting by meeting basis. All directors are expected to attend the Company's Annual Meeting. All directors holding office at such time attended the 2007 annual meeting.

Director Compensation

The following table shows the compensation of the non-employee members of our board of directors for 2007.

Name(1)	Fees Earned or Paid in Cash	Stock Awards(5)	All other Compensation(6)	Total
Davis	$66,000(3)	$ 30,999	$ 1,340	$98,339
Day	$30,000(4)			$30,000
Kavanaugh(2)	$36,000(3)	$ 30,999	300	$67,299
Thompson	$66,000(3)	$ 30,999	$ 1,340	$98,339

(1) See "Executive Compensation" and "Summary Compensation Table" for information regarding compensation (including amounts received for service as a director) for Messrs. McGilton and Moody.

(2) Mr. Kavanaugh resigned as Chairman and as a member of our board of directors on June 21, 2007.

(3) Six thousand dollars ($6,000) of the annual retainer for the fourth quarter of 2006 was paid in the first quarter of 2007.

(4) Mr. Day was appointed to our board of directors in September 2007 and received a pro-rata portion of the $60,000 annual retainer.

(5) $30,999 in stock compensation was paid in the first quarter of 2007 for services rendered in 2006. The stock grants were valued at the amount recognized for financial statement reporting purposes for the fair value of the stock granted in accordance with FASB Statement No. 123(R).

(6) Represents the amount paid pursuant to our Gain Sharing Program during 2007.

In 2007, all members of our board of directors, including those who were employed by us, received an annual cash retainer of $60,000. Directors who only served a portion of 2007 were paid a pro rata share of the $60,000 retainer. Retainers were paid quarterly in advance within the first fifteen (15) days after the beginning of each quarter. Directors are reimbursed for out-of-pocket expenses incurred in performing their duties as directors. We cover directors under our overall directors and officers liability insurance policies.

During a portion of 2007, the members of our board of directors also participated in our Gain Sharing Program, which provides that ten percent (10%) of our quarterly net income be distributed equally to all of our employees and directors. We do not offer a pension plan or other compensation to our non-employee directors.

In the third fiscal quarter of 2007, the Compensation Committee eliminated the eligibility of independent directors to participate in the Gain Sharing Program, and in February 2008, the Compensation Committee eliminated the eligibility of any other director to participate in the Gain Sharing Program.

Table of Contents

In February 2008, the Compensation Committee engaged an external independent compensation consultant, Hewitt Associates LLC, to assist in a review and revision to our director compensation program. The independent compensation consultant provided benchmark director compensation data as compared to other companies of similar revenue size, market capitalization, and industry. Our board of directors, based on the recommendation of the Compensation Committee, approved a new director compensation program for 2008 comprised of (1) annual retainers for each member with separate retainers for each committee chairman and (2) meeting fees for board of directors and committee meetings. Likewise, our board of directors, upon the recommendation of the Compensation Committee, approved the adoption of the 2008 Stock Plan subject to shareholder approval under "Proposal Four Approval of the Force Protection, Inc. 2008 Stock Plan".

Code of Conduct and Ethics

Our board of directors has adopted a code of ethics ("Code of Conduct and Ethics") that applies to our directors, officers and employees, including our principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions. A current copy of the Code of Conduct and Ethics is available on our website at www.forceprotection.net, under "Investor Relations". A copy of the Code of Conduct and Ethics may also be obtained free of charge from us upon a request directed to the Corporate Secretary of Force Protection, Inc., 9801 Highway 78, Building 1, Ladson, South Carolina 29456. We intend to promptly disclose any substantive changes in or waivers, along with the reasons for the waivers, of the Code of Conduct and Ethics granted to our executive officers, including our principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions, and our directors by posting such information on our website at www.forceprotection.net, under "Investor Relations".

Communications with the Board of Directors

Shareholders may communicate with any of the Company's directors, our board of directors as a group or any Board of Directors committee by (1) sending an email to the Board of Directors, a particular director or committee at Directors@forceprotection.net, or (2) mailing correspondence c/o Corporate Secretary, Force Protection, Inc., 9801 Highway 78, Building 1, Ladson, South Carolina 29456, or (3) by calling and leaving a voicemail message on the Company's Compliance Direct Line toll-free number (800) 695-5218. Our board of directors has delegated to the Corporate Secretary, or her designee, responsibility for determining, in her discretion whether the communication is appropriate for a director, committee or our board of directors consideration.

According to the policy adopted by our board of directors, the Corporate Secretary is required to direct all communications regarding personal grievances, administrative matters or similar issues to the appropriate individual within the Company. Some types of communications, including job inquiries, spam, junk mail, mass mailings, product complaints or inquiries, surveys and requests for information about us, offers of goods and services, requests for donations and sponsorships, business solicitations or advertisements, product ideas, patently offensive material, otherwise inappropriate materials, as well as communications unrelated to us or our business, will not be forwarded to our board of directors. All other communications are to be submitted to the board as a

Table of Contents

group, to the particular director or committee to whom it is addressed or, if appropriate, to the director or committee the Corporate Secretary believes to be the most appropriate recipient. If you send an email or letter or leave a message with the board of directors, a committee or a director, you will receive a written acknowledgement from the Corporate Secretary confirming receipt of your communication. A copy of the procedure adopted by our board of directors regarding shareholder communications is available upon request by mailing notice to the Corporate Secretary at Force Protection, Inc., 9801 Highway 78, Building 1, Ladson, South Carolina 29456.

Concerns and questions relating to accounting, internal accounting controls, financial policy, risk management or auditing matters are brought to the attention of the Audit Committee and are handled in accordance with the procedures adopted by the Audit Committee. These concerns also may be reported through the Company's anonymous confidential Compliance Direct Line at (800) 695-5218. If requested, we will endeavor to keep information that has been submitted confidential, subject to any need to conduct an effective investigation and take appropriate action.

Table of Contents

EXECUTIVE COMPENSATION

Compensation Committee

The Company has a Compensation Committee comprised of MGen. Davis (Chairman), LTG. Thompson and Mr. Paxton. The current members of the Compensation Committee are "independent directors" within the meaning of the Nasdaq rules, are "outside directors" within the meaning of Section 162(m) of the Internal Revenue Code and are "non-employee directors" within the meaning of Rule 16b-3 of the Exchange Act. During 2007, the Compensation Committee held 4 regularly scheduled meetings. For 2008, there are 12 meetings of the Compensation Committee scheduled.

The purpose of the Compensation Committee is to provide the oversight required to ensure the integrity of the Company's compensation and employee benefit plans, practices and reporting and to assist the Company's board of directors with:

- oversight of executive compensation;
- compliance with legal and regulatory reporting for compensation;
- overseeing all compensation systems which involve the issuance of the Company's stock and other equity securities; and
- preparing the committee report in the Company's annual proxy statement and such other reports as required.

Pursuant to its charter, the Compensation Committee is responsible for:

- Annually review and make recommendations to the board of directors with respect to the compensation of the chief executive officer and other executive officers, including salary, bonus, and equity compensation. The chief executive officer may not be present during the voting or deliberations of the Committee with respect to his or her compensation.
- Review and recommend to the Company's board of directors the terms of compensation agreements or modification of prior compensation agreements with respect to the chief executive officer and other executive officers of the Company including but not limited to the form of employment and severance and change of control conditions.
- Review and recommend to the board of directors equity-based plans and grants involving the use of Company's stock and other equity securities.
- Produce a report on executive compensation as required by the SEC to be included in our annual proxy statement and such other reports as required.
- Perform such other duties and responsibilities as may be assigned to the Committee from time to time by the board of directors, including without limitation, the implementation and administration of our equity-based plans and reviewing and making recommendations to the board on the competitiveness of the Company's compensation and benefit plans for directors, officers, and key employees.

Table of Contents

The Compensation Committee's charter is posted on the Company's web site at www.forceprotection.net, under "Investor Relations". Shareholders can obtain a printed copy of the Compensation Committee's Charter by sending a written request to the Corporate Secretary at Force Protection, Inc., 9801 Highway 78, Building 1, Ladson, South Carolina 29456.

For each named executive officer, other than our Chief Executive Officer, the Compensation Committee reviews and approves all elements of our executive compensation program taking into consideration recommendations from our Chief Executive Officer and human resources staff and other information, including competitive market information. For our Chief Executive Officer, the Compensation Committee reviews and approves his executive compensation program taking into consideration the board of directors' evaluation, recommendations from human resources staff and other relevant information, including competitive market information.

The Compensation Committee may, in its discretion, utilize the services of a compensation consultant or other professional or expert to provide data and advice to the Compensation Committee regarding the compensation of executives of the Company and to assist the Compensation Committee in performing its other responsibilities. The retention and, where appropriate, the termination of any such compensation consultant in the sole discretion of the Compensation Committee without the participation of any officer or other member of management. The Compensation Committee approves the appropriate funding to be paid to any advisors to the Committee and ordinary administrative expenses of the Compensation Committee that are necessary to carry out its duties.

Compensation Committee Report

The Compensation Committee has reviewed and discussed the following Compensation Discussion and Analysis section of this Proxy Statement as required by Item 402(b) of Regulation S-K with management. Based on its review and discussions with management, the Compensation Committee recommended to our board of directors that the Compensation Discussion and Analysis be included in this Proxy Statement.

Compensation Committee

MGen. Jack A. Davis (Chairman)
LTG. Roger G. Thompson, Jr.
John W. Paxton, Sr.

The preceding Compensation Committee Report is provided only for the purpose of this Proxy Statement. Pursuant to the regulations of the SEC, this report is not "soliciting material," is not deemed filed with the SEC and is not to be incorporated, in whole or in part, in any other Company filing under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended.

Table of Contents

Compensation Discussion and Analysis

Overview of Program

The compensation and benefits provided to our named executive officers for 2007 are set forth in detail in the Summary Compensation Table and other tables, and the accompanying footnotes and narrative material. This Compensation Discussion and Analysis explains the purposes of our executive compensation and benefits program and explains the material elements of the compensation awarded to each of our named executive officers. The discussion focuses primarily on the compensation awarded for the year ended December 31, 2007, but also addresses actions taken by the Compensation Committee during its review of the executive compensation program in early 2008. Our executive compensation and benefits program is designed and administered under the direction and control of the Compensation Committee. For more information see "Executive Compensation Compensation Committee" above.

2007 Compensation Program Objectives

The Compensation Committee's objective is to maintain an executive compensation program that will attract, retain, motivate and reward highly qualified and talented executives that will enable us to perform better than our competitors.

During 2007, our executive compensation decisions were based on providing fair and marketplace competitive base compensation. During 2007, the Compensation Committee approved our Chief Executive Officer's base salary as the sole means of compensation. Further, the Company established designated classes of employees based on roles within the organization and determined each employee in the class to be at the same compensation level (including all executive officers). In 2007, we adopted a Gain Sharing Program that provides additional compensation that is paid quarterly in arrears to eligible employees for quarters in which we earn net income. Under the Gain Share Program we distributed ten percent (10%) of the net income equally to all eligible employees regardless of compensation level.

No other bonuses or other long-term incentive compensation were paid or awarded to our named executive officers. We eliminated annual performance and merit reviews to focus all employee efforts on optimizing the organizational system as a whole. Our compensation philosophy was demonstrated by eliminating all incentive compensation, merit compensation and annual reviews, in lieu of delivering equal compensation for all employees by level, as a method to motivate employees to contribute to the success of the overall organizational system.

Components of Compensation

During the year ended December 31, 2007, our executive compensation program consisted of the following components:

- base salary;
- standard health and welfare benefits;
- 401(k) retirement plan benefits (without a company match);
- limited perquisites; and
- pro rata sharing in the Gain Sharing Program.

Table of Contents

Base Salary.

We believe that an appropriate and competitive base salary (median to market) is a necessary element to attracting and retaining qualified executive officers. In determining base salary for the year ended December 31, 2007, the Compensation Committee sought to fairly compensate each executive and to provide each executive with a reasonable level of economic security. Base salary was not automatically adjusted annually and there was no annual cost-of-living adjustment made to salaries either for executive officers or any other employee.

Health and Welfare Benefits.

For the year ended December 31, 2007, we provided medical, dental and vision coverage, life insurance, and disability (long- and short-term) insurance to executive officers under the same programs offered to all salaried employees. All participating employees pay a percentage of the cost of these programs.

401(k) Plan.

For the year ended December 31, 2007, our executive officers participated in our 401(k) / Profit Sharing Plan ("401(k) Plan") on the same terms as provided to all of our salaried employees. The 401(k) Plan permits participants to make pre-tax salary contributions up to the maximum amount permitted under the Internal Revenue Code. We did not contribute any matched amount against the pre-tax salary contributions made by participants.

Limited Perquisites.

For the year ended December 31, 2007, we provided limited perquisites to executive officers, without tax gross-ups. Two such perquisites are (1) provision of home security services for the named executive officers and (2) ability to participate in the Leadership Charitable Giving Program. The Leadership Charitable Giving Program provides for the ability of certain executive officers to support local community charitable organizations. See "Summary Compensation Table" for itemized disclosure of certain perquisites provided to the named executive officers.

Gain Sharing Program.

For the fiscal year ended December 31, 2007, our Gain Sharing Program provided for ten percent (10%) of our quarterly net income to be distributed equally to all of our eligible employees and directors. See "Director Compensation" and "Summary Compensation Table" for amounts paid to our named executive officers and directors under the Gain Sharing Program for the fiscal year ended December 31, 2007. We did not calculate or pay gain sharing for the fourth quarter of 2007 because our total net income for the year ended December 31, 2007 was less than the previously reported net income for the nine-month period ended September 30, 2007.

In the third fiscal quarter of 2007, the Compensation Committee eliminated the eligibility of independent directors to participate in the Gain Sharing Program, and in February 2008, the Compensation Committee eliminated the eligibility of all other directors to participate in the Gain Sharing Program. Additionally, in September 2008, the Compensation Committee decided that no

Table of Contents

executive officer who is eligible to participate in Short Term Incentive Plan will be eligible to participate in our Gain Sharing Program in 2008.

2007 Change in Control Arrangements

To retain the senior leadership team and enable the management team to negotiate effectively for shareholders without concern for their own future in the event of any actual or threatened change in control of the Company, we adopted change in control severance protections for our Chief Executive Officer and other executive officers, including named executive officers ("Covered Officers"). Covered Officers receive no payments or benefits under these arrangements unless their employment ends following a change in control. See "Potential Payments upon Termination or Change in Control" for a further discussion of these arrangements.

2007 and Prior Period Employment Agreements

Chief Executive Officer.

On January 27, 2005, we entered into a standard employment offer letter agreement (an offer letter in the form as provided to all employees) with Gordon McGilton as Chief Executive Officer, effective January 1, 2005, providing for $15,000 a month in base salary with a bonus of $180,000 after twelve months paid either in cash or in common stock, the right to receive $15,000 per month in stock or cash equivalent and the right to participate in a Company qualified stock option plan.

On January 13, 2006, our board of directors approved new compensation for Mr. McGilton, effective January 1, 2006, providing for cash compensation equal to $35,000 per month, relocation expenses of $30,000 upon separation from the Company for any reason, an equity grant of 300,000 shares of common stock, plus an option to purchase 1,000,000 shares of our unregistered common stock. On October 25, 2006, our board of directors approved new compensation for Mr. McGilton, effective January 1, 2007, providing for cash compensation equal to $40,000 per month and an additional option to purchase 500,000 shares of our unregistered common stock.

Chief Operating Officer.

On April 11, 2006, we entered into a non-standard employment agreement with Raymond Pollard ("Pollard Employment Agreement") as Chief Operating Officer providing for an annual salary of $240,000, an equity grant equal to $40,000 on the first and second anniversary dates of employment, a one-time relocation payment of $30,000, the right to participate in our employee benefits and eligibility to participate in our Gain Sharing Program and stock incentive program. The Pollard Employment Agreement also provided for a salary guarantee equal to twenty-four months of salary such that if Mr. Pollard was terminated without cause during the first twenty-four months of employment, he would receive a one-time lump-sump severance payment equal to any remaining salary compensation. See "Separation Agreements" below for a description of the payments made to Mr. Pollard upon his termination of employment with the Company.

Chief Financial Officer.

On January 18, 2007, we entered into an employment offer letter agreement with Michael S. Durski as Chief Financial Officer, providing for an annual salary of $180,000, paid-time off and paid

Table of Contents

holidays, participation in the 401(k) Plan, the right to participate in our employee benefits, and a one-time relocation benefit allowance of $35,000. See "Separation Agreements" below, for a description of the payments made to Mr. Durski upon his termination of employment with the Company.

General Counsel.

On November 15, 2004, we entered into an employment agreement with R. Scott Ervin as General Counsel, providing for an annual salary of $118,000, the right to participate in our employee benefits, relocation expenses of $15,000, a performance bonus at the discretion of our board of directors, eligibility to participate in our stock incentive program and an equity grant of 500,000 common shares and four Series C Preferred shares. For a period of time, up and until the time of his departure, Mr. Ervin also served as our Acting Chief Financial Officer. See "Separation Agreements" below, for a description of the payments made to Mr. Ervin upon his termination of employment with the Company.

Co-General Counsel.

On May 24, 2007, we entered into an employment offer letter with Denise Speaks as Co-General Counsel, providing for an annual salary of $250,000, the right to participate in our employee benefits, and relocation expenses of $35,000. See "Separation Agreements" below, for a description of the payments made to Ms. Speaks upon her termination of employment with the Company.

Actions Taken in 2008

In early 2008, the Compensation Committee became concerned that our compensation program was not competitive with the marketplace and engaged an external, independent compensation consultant, Hewitt Associates LLC ("Hewitt") to assist in a thorough review of the program. As part of this review, the Compensation Committee determined that the executive compensation program was no longer aligned with the Compensation Committee's stated compensation philosophy, which is outlined below. For more information see "Use of Compensation Consultants" below. Further, the Compensation Committee reviewed its processes and procedures for considering executive compensation. The Compensation Committee determined to re-state and modify certain core compensation program principles to realign them with our business operating and compensation philosophies:

Total compensation is to be competitive with the marketplace. To ensure that our executive compensation program is more competitive, we, with the assistance of management and Hewitt, measured certain key elements of executive compensation as against other companies of similar revenue size, market capitalization, and industry. For certain positions, Hewitt did not focus specifically on defense companies because we believe that the market for our executive talent is broader than the defense industry, but reviewed a peer group of defense contractors and general industry peers. For 2008, compensation for our executives is compared to the market 50th percentile to assess competitiveness.

Table of Contents

Stock ownership is to be emphasized. One conclusion drawn from our review of the executive compensation program is that stock ownership by our executives is critical in order to align the interests of our executives with those of our shareholders. The Compensation Committee, with the assistance of Hewitt, has developed a long-term program designed to support stock ownership. Our board of directors, upon the recommendation of the Compensation Committee, approved the adoption of the Force Protection, Inc. 2008 Stock Plan (the "2008 Stock Plan"), subject to shareholder approval, under "Proposal Four Approval of the Force Protection, Inc. 2008 Stock Plan".

Adoption of a Short Term Incentive Plan. In February 2008, the Compensation Committee approved, for eligible executives, performance metrics and target levels for the 2008 Short Term Incentive Plan. For more information see "Short Term Incentive Plan" below.

Use of Compensation Consultants.

Hewitt reports directly to the Compensation Committee chairman, but may work with management as necessary in fulfilling its responsibilities to the Compensation Committee. The Compensation Committee may meet in executive session with the consultant and is free to speak directly with them. In 2008, Hewitt assisted the Compensation Committee and management with the following tasks:

Development of the compensation peer group;

Benchmarking of executive pay levels;

Benchmarking of outside director pay levels;

Review of severance and change in control arrangements;

Review of the proposed 2008 Stock Plan, including the modeling of the proposed share pool;

Review of the Compensation Discussion & Analysis section of this Proxy Statement; and

Development of the total shareholder return performance graph.

Composition Peer Group.

Two peer groups were used in assessing market pay levels, a defense industry group ("Defense Industry") that represents companies in a similar line of business, and a general industry group ("General Industry") to provide a broader measure of competitors for talent at Force Protection.

The Defense Industry group was comprised of 20 companies in the Standard and Poor's Aerospace and Defense industry with revenues and market capitalization between $500 million and $3 billion. In addition, LMI Aerospace, Inc. and Ducommun, Inc. were included in the group even though they did not meet the above criteria because they are relevant peer companies. Median revenue and market capitalization for this group was $846 million and $1.4 billion, respectively.

The General Industry group was comprised of 37 companies from Hewitt's total compensation measurement with revenue between $500 million and $1.7 billion. The median revenue for the General Industry group was $1.1 billion.

26

Table of Contents

In general, the pay levels for the two peer groups are similar.

The following table contains the companies in the two peer groups.

Defense Industry Peer Group	General Industry Peer Group
AAR Corp.	Alpharma Inc.
Alion Science And Technology	Ameron International Corporation
Ceradyne Inc.	Belden Inc.
Cubic Inc.	Brady Corporation
Curtiss-Wright Corp.	Cabot Oil & Gas Corporation
DRS Technologies Inc.	Callaway Golf Company
Ducommun Inc.	Cimarex Energy Co.
Dyncorp International Inc.	Coca-Cola Bottling Co. Consolidated
EDO Corp.	Curtiss-Wright Corporation
Esterline Technologies Corp.	Donaldson Company, Inc.
Gencorp Inc.	Edwards Lifesciences LLC
Heico Corp.	Federal Signal
Hexcel Corp.	Fossil, Inc.
LMI Aerospace Inc.	Fraser Papers Inc.
Moog Inc.	Graco Inc.
Orbital Sciences Corp.	H.B. Fuller Company
Teledyne Technologies Inc.	Innophos, Inc.
TransDigm Group Inc.	Kaman Corporation
Triumph Group Inc.	Kennametal Inc.
United Industrial Corp.	Kinetic Concepts Inc.
	Milacron Inc.
	Mine Safety Appliances Co.
	Neenah Paper, Inc.
	Newfield Exploration Company
	OMNOVA Solutions Inc.
	Pioneer Natural Resources Company
	Playtex Products, Inc.
	Polaris Industries Inc.
	Rayonier Inc.
	Revlon Inc.
	Sensient Technologies Inc.
	TriMass Corporation
	Valeant Pharmaceuticals International
	Valmont Industries, Inc.
	Walter Industries, Inc.
	Waters Corporation
	Woodward Governor Company

Executive Pay Benchmarking.

At the Compensation Committee's request, Hewitt evaluated the Company's compensation programs and made recommendations to better align the Company's compensation programs with the organization's compensation philosophy and business strategies. After conducting its review of our compensation program, Hewitt concluded that our executive compensation program was not competitive in several different areas:

Base salary levels are significantly below market median levels;

Table of Contents

Total cash compensation levels are also significantly below market due to the lack of an annual incentive plan; and

The lack of an annual long-term incentive plan results in total compensation being significantly below market, at least 65% below each position's market medians.

Based on these findings, Hewitt recommended that our Compensation Committee consider realigning our executive compensation program as follows:

Adjust base salary levels to the median of the peer groups;

Introduce an annual short-term incentive plan that provides a link between pay and key performance metrics and performance levels selected by management and approved by the committee. Target opportunities under the plan should approximate the median target opportunity of the peer groups; and

Introduce an annual long-term incentive plan to provide a link between the executive's wealth accumulation and the long-term performance of the Company. Awards under the plan should approximate the median of the peer group in connection with the revised base salaries and the short-term incentive plan; the long-term incentive plan should result in a target total compensation at the median of the peer group.

Based on Hewitt's recommendations, the Compensation Committee took several steps following the end of 2007 to make our executive compensation program more competitive and more aligned with shareholders' interests.

Other than the services described above, Hewitt does not provide any services to the Company or the Compensation Committee and all work requested to be performed by Hewitt must be approved by the Compensation Committee.

Base Salary.

As discussed above, base salaries for our executive officers were adjusted to more closely reflect market median levels. Upon the execution of his employment agreement, Mr. Moody's salary was increased to $560,000.

Short Term Incentive Plan.

In February 2008, the Compensation Committee approved, for eligible executives, performance metrics and target performance levels for the 2008 Short Term Incentive Plan, which is not a shareholder approved plan. For 2008, 7 executives are eligible to participate in the 2008 Short Term Incentive Plan. The following table describes the plan.

Measure(1)	**Weighting**
(1) Inventory Turns	1/6
(2) Gross Profit (as a %)	1/6
(3) G&A (as a % of Revenue)	1/6
(4) Cash at Year End	1/6

(1) The Company included two additional metrics that we deem proprietary; each will have a 1/6 weighting.

Table of Contents

Each executive's payout from the plan is dependent upon the level of performance on the above measures and range as follows (as a Percent of Salary):

Executive	Threshold(1)	Target(2)
Chief Executive Officer	0	75%
Executive Vice President, Finance	0	50%
Chief Strategy Officer, General Counsel and Secretary	0	50%
Executive Vice President, Development	0	50%
Executive Vice President, Operations	0	50%
Executive Vice President, Customer Operations	0	50%

(1) Increase of 2008 performance as compared to 2007 Performance.

(2) Target is a percentage of base salary.

2008 Stock Plan.

At its February 20, 2008 meeting, upon the recommendation of the Compensation Committee, our board of directors approved the adoption of the 2008 Stock Plan, subject to approval of our shareholders at the 2008 Annual Meeting. See "Proposal No. Four Approval of the Force Protection, Inc. 2008 Stock Plan."

Severance Agreements (change of control arrangements).

Our "change in control" arrangements are intended to serve the objectives of fairness and support for difficult organizational decisions. These arrangements are established with the advice of Hewitt, based on competitive and market trends. The Compensation Committee determined that these arrangements provide a benefit to us and our shareholders.

As part of the compensation program review undertaken in early 2008, the Compensation Committee determined that the above change in control arrangements were not competitive with the market and did not meet the stated goals. In conjunction with Hewitt and recommendations of senior management, the Compensation Committee has approved severance agreements (change of control arrangements) for certain executive officers. See "Compensation Discussion and Analysis Actions Taken in 2008" above.

In March and April 2008, we entered into severance agreements (change of control agreements) with each of our named executive officers and certain other executives (the "Severance Agreements"). Although Mr. Moody is not party to a Severance Agreement, his employment agreement has similar provisions. See " Actions Taken in 2008 Employment Agreements Severance Agreements," below for the provisions regarding severance for our Chief Executive Officer, effective in 2008, upon a change in control. These agreements improve on the existing severance protections for our executive officers and provide an additional inducement to secure the executives' continued service and, in the event of any threat or occurrence of, or negotiation or other action that could lead to, or create the possibility of, a change in control, ensure the executives' continued and undivided dedication to their duties when faced with the possibility of change in control. Amounts paid under the Severance Agreements are in lieu of all other severance or similar payments or benefits. For more information see "Potential Payments Upon Termination or Change in Control" below.

Table of Contents

Employment Agreements.

On March 19, 2008, the Company entered into an employment agreement with Michael Moody ("Moody Employment Agreement") in order to be competitive in recruiting and retaining top executive officers, such as Mr. Moody. The Moody Employment Agreement, effective March 1, 2008, provides for an annual base salary of not less than $560,000, an annual cash bonus with a target bonus of no more than 75% of the annual base salary based on the attainment of certain performance goals, and the right to participate in all employee benefit plans, including the 2008 Stock Plan, if approved by our shareholders, and three weeks of paid vacation. Under the Moody Employment Agreement, Mr. Moody may be terminated with or without "cause" (as defined in the Moody Employment Agreement) and Mr. Moody may terminate his employment with or without "good reason" (as defined in the Moody Employment Agreement).

Under the Moody Employment Agreement, if Mr. Moody's employment is terminated for a Nonqualifying Termination (as defined in the Moody Employment Agreement) event, Mr. Moody is entitled to receive:

a lump-sum cash payment equal to his base salary accrued through the date of termination;

any unpaid bonus accrued through the date of termination, any accrued vacation;

a one-time relocation benefit of $30,000; and

any other payments or benefits to which he would have been entitled to under the terms of any other Company compensation arrangement.

If Mr. Moody's employment is terminated other than by reason of a Nonqualifying Termination event, Mr. Moody is entitled to receive:

a lump-sum cash payment equal to his base salary accrued through the date of termination;

any unpaid bonus accrued through the date of termination, any accrued vacation,

a one-time relocation benefit of $30,000;

any other payments or benefits to which he would have been entitled to under the terms of any other Company compensation arrangement;

a pro-rata portion of his annual bonus;

lump-sum cash payment equal to his annual base salary plus the greatest of his target bonus for the year in which termination occurred and the average of his bonuses earned over the preceding two years;

acceleration of vesting of any equity awards for a twelve month period after his termination; and

the ability to elect payment of his COBRA premiums for a period of twelve months.

Table of Contents

If Mr. Moody's employment is terminated by reason of a Qualifying Termination (as defined in the Moody Employment Agreement) in connection with a change in control, Mr. Moody is entitled to receive:

- a lump-sum cash payment equal to his base salary accrued through the date of termination;
- any unpaid bonus accrued through the date of termination, any accrued vacation,
- a one-time relocation benefit of $30,000;
- any other payments or benefits to which he would have been entitled to under the terms of any other Company compensation arrangement;
- a pro-rata portion of his annual bonus;
- lump-sum cash payment equal to two times his annual base salary plus the greatest of his target bonus for the year in which termination occurred, the target bonus for the fiscal year in which the change in control occurs and the average of his bonuses earned over the preceding two years;
- acceleration of vesting of any outstanding equity awards; and
- the ability to elect payment of his COBRA premiums for a period of eighteen months.

In addition, if the value of certain payments that are contingent upon a change in control, referred to as parachute payments, exceed a safe harbor amount and Mr. Moody becomes subject to the excise tax imposed by Section 4999 of the Internal Revenue Code, the executive is entitled to receive an additional payment to cover the additional tax and any interest and penalties incurred.

In consideration for the benefits received under the Moody Employment Agreement, Mr. Moody agreed that during his employment and for 12 months after the date of his termination he will not compete with us and not solicit any of our clients or employees. Mr. Moody also agreed not to disclose any of our confidential information, except as required by law or with our prior written consent, and not to disparage us. Mr. Moody also agreed to release, waive, and discharge any claims against us at the time of termination.

Separation Agreements.

On January 31, 2008, we entered into a Separation Agreement ("McGilton Separation Agreement") with Gordon McGilton, our then Chief Executive Officer, in connection with Mr. McGilton's retirement as Chief Executive Officer and as a director of the Company effective as of January 31, 2008. The McGilton Separation Agreement provided for a lump sum payment to Mr. McGilton of $60,000 on January 31, 2008, reduced by any applicable tax withholdings, and the right to elect continuation of employee benefit coverage under COBRA. In consideration for these severance benefits, Mr. McGilton agreed to a 12-month non-compete and agreed not to solicit any of our clients or employees for 12 months after his departure from the Company. Mr. McGilton also agreed not to disclose any of our confidential information and agreed to release, waive, and discharge any claims against us.

On March 10, 2008, we entered into a Separation Agreement ("Durski Separation Agreement") with Michael Durski, our then Chief Financial Officer, in connection with his departure from the

tisfied.

Limitation on Merger, Sale or Consolidation

We may not, directly or indirectly, consolidate with or merge with or into another person or convey, transfer or lease our properties and assets substantially as an entirety to any person, and we will not permit any person to consolidate with or merge into us or convey, transfer or lease its properties and assets substantially as an entirety to us, unless:

- either (1) we are the continuing person or (2) the person (if other than us) formed by such consolidation or into which we are merged or the person which acquires by conveyance or transfer, or which leases, our properties and assets substantially as an entirety (the *Surviving Entity*), (x) shall be either (i) organized and validly existing under the laws of the United States of America, any State thereof or the District of Columbia, or (ii) organized under the laws of a jurisdiction outside the United States and has, or immediately after the transaction or event will have, common stock traded on a national securities exchange in the United States or quoted on the Nasdaq National Market or The Nasdaq SmallCap Market and a worldwide total market capitalization of its equity securities before giving effect to the consolidation or merger of at least $250.0 million, and (y) the surviving entity shall expressly assume, by a supplemental indenture, executed and delivered to the trustee, all of our obligations under the debentures and the indenture,

- immediately after giving effect to such transaction, no event of default, and no event which, after notice or lapse of time or both, would become an event of default, shall have occurred and be continuing, and

- we or the Surviving Entity have delivered to the trustee an officers certificate and an opinion of counsel stating that the transaction complied with the provisions of the indenture.

Upon any consolidation with, or merger into, any other person or any conveyance, transfer or lease of our properties and assets substantially as an entirety, the successor person formed by such consolidation or into which we are merged or to which such conveyance, transfer or lease is made shall

Table of Contents

succeed to, and be substituted for, and may exercise every right and power of, us under the indenture with the same effect as if such successor person had been named as us therein, and thereafter, except in the case of a lease, the predecessor person shall be relieved of all obligations and covenants under the indenture and the debentures.

Events of Default and Remedies

Each of the following will be an *event of default* under the indenture:

our (1) failure to deliver the required number of shares of our common stock into which debentures shall have been converted within 30 business days after the applicable conversion date or (2) notice, written or oral, to any holders, including by way of public announcement or through any agents of any holder, at any time, of our intention not to comply with a request for conversion of any debentures into shares of our common stock that is tendered in accordance with the provisions of the debentures,

at any time following the 30th consecutive business day that a holder s pro rata share of the number of shares of our common stock reserved for the purpose of issuance upon conversion of all debentures is exceeded by the number of shares of common stock that such holder would be entitled to receive upon a conversion of the full principal amount of such holder s debentures (without regard to the Conversion Limitation),

a default in the payment of interest or registration default payments, if any, on any debentures when due and payable, which default continues for a period of five days,

a default in the payment of the principal amount, the redemption price, the fundamental change repurchase price or any applicable make-whole premium on any debenture when such payment becomes due and payable,

a default in our performance of any of our covenants, agreements or conditions in the indenture or the debentures (other than a default specified in the bullet points above), which default continues for a period of 60 days after there has been given, by registered or certified mail, (1) to us by the trustee or (2) to us and the trustee by the holders of at least 25% in aggregate principal amount of the outstanding debentures, a written notice specifying such default and requiring it to be remedied and stating that such notice is a notice of default thereunder,

a default by us or any of our significant subsidiaries (as defined under Regulation S-X of the Exchange Act) in the payment of the principal or interest on any loan agreement or other instrument under which there may be outstanding, or by which there may be evidenced, any debt for money borrowed in excess of $10.0 million in the aggregate of us and any of our significant subsidiaries (other than indebtedness for borrowed money secured only by the real property to which the indebtedness relates and which is non-recourse to us or to our significant subsidiary), whether such debt now exists or shall hereafter be created, resulting in such debt becoming or being declared due and payable prior to its stated maturity, and such acceleration shall not have been rescinded or annulled within 30 days after the receipt by us or such significant subsidiary from the trustee or by the trustee, us and such significant subsidiary by the holders of at least 25% in aggregate principal amount of the outstanding debentures of written notice specifying such default and requiring it to be remedied and stating that such notice is a *notice of default* thereunder (*provided* that if any time before a judgment or decree has been obtained by the trustee as provided in the indenture, such default is remedied or cured by us or such significant subsidiary within the applicable cure period, or

Table of Contents

is waived by the holders of such indebtedness, default under this clause shall be deemed to have been remedied, cured or waived, as the case may be),

one or more final unsatisfied judgments not covered by insurance aggregating in excess of $10.0 million, at any one time, are rendered against us or any significant subsidiary and not stayed, bonded or discharged within 60 days,

our failure to give notice of the occurrence of a fundamental change as and when required by the indenture, and

certain events of bankruptcy or insolvency described in the indenture with respect to us or any of our significant subsidiaries.

If a default occurs and is continuing, the trustee must, within 10 days after the trustee s receiving notice or having knowledge of the occurrence of such default, give the holders notice of such default.

If an event of default occurs and is continuing, other than an event of default described above relating to bankruptcy, insolvency or reorganization with respect to us or any of our significant subsidiaries, then in every such case, unless the principal amount on all of the debentures shall have already become due and payable, either the trustee or the holders of at least 25% in aggregate principal amount of the debentures then outstanding, by notice in writing to us, and to the trustee if such notice is given by holders, may declare all principal, premium, if any, and accrued interest, if any, and registration default payments, if any, on or with respect to the debentures to be due and payable immediately. If an event of default described above relating to bankruptcy, insolvency or reorganization with respect to us occurs, all principal, premium, if any, accrued interest, if any, and registration default payments, if any, will be immediately due and payable on all outstanding debentures without any declaration or other act on the part of the trustee or the holders. The holders of no less than a majority in aggregate principal amount of debentures generally are authorized to rescind such acceleration if all existing events of default, other than the non-payment of principal of, premium, if any, and interest and registration default payments, if any, on the debentures that have become due solely by such acceleration, have been cured or waived.

Prior to the declaration of acceleration of the maturity of the debentures, the holders of a majority in aggregate principal amount of the debentures at the time outstanding may waive, on behalf of all the holders, any default, except a default relating to bankruptcy, insolvency or reorganization with respect to us or any of our restricted subsidiaries, or a default in the payment of principal of, interest on, or registration default payments, if any, with respect to any debenture not yet cured, or a default with respect to any covenant or provision that cannot be modified or amended without the consent of the holders of each outstanding debenture affected. Subject to all provisions of the indenture and applicable law, the holders of a majority in aggregate principal amount of the debentures at the time outstanding will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the trustee, or exercising any trust or power conferred on the trustee.

No holders may pursue any remedy under the indenture, except for a default in the payment of principal, premium, if any, or accrued interest, if any, and registration default payments, if any, on the debentures, unless:

the holders have previously given written notice to the trustee of a continuing event of default,

the holders of not less than 25% in aggregate principal amount of the outstanding debentures make a written request to the trustee to institute proceedings in respect of such event of default in the name of the trustee,

Table of Contents

the holders offer the trustee indemnity satisfactory to the trustee against any loss, liability or expense,

within 60 days after its receipt of such notice, request and offer of security or indemnity, the trustee has failed to institute any such proceeding, and

the trustee has not received a contrary direction from the holders of a majority in aggregate principal amount of the outstanding debentures during such 60 day period.

It should also be noted that, subject to the provisions of the indenture relating to the duties of the trustee, the trustee is under no obligation to exercise any of the rights or powers vested in it by the indenture at the request of the holders, unless such holders offer to the trustee security or indemnity reasonably satisfactory to the trustee against the costs, expenses and liabilities which might be incurred by the trustee in compliance with such request.

Amendments and Supplements

We may enter into a supplemental indenture with the trustee for certain purposes without the consent of the holders. With the consent of the holders of not less than a majority in aggregate principal amount of the debentures at such time outstanding, we and the trustee are permitted to amend or supplement the indenture or any supplemental indenture, but no such modification may, without the consent of each holder affected thereby:

reduce the rate of or extend the time for payment of interest, if any, on the debentures,

reduce the principal amount of, or extend the maturity date of, the debentures,

make any change that impairs or adversely affects the conversion rights of the holders of the debentures,

reduce the redemption price, the fundamental change repurchase price or the applicable make-whole premium or amend or modify in any manner adverse to the holders our obligation to make such payments, whether through an amendment or waiver of provisions in the covenants or definitions or otherwise,

modify the provisions with respect to the right of holders to cause us to redeem the debentures on the redemption date or to repurchase debentures upon a fundamental change in a manner adverse to holders,

make any interest or principal on the debentures payable in money other than that stated in the debentures or other than in accordance with the provisions of the indenture,

impair the right of any holder to receive payment of the principal amount of or interest or registration default payments, if any, on a holder s debentures on or after the due dates therefor or to institute suit for the enforcement of any payment on or with respect to such holder s debentures,

reduce the quorum or voting requirements under the indenture,

Table of Contents

change the ranking of the debentures in a manner adverse to the holders thereof,

make any change in the amendment provisions which require each holder s consent or in the waiver provisions,

reduce the percentage of aggregate principal amount of outstanding debentures, the consent of whose holders is required for any such supplemental indenture, or the consent of whose holders is required for any waiver of compliance with certain provisions of the indenture or certain defaults hereunder and their consequences provided for in the indenture,

modify any of the provisions in the indenture concerning the holders consent requirement described above or the provisions in the indenture concerning the waiver of past defaults, except to increase any such percentage or to provide that certain other provisions of the indenture cannot be modified or waived without the consent of the holder of each outstanding debenture affected thereby, or

modify the provisions of the indenture in a manner adverse to the holders in any material respect.

Transfer and Exchange

We have initially appointed the trustee as security registrar, paying agent and conversion agent, acting through its corporate trust office. We reserve the right to:

vary or terminate the appointment of the security registrar, paying agent or conversion agent,

appoint additional paying agents or conversion agents, or

approve any change in the office through which any security registrar or any paying agent or conversion agent acts.

A holder may transfer or convert the debentures in accordance with the indenture. We or the trustee may require a holder, among other things, to furnish appropriate endorsements, legal opinions and transfer documents, and to pay any taxes and fees required by law or permitted by the indenture. We are not required to issue, register the transfer of, or exchange any debentures during the 15 day period immediately preceding the mailing of any notice of redemption right or the 10 day period before the redemption date.

The registered holder of a debenture may be treated as the owner of such note for all purposes.

Book Entry, Delivery and Form

The debentures are being offered and sold to qualified institutional buyers in reliance on Rule 144A (*Rule 144A Debentures*). The debentures also may be offered and sold in offshore transactions in reliance on Regulation S (*Regulation S Debentures*). Except as set forth below, the debentures will be issued in registered, global form in minimum denominations of $1,000 and integral multiples of $1,000 in excess of $1,000. Debentures will be issued at the closing of this offering only against payment in immediately available funds.

Table of Contents

Rule 144A Debentures initially will be represented by one or more debentures in registered, global form without interest coupons (collectively, the *Rule 144A Global Debentures*). Regulation S Debentures initially will be represented by one or more temporary debentures in registered, global form without interest coupons (collectively, the Regulation S Temporary Global Debentures). The Rule 144A Global Debentures and the Regulation S Temporary Global Debentures will be deposited upon issuance with the trustee as custodian for The Depository Trust Company (*DTC*), in New York, New York, and registered in the name of DTC or its nominee, in each case, for credit to an account of a direct or indirect participant in DTC as described below. Through and including the 40th day after the later of the commencement of this offering and the closing of this offering (such period through and including such 40th day, the *Restricted Period*), beneficial interests in the Regulation S Temporary Global Debentures may be held only through the Euroclear System (*Euroclear*) and Clearstream Banking, S.A. (*Clearstream*) (as indirect participants in DTC), unless transferred to a person that takes delivery through a Rule 144A Global Debenture in accordance with the certification requirements described below. Within a reasonable time period after the expiration of the Restricted Period, the Regulation S Temporary Global Debentures will be exchanged for one or more permanent debentures in registered, global form without interest coupons (collectively, the *Regulation S Permanent Global Debentures* and, together with the Regulation S Temporary Global Debentures, the Regulation S Global Debentures, the Regulation S Global Debentures and the Rule 144A Global Debentures collectively being the *Global Debentures*) upon delivery to DTC of certification of compliance with the transfer restrictions applicable to the debentures and pursuant to Regulation S as provided in the indenture. Beneficial interests in the Rule 144A Global Debentures may not be exchanged for beneficial interests in the Regulation S Global Debentures at any time except in the limited circumstances described below. See Exchanges between Regulation S Debentures and Rule 144A Debentures.

Except as set forth below, the Global Debentures may be transferred, in whole and not in part, only to another nominee of DTC or to a successor of DTC or its nominee. Beneficial interests in the Global Debentures may not be exchanged for definitive debentures in registered certificated form (*Certificated Debentures*) except in the limited circumstances described below. See Exchange of Global Debentures for Certificated Debentures. Except in the limited circumstances described below, owners of beneficial interests in the Global Debentures will not be entitled to receive physical delivery of debentures in certificated form.

Rule 144A Debentures (including beneficial interests in the Rule 144A Global Debentures) will be subject to certain restrictions on transfer and will bear a restrictive legend as described under Notice to Investors; Transfer Restrictions. Regulation S Debentures will also bear the legend as described under Notice to Investors; Transfer Restrictions. In addition, transfers of beneficial interests in the Global Debentures will be subject to the applicable rules and procedures of DTC and its direct or indirect participants (including, if applicable, those of Euroclear and Clearstream), which may change from time to time.

Depository Procedures

The following description of the operations and procedures of DTC, Euroclear and Clearstream are provided solely as a matter of convenience. These operations and procedures are solely within the control of the respective settlement systems and are subject to changes by them. The Company takes no responsibility for these operations and procedures and urges investors to contact the system or their participants directly to discuss these matters.

DTC has advised the Company that DTC is a limited-purpose trust company created to hold securities for its participating organizations (collectively, the *Participants*) and to facilitate the clearance and settlement of transactions in those securities between the Participants through electronic

Table of Contents

book-entry changes in accounts of its Participants. The Participants include securities brokers and dealers (including the Initial Purchaser), banks, trust companies, clearing corporations and certain other organizations. Access to DTC s system is also available to other entities such as banks, brokers, dealers and trust companies that clear through or maintain a custodial relationship with a Participant, either directly or indirectly (collectively, the *Indirect Participants*). Persons who are not Participants may beneficially own securities held by or on behalf of DTC only through the Participants or the Indirect Participants. The ownership interests in, and transfers of ownership interests in, each security held by or on behalf of DTC are recorded on the records of the Participants and Indirect Participants.

DTC has also advised the Company that, pursuant to procedures established by it:

(1) upon deposit of the Global Debentures, DTC will credit the accounts of the Participants designated by the Initial Purchaser with portions of the principal amount of the Global Debentures; and

(2) ownership of these interests in the Global Debentures will be shown on, and the transfer of ownership of these interests will be effected only through, records maintained by DTC (with respect to the Participants) or by the Participants and the Indirect Participants (with respect to other owners of beneficial interest in the Global Debentures).

Investors in the Rule 144A Global Debentures who are Participants may hold their interests therein directly through DTC. Investors in the Rule 144A Global Debentures who are not Participants may hold their interests therein indirectly through organizations (including Euroclear and Clearstream) which are Participants. Investors in the Regulation S Global Debentures must initially hold their interests therein through Euroclear or Clearstream, if they are participants in such systems, or indirectly through organizations that are participants. After the expiration of the Restricted Period (but not earlier), investors may also hold interests in the Regulation S Global Debentures through Participants in the DTC system other than Euroclear and Clearstream. Euroclear and Clearstream will hold interests in the Regulation S Global Debentures on behalf of their participants through customers securities accounts in their respective names on the books of their respective depositories, which are Euroclear Bank S.A./N.V., as operator of Euroclear, and Citibank, N.A., as operator of Clearstream. All interests in a Global Debenture, including those held through Euroclear or Clearstream, may be subject to the procedures and requirements of DTC. Those interests held through Euroclear or Clearstream may also be subject to the procedures and requirements of such systems. The laws of some states require that certain Persons take physical delivery in definitive form of securities that they own. Consequently, the ability to transfer beneficial interests in a Global Debenture to such Persons will be limited to that extent. Because DTC can act only on behalf of the Participants, which in turn act on behalf of the Indirect Participants, the ability of a Person having beneficial interests in a Global Debenture to pledge such interests to Persons that do not participate in the DTC system, or otherwise take actions in respect of such interests, may be affected by the lack of a physical certificate evidencing such interests.

Except as described below, owners of interests in the Global Debentures will not have debentures registered in their names, will not receive physical delivery of debentures in certificated form and will not be considered the registered owners or holders thereof under the indenture for any purpose.

Payments in respect of the principal of, and interest and premium, if any, and registration default payments, if any, on, a Global Debenture registered in the name of DTC or its nominee will be payable to DTC in its capacity as the registered holder under the indenture. Under the terms of the indenture, the Company and the trustee will treat the Persons in whose names the debentures, including the Global Debentures, are registered as the owners of the debentures for the purpose of receiving payments and for

Table of Contents

all other purposes. Consequently, neither the Company, the trustee nor any agent of the Company or the trustee has or will have any responsibility or liability for:

(1) any aspect of DTC s records or any Participant s or Indirect Participant s records relating to or payments made on account of beneficial ownership interest in the Global Debentures or for maintaining, supervising or reviewing any of DTC s records or any Participant s or Indirect Participant s records relating to the beneficial ownership interests in the Global Debentures; or

(2) any other matter relating to the actions and practices of DTC or any of its Participants or Indirect Participants.

DTC has advised the Company that its current practice, upon receipt of any payment in respect of securities such as the debentures (including principal and interest), is to credit the accounts of the relevant Participants with the payment on the payment date unless DTC has reason to believe that it will not receive payment on such payment date. Each relevant Participant is credited with an amount proportionate to its beneficial ownership of an interest in the principal amount of the relevant security as shown on the records of DTC. Payments by the Participants and the Indirect Participants to the beneficial owners of debentures will be governed by standing instructions and customary practices and will be the responsibility of the Participants or the Indirect Participants and will not be the responsibility of DTC, the trustee or the Company. Neither the Company nor the trustee will be liable for any delay by DTC or any of the Participants or the Indirect Participants in identifying the beneficial owners of the debentures, and the Company and the trustee may conclusively rely on and will be protected in relying on instructions from DTC or its nominee for all purposes.

Subject to the transfer restrictions set forth under Notice to Investors; Transfer Restrictions, transfers between the Participants will be effected in accordance with DTC s procedures, and will be settled in same-day funds, and transfers between participants in Euroclear arid Clearstream will be effected in accordance with their respective rules and operating procedures.

Subject to compliance with the transfer restrictions applicable to the debentures described herein, cross-market transfers between the Participants, on the one hand, and Euroclear or Clearstream participants, on the other hand, will be effected through DTC in accordance with DTC s rules on behalf of Euroclear or Clearstream, as the case may be, by their respective depositaries; however, such cross-market transactions will require delivery of instructions to Euroclear or Clearstream, as the case may be, by the counterparty in such system in accordance with the rules and procedures and within the established deadlines (Brussels time) of such system. Euroclear or Clearstream, as the case may be, will, if the transaction meets its settlement requirements, deliver instructions to its respective depositary to take action to effect final settlement on its behalf by delivering or receiving interests in the relevant Global Debenture in DTC, and making or receiving payment in accordance with normal procedures for same-day funds settlement applicable to DTC. Euroclear participants and Clearstream participants may not deliver instructions directly to the depositories for Euroclear or Clearstream.

DTC has advised the Company that it will take any action permitted to be taken by a holder of debentures only at the direction of one or more Participants to whose account DTC has credited the interests in the Global Debentures and only in respect of such portion of the aggregate principal amount of the debentures as to which such Participant or Participants has or have given such direction. However, if there is an Event of Default under the debentures, DTC reserves the right to exchange the Global Debentures for legended debentures in certificated form, and to distribute such debentures to its Participants.

Table of Contents

Although DTC, Euroclear and Clearstream have agreed to the foregoing procedures to facilitate transfers of interests in the Rule 144A Global Debentures and the Regulation S Global Debentures among participants in DTC, Euroclear and Clearstream, they are under no obligation to perform or to continue to perform such procedures, and may discontinue such procedures at any time. None of the Company, the trustee and any of their respective agents will have any responsibility for the performance by DTC, Euroclear or Clearstream or their respective participants or indirect participants of their respective obligations under the rules and procedures governing their operations.

Exchange of Global Debentures for Certificated Debentures

A Global Debenture is exchangeable for Certificated Debentures if:

(1) DTC (a) notifies the Company that it is unwilling or unable to continue as depositary for the Global Debentures or (b) has ceased to be a clearing agency registered under the Exchange Act and, in either case, the Company fails to appoint a successor depositary;

(2) the Company, at its option, notifies the trustee in writing that it elects to cause the issuance of the Certificated Debentures; *provided* that in no event shall the Regulation S Temporary Global Debenture be exchanged for Certificated Debentures prior to (a) the expiration of the Restricted Period and (b) the receipt of any certificates required under the provisions of Regulation S; or

(3) there has occurred and is continuing a Default or Event of Default with respect to the debentures.

In addition, beneficial interests in a Global Debenture may be exchanged for Certificated Debentures upon prior written notice given to the trustee by or on behalf of DTC in accordance with the indenture. In all cases, Certificated Debentures delivered in exchange for any Global Debenture or beneficial interests in Global Debentures will be registered in the names, and issued in any approved denominations, requested by or on behalf of the depositary (in accordance with its customary procedures) and will bear the applicable restrictive legend referred to in Notice to Investors; Transfer Restrictions, unless that legend is not required by applicable law.

Exchange of Certificated Debentures for Global Debentures

Certificated Debentures may not be exchanged for beneficial interests in any Global Debenture unless the transferor first delivers to the trustee a written certificate (in the form provided in the indenture) to the effect that such transfer will comply with the appropriate transfer restrictions applicable to such debentures. See Notice to Investors; Transfer Restrictions.

Exchanges Between Regulation S Debentures and Rule 144A Debentures

Prior to the expiration of the Restricted Period, beneficial interests in the Regulation S Global Debenture may be exchanged for beneficial interests in the Rule 144A Global Debenture only if:

(1) such exchange occurs in connection with a transfer of the debentures pursuant to Rule 144A; and

(2) the transferor first delivers to the trustee a written certificate (in the form provided in the indenture) to the effect that the debentures are being transferred to a Person:

Table of Contents

(a) who the transferor reasonably believes to be a qualified institutional buyer within the meaning of Rule 144A;

(b) purchasing for its own account or the account of a qualified institutional buyer in a transaction meeting the requirements of Rule 144A; and

(c) in accordance with all applicable securities laws of the states of the United States and other jurisdictions.

Beneficial interests in a Rule 144A Global Debenture may be transferred to a Person who takes delivery in the form of an interest in the Regulation S Global Debenture, whether before or after the expiration of the Restricted Period, only if the transferor first delivers to the trustee a written certificate (in the form provided in the indenture) to the effect that such transfer is being made in accordance with Rule 903 or 904 of Regulation S or Rule 144 (if available) and that, if such transfer occurs prior to the expiration of the Restricted Period, the interest transferred will be held immediately thereafter through Euroclear or Clearstream.

Transfers involving exchanges of beneficial interests between the Regulation S Global Debentures and the Rule 144A Global Debentures will be effected by DTC by means of an instruction originated by the trustee through the DTC Deposit/Withdraw at Custodian system. Accordingly, in connection with any such transfer, appropriate adjustments will be made to reflect a decrease in the principal amount of the Regulation S Global Debenture and a corresponding increase in the principal amount of the Rule 144A Global Debenture or vice versa, as applicable. Any beneficial interest in one of the Global Debentures that is transferred to a Person who takes delivery in the form of an interest in the other Global Debenture will, upon transfer, cease to be an interest in such Global Debenture and will become an interest in the other Global Debenture and, accordingly, will thereafter be subject to all transfer restrictions and other procedures applicable to beneficial interests in such other Global Debenture for so long as it remains such an interest. The policies and practices of DTC may prohibit transfers of beneficial interests in the Regulation S Global Debenture prior to the expiration of the Restricted Period.

Certifications by Holders of the Regulation S Temporary Global Debentures

A holder of a beneficial interest in the Regulation S Temporary Global Debentures must provide Euroclear or Clearstream, as the case may be, with a certificate in the form required by the indenture certifying that the beneficial owner of the interest in the Regulation S Temporary Global Debenture is either a non-U.S. person or a U.S. person that has purchased such interest in a transaction that is exempt from the registration requirements under the Securities Act, and Euroclear or Clearstream, as the case may be, must provide to the trustee (or the paying agent if other than the trustee) a certificate in the form required by the indenture, prior to any exchange of such beneficial interest for a beneficial interest in the Regulation S Permanent Global Debentures.

Same Day Settlement and Payment

The Company will make payments in respect of the debentures represented by the Global Debentures (including principal, premium, if any, interest and registration default payments, if any) by wire transfer of immediately available funds to the accounts specified by DTC or its nominee. The Company will make all payments of principal, interest and premium, if any, and registration default payments, if any, with respect to Certificated Debentures by wire transfer of immediately available funds to the accounts specified by the holders of the Certificated Debentures or, if no such account is specified, by mailing a check to each such holder s registered address. The debentures represented by the Global Debentures are expected to be eligible to trade in The PORTAL^{sm} Market and to trade in DTC s

Table of Contents

Same-Day Funds Settlement System, and any permitted secondary market trading activity in such debentures will, therefore, be required by DTC to be settled in immediately available funds. The Company expects that secondary trading in any Certificated Debentures will also be settled in immediately available funds.

Because of time zone differences, the securities account of a Euroclear or Clearstream participant purchasing an interest in a Global Debenture from a Participant will be credited, and any such crediting will be reported to the relevant Euroclear or Clearstream participant, during the securities settlement processing day (which must be a business day for Euroclear and Clearstream) immediately following the settlement date of DTC. DTC has advised us that cash received in Euroclear or Clearstream as a result of sales of interests in a Global Debenture by or through a Euroclear or Clearstream participant to a Participant will be received with value on the settlement date of DTC but will be available in the relevant Euroclear or Clearstream cash account only as of the business day for Euroclear or Clearstream following DTC s settlement date.

Voting Rights

The holders of the debentures shall have no voting rights as the holders of the debentures, except as required by law.

Governing Law

The indenture and the debentures provide that they are to be governed in accordance with the laws of the State of New York, without regard to its choice of laws provisions.

The Trustee

Wells Fargo Bank, N.A. is the trustee under the indenture. A successor trustee may be appointed in accordance with the terms of the indenture.

The indenture contains certain limitations on the rights of the trustee, in the event it becomes our creditor, to obtain payment of claims in certain cases, or to realize on certain property received in respect of any such claim as security or otherwise. The trustee will be permitted to engage in other transactions with us and our subsidiaries, but if it acquires any conflicting interest (as defined), it must eliminate such conflict or resign.

If an event of default occurs (and shall not be cured or waived), the trustee will be required to use the degree of care of a prudent person in the conduct of his or her own affairs in the exercise of its powers. Subject to such provisions, the trustee will be under no obligation to exercise any of its rights or powers under the indenture at the request of any of the holders of debentures, unless they shall have offered to the trustee reasonable security or indemnity.

Registration Rights

We have entered into a registration rights agreement with the initial purchasers of the debentures for the benefit of the holders of the debentures and the common stock issuable upon conversion of the debentures. The following is a summary of the registration rights agreement and is not complete. The holders should refer to the registration rights agreement for a full description of the registration rights that apply to the debentures.

Table of Contents

We have filed a shelf registration statement of which this prospectus is a part under the Securities Act to register resales of the debentures and the shares of common stock into which the debentures are convertible, referred to as registrable securities. We agreed to use commercially reasonable efforts to have the shelf registration statement declared effective within 180 days after the first date of original issuance of the debentures, and to keep it effective until the earliest of:

two years after the closing date,

the last date on which, in the opinion of counsel to us, the holding period applicable to sales of all registrable securities under
Rule 144(k) has expired,

the date as of which all registrable securities have been transferred under Rule 144 under circumstances in which any legend borne by such debentures or conversion shares relating to restrictions on transferability thereof, under the Securities Act or otherwise, is removed, and

the date when all registrable securities shall have been registered under the Securities Act and disposed of.

We will be permitted to suspend the use of the prospectus which is a part of the shelf registration statement for a period not to exceed (1) 30 consecutive days at any one time; (2) 45 days in the aggregate in any three-month period; or (3) 90 days in the aggregate during any 12-month period (a *Suspension Period*), in each case only for valid business reasons, to be determined in good faith by us in our reasonable judgment, including pending corporate developments, public filings with the SEC and similar events.

A holder of registrable securities that intends to sell registrable securities pursuant to the shelf registration statement generally will be required to provide information about itself and the specifics of the sale, be named as a selling securityholder in the related prospectus and deliver a prospectus to purchasers, be subject to relevant civil liability provisions under the Securities Act in connection with such sales and be bound by the provisions of the registration rights agreements which are applicable to such holder.

If:

on or prior to the 180th day after the first date of original issuance of the debentures, the shelf registration statement has not been declared effective by the SEC,

we fail, with respect to a debenture holder that supplies the questionnaire described below, to supplement the shelf registration statement in a timely manner in order to name the additional selling securityholder, or

after the shelf registration statement has been declared effective, the shelf registration statement ceases to be effective or fails to be usable in connection with resales of debentures and the common stock issuable upon the conversion of the debentures (without being succeeded within three business days by a replacement shelf registration statement filed and declared effective) or usable (including as a result of a Suspension Period) for the offer and sale of debentures for a period of time (including any Suspension Period) which exceeds: (1) 30 consecutive days at any time, (2) 45 days in the aggregate in any three-month period, or (3) 90 days in the aggregate in any 12-month period,

(each such event referred to in the three clauses above, a *registration default*), then, in each case, we will pay, until such failure is cured, a registration default payment equal to (i) 0.5% per annum for the

Table of Contents

debentures for the period up to and including the 90th day during which such registration default has occurred and is continuing, and (ii) 1.0% per annum for the debentures for the period including and subsequent to the 91st day during which such registration default has occurred and is continuing.

We agreed to give notice of our intention to file the shelf registration statement, which we refer to as a filing notice, to each of the holders of the debentures in the same manner as we would give notice to holders of debentures under the indenture. The filing notice seeks, among other things, a determination from each holder as to whether such holder will elect to have its debentures and the common stock issuable on conversion thereof registered for sale pursuant to the shelf registration statement.

Any holder of debentures wishing to include its registrable securities is required to deliver to us a properly completed and signed selling securityholder notice and questionnaire. Depending on how quickly the shelf registration statement is declared effective, a holder who responds at the end of the period may not have its registrable securities included until after the shelf registration statement is declared effective. No holder is entitled to have the registrable securities held by it covered by the shelf registration statement unless such holder agrees in writing to be bound by all the provisions of the registration rights agreement applicable to such holder.

Holders of debentures are required to deliver the selling securityholder notice and questionnaire prior to the effectiveness of the shelf registration statement so that they can be named as selling securityholders in the prospectus. Upon receipt of any completed selling securityholder notice and questionnaires after the effectiveness of the shelf registration statement, we will be required, as promptly as practicable, but in any event within 10 business days of receipt, to file any amendments or supplements to the shelf registration statement so that such securityholders may use the prospectus, subject to our right to suspend it during a Suspension Period; *provided*, *however*, that if a supplement to the related prospectus or a post effective amendment to the shelf registration statement is required to permit the holders to deliver the prospectus to purchasers of registrable securities, we shall not be required to file more than one such supplement during any 20 day period and one such post-effective amendment in any 60 day period. Under the registration rights agreement, all selling securityholders are required to deliver a prospectus to purchasers and will be bound by the provisions of the agreement.

We agreed to pay all expenses of the shelf registration statement, provide each holder that is selling registrable securities pursuant to the shelf registration statement copies of the related prospectus and take other actions as are required to permit, subject to the foregoing, registered resales of the registrable securities.

Table of Contents

CERTAIN UNITED STATES FEDERAL INCOME TAX CONSEQUENCES

The following is a summary of certain material United States federal income tax considerations relating to the purchase, ownership and disposition of the debentures and common stock into which the debentures are convertible, but is not a complete analysis of all the potential tax considerations relating thereto. This summary is based upon the provisions of the Internal Revenue Code of 1986, as amended (the Code), Treasury Regulations promulgated thereunder, administrative rulings and judicial decisions, all as of the date hereof. These authorities may be changed, possibly retroactively, so as to result in United States federal income tax consequences different from those set forth below. We have not sought any ruling from the Internal Revenue Service (IRS) with respect to the statements made and the conclusions reached in the following summary, and there can be no assurance that the IRS will agree with such statements and conclusions.

This summary is limited to holders who purchase the debentures upon their initial issuance at their initial issue price and who hold the debentures and the common stock into which such debentures are convertible as capital assets. This summary also does not address the tax considerations arising under the laws of any foreign, state or local jurisdiction. In addition, this discussion does not address tax considerations applicable to an investor s particular circumstances or to investors that may be subject to special tax rules, including, without limitation:

banks, insurance companies or other financial institutions;

persons subject to the United States federal estate, gift or alternative minimum tax arising from the purchase, ownership or disposition of the debentures;

tax-exempt organizations;

dealers in securities or currencies;

traders in securities that elect to use a mark-to-market method of accounting for their securities holdings;

foreign persons or entities (except to the extent specifically set forth below);

persons that own, or are deemed to own, (a) debentures with a fair market value greater than either (i) 5% of the stock of our Company or (ii) 5% of the total fair market value of all debentures, or (b) stock with a fair market value greater than 5% of the stock of our Company (except to the extent specifically set forth below);

certain former citizens or long-term residents of the United States;

U.S. holders (as defined below) whose functional currency is not the U.S. dollar;

persons who hold the debentures as a position in a hedging transaction, straddle , conversion transaction or other risk reduction transaction; or

persons deemed to sell the debentures or common stock under the constructive sale provisions of the Code.

In addition, if a holder is an entity treated as a partnership for United States federal income tax purposes, the tax treatment of each partner of such partnership will generally depend upon the status of the partner and upon the activities of the partnership. A holder that is a partnership, and partners in such partnerships, should consult their own tax advisors regarding the tax consequences of the purchase, ownership and disposition of the debentures and common stock.

Table of Contents

YOU ARE URGED TO CONSULT YOUR TAX ADVISOR WITH RESPECT TO THE APPLICATION OF THE UNITED STATES FEDERAL INCOME TAX LAWS TO YOUR PARTICULAR SITUATION, AS WELL AS ANY TAX CONSEQUENCES OF THE PURCHASE, OWNERSHIP AND DISPOSITION OF THE DEBENTURES AND COMMON STOCK ARISING UNDER THE FEDERAL ESTATE OR GIFT TAX RULES OR UNDER THE LAWS OF ANY STATE, LOCAL, FOREIGN OR OTHER TAXING JURISDICTION OR UNDER ANY APPLICABLE TAX TREATY.

CLASSIFICATION OF THE DEBENTURES

Under the indenture governing the debentures, we and each holder of the debentures agree, for United States federal income tax purposes, to treat the debentures as indebtedness that is subject to the Treasury regulations governing contingent payment debt instruments (the Contingent Debt Regulations) in the manner described below. The remainder of this discussion assumes that the debentures will be so treated and does not address any possible differing treatment of the debentures. The IRS has issued a revenue ruling with respect to instruments similar to the debentures, and this ruling supports certain aspects of the treatment described below. However, the application of the Contingent Debt Regulations to instruments such as the debentures remains uncertain in several other respects, and no rulings have been sought from the IRS or a court with respect to any of the tax consequences discussed below. Accordingly, no assurance can be given that the IRS or a court will agree with the treatment described herein. Any differing treatment could affect the amount, timing and character of income, gain or loss in respect of an investment in the debentures. In particular, a holder might be required to accrue original issue discount at a lower rate, might not recognize income, gain or loss upon conversion of the debentures to common stock, and might recognize capital gain or loss upon a taxable disposition of the debentures. **Holders are urged to consult their tax advisors concerning the tax treatment of holding the debentures.**

CONSEQUENCES TO U.S. HOLDERS

The following is a summary of certain material United States federal income tax consequences that will apply to you if you are a U.S. holder of the debentures or the common stock. Certain consequences to non-U.S. holders of the debentures or common stock are described under Consequences to Non-U.S. Holders below. The term U.S. holder means a holder of a debenture or common stock who or that is:

an individual citizen or resident of the United States;

a corporation or other entity taxable as a corporation for United States federal income tax purposes, or a partnership or other entity taxable as a partnership for United States federal income tax purposes, created or organized in the United States or under the laws of the United States, any state thereof, or the District of Columbia;

an estate, the income of which is subject to United States federal income taxation regardless of its source; or

a trust that (1) is subject to the primary supervision of a United States court and the control of one or more United States persons or (2) has a valid election in effect under applicable Treasury Regulations to be treated as a United States person. Certain trusts in existence on August 20, 1996, and treated as a United States person prior to such date, may also be treated as U.S. holders.

Table of Contents

Accrual of Interest

Under the Contingent Debt Regulations, actual cash payments on the debentures will not be reported separately as taxable income, but will be taken into account under such regulations. As discussed more fully below, the effect of the Contingent Debt Regulations will be to:

require you, regardless of your usual method of tax accounting, to use the accrual method with respect to the debentures;

require you to accrue and include in taxable income each year original issue discount at the comparable yield (as described below) which may be substantially in excess of stated interest payments actually received by you; and

generally result in ordinary income rather than capital treatment of any gain, and to some extent loss, on the sale, exchange, repurchase or redemption of the debentures.

You will be required to accrue an amount of ordinary interest income as original issue discount for United States federal income tax purposes, for each accrual period prior to and including the maturity date of the debentures, that equals:

the product of (i) the adjusted issue price (as defined below) of the debentures as of the beginning of the accrual period and (ii) the comparable yield to maturity (as defined below) of the debentures, adjusted for the length of the accrual period;

divided by the number of days in the accrual period; and

multiplied by the number of days during the accrual period that you held the debentures.

The issue price of a debenture will be the first price at which a substantial amount of the debentures is sold to the public, excluding sales to bond houses, brokers or similar persons or organizations acting in the capacity of underwriters, placement agents or wholesalers. The adjusted issue price of a debenture will be its issue price increased by any original issue discount previously accrued, determined without regard to any adjustments to original issue discount accruals described below, and decreased by the projected amounts of any payments previously made with respect to the debentures.

Under the Contingent Debt Regulations, you will be required to include original issue discount in income each year, regardless of your usual method of tax accounting, based on the comparable yield of the debentures. We have determined the comparable yield of the debentures based on the rate, as of the initial issue date, at which we would issue a fixed rate nonconvertible debt instrument with no contingent payments but with terms and conditions similar to the debentures. Accordingly, we have determined that the comparable yield is an annual rate of 10.75%, compounded quarter-annually.

We are required to furnish to you the comparable yield and, solely for United States federal income tax purposes, a projected payment schedule that includes the actual interest payments, if any, on the debentures and estimates of the amount and timing of contingent interest payments and payment upon maturity on the debentures taking into account the fair market value of the common stock that might be paid upon a conversion of the debentures. You may obtain the projected payment schedule by submitting a written request for it to us at the address set forth under the heading Incorporation by Reference in this prospectus. By purchasing the debentures, you agree in the indenture to be bound by our determination of the comparable yield and projected payment schedule. For United States federal income tax purposes, you must use the comparable yield and the schedule of projected payments in determining your original issue discount accruals, and the adjustments thereto described below, in respect of the debentures.

Table of Contents

The comparable yield and the projected payment schedule are not provided for any purpose other than the determination of your original issue discount and adjustments thereof in respect of the debentures for United States federal income tax purposes and do not constitute a projection or representation regarding the actual amount of the payments on a debenture.

Adjustments to Interest Accruals on the Debentures

If the actual contingent payments made on the debentures differ from the projected contingent payments, adjustments will be made for the difference. If, during any taxable year, you receive actual payments with respect to the debentures for that taxable year that in the aggregate exceed the total amount of projected payments for the taxable year, you will incur a positive adjustment equal to the amount of such excess. Such positive adjustment will be treated as additional original issue discount in such taxable year. For these purposes, the payments in a taxable year include the fair market value of property received in that year, including the fair market value of our common stock received upon a conversion. If you receive in a taxable year actual payments that in the aggregate are less than the amount of projected payments for the taxable year, you will incur a negative adjustment equal to the amount of such deficit. A negative adjustment will be treated as follows:

first, a negative adjustment will reduce the amount of original issue discount required to be accrued in the current year;

second, any negative adjustments that exceed the amount of original issue discount accrued in the current year will be treated as ordinary loss to the extent of your total prior original issue discount inclusions with respect to the debentures, reduced to the extent such prior original issue discount was offset by prior negative adjustments; and

third, any excess negative adjustments will be treated as a regular negative adjustment in the succeeding taxable year.

Sale, Exchange, Conversion or Redemption of the Debentures

Upon the sale, exchange, repurchase or redemption of a debenture, as well as upon a conversion of a debenture, you will recognize gain or loss equal to the difference between your amount realized and your adjusted tax basis in the debenture. As a U.S. holder of a debenture, you agree that under the Contingent Debt Regulations, the amount realized will include the fair market value of our common stock that you receive on the conversion as a contingent payment. Any such gain on a debenture generally will be treated as interest income. Loss from the disposition of a debenture will be treated as ordinary loss to the extent of your prior net original issue discount inclusions with respect to the debenture. Any loss in excess of that amount will be treated as capital loss, which will be long-term if the debentures were held for more than one year. The deductibility of capital losses is subject to limitations.

Special rules apply in determining the tax basis of a debenture. Your adjusted tax basis in a debenture is generally equal to your original purchase price for the debenture, increased by original issue discount (before taking into account any adjustments) you previously accrued on the debentures, and reduced by the amount of any noncontingent payment and the projected amount of any contingent payments previously scheduled to be made on the debentures.

Under this treatment, your tax basis in the common stock received upon conversion of a debenture will equal the then current fair market value of such common stock. Your holding period for our common stock will commence on the day after conversion.

Table of Contents

Constructive Dividends

U.S. holders of convertible debt instruments such as the debentures may, in certain circumstances, be deemed to have received distributions of stock if the conversion price of such instruments is adjusted. However, adjustments to the conversion price made pursuant to a bona fide reasonable adjustment formula which has the effect of preventing the dilution of the interest of the holders of the debt instruments will generally not be deemed to result in a constructive distribution of stock. Certain of the possible adjustments provided in the debentures (including, without limitation, adjustments in respect of taxable dividends to our stockholders) may not qualify as being pursuant to a bona fide reasonable adjustment formula. If such adjustments are made, you will be deemed to have received constructive distributions includible in your income in the manner described under Dividends below even though you have not received any cash or property as a result of such adjustments. In certain circumstances, the failure to provide for such an adjustment may also result in a constructive distribution to you.

Dividends

If you convert your debenture into our common stock, distributions, if any, made on our common stock generally will be included in your income as ordinary dividend income to the extent of our current and accumulated earnings and profits. For taxable years beginning before January 1, 2011, such dividend will generally be subject to tax at the lower applicable capital gains rate, provided certain holding period requirements are satisfied. Distributions in excess of our current and accumulated earnings and profits will be treated as a return of capital to the extent of your adjusted tax basis in the common stock and thereafter as capital gain from the sale or exchange of such common stock. Dividends received by a corporate U.S. holder may be eligible for a dividends received deduction, subject to applicable limitations.

Sale, Exchange or Redemption of Common Stock

If you convert your debentures into our common stock, then upon the sale, exchange or redemption of our common stock, you generally will recognize capital gain or loss equal to the difference between (i) the amount of cash and the fair market value of any property received upon the sale or exchange and (ii) your adjusted tax basis in the common stock. Such capital gain or loss will be long-term capital gain or loss if your holding period in the common stock is more than one year at the time of the sale, exchange or redemption. Long-term capital gain recognized by certain noncorporate holders, including individuals, will generally be subject to a reduced rate of United States federal income tax. Your adjusted tax basis and holding period in common stock received upon conversion of a debenture are determined as discussed above under Sale, Exchange, Conversion or Redemption of the Debentures . The deductibility of capital losses is subject to limitations.

Additional Payments

We may be required to make additional payments to you if we do not file or cause to be declared effective a registration statement, as described above under Description of Debentures Registration Rights. We intend to take the position for United States federal income tax purposes that any such additional payments should be taxable to you as a positive adjustment treated as additional original issue discount as described above under Consequences to U.S. Holders Adjustments to Interest Accruals on the Debentures in the year in which such additional payments become fixed. However, the IRS may take a contrary position from that described above, which could affect the timing and character of your income with respect to such additional payments.

Table of Contents

If we do fail to file or cause to be declared effective a registration statement, you should consult your tax advisors concerning the appropriate tax treatment of the payment of such additional amounts to you.

Backup Withholding and Information Reporting

We are required to furnish to the record U.S. holders of the debentures and common stock, other than corporations and other exempt U.S. holders, and to the IRS, information with respect to interest paid on the debentures and dividends paid on the common stock.

You may be subject to backup withholding with respect to interest paid on the debentures, dividends paid on the common stock or with respect to proceeds received from a disposition of the debentures or shares of common stock. Certain U.S. holders (including, among others, corporations and certain tax-exempt organizations) are generally not subject to backup withholding. You will be subject to backup withholding if you are not otherwise exempt and you:

- fail to furnish your taxpayer identification number (TIN), which, for an individual, is ordinarily his or her social security number;
- furnish an incorrect TIN;
- are notified by the IRS that you have failed to properly report payments of interest or dividends; or
- fail to certify, under penalties of perjury, that you have furnished a correct TIN and that the IRS has not notified you that you are subject to backup withholding.

Backup withholding is not an additional tax but, rather, is a method of tax collection. You generally will be entitled to credit any amounts withheld under the backup withholding rules against your United States federal income tax liability provided that the required information is furnished to the IRS in a timely manner.

CONSEQUENCES TO NON-U.S. HOLDERS

The following is a summary of certain material United States federal income tax consequences that will apply to you if you are a non-U.S. holder of the debentures or common stock. For purposes of this discussion, a non-U.S. holder means a holder of debentures or common stock that is not a U.S. holder. Special rules may apply to certain non-U.S. holders such as controlled foreign corporations and passive foreign investment companies , and such entities are urged to consult their tax advisors to determine the tax consequences that may be relevant to them.

Payments of Interest

Although the applicable rules are not entirely clear, we intend to take the position that the payment of contingent interest (including additional payments we may be required to make to you if we do not file or cause to be declared effective a registration statement, as described above under Description of Debentures Registration Rights) will not be exempt from the 30% United States federal withholding tax, and, therefore, we intend to withhold on such payments of contingent interest (including receipt of a portion of proceeds upon the sale, disposition or redemption attributable to such contingent interest) at a rate of 30%, subject to reduction by an applicable treaty or because the payments are effectively connected with the conduct of a United States trade or business, as explained below. You should consult your own tax advisors as to whether you can obtain a refund of such withholding tax,

Table of Contents

either on the grounds that some portion of the contingent interest represents a payment of principal or on some other grounds. You will not be subject to the 30% United States federal withholding tax with respect to (i) any payment to you on the debentures of noncontingent interest and (ii) the amount of any cash and the fair market value of shares delivered to you by us upon the conversion, redemption or retirement of a debenture, provided that:

you do not own, actually or constructively, 10% or more of the total combined voting power of all classes of our stock entitled to vote within the meaning of Section 871(h)(3) of the Code;

you are not a controlled foreign corporation with respect to which we are, directly or indirectly, a related person ;

you are not a bank whose receipt of interest (including original issue discount) on a debenture is described in Section 881(c)(3)(A) of the Code;

you provide your name and address, and certify, under penalties of perjury, that you are not a United States person, as defined under the Code (which certification may be made on an IRS Form W-8BEN (or successor form)), or that you hold your debentures through certain intermediaries, and you and the intermediaries satisfy the certification requirements of applicable Treasury Regulations; and

our common stock continues to be actively traded within the meaning of Section 871(h)(4)(C)(v)(I) of the Code and we are not a United States real property holding corporation.

Special certification rules apply to non-U.S. holders that are pass-through entities rather than corporations or individuals. Prospective investors are urged to consult their tax advisors regarding the certification requirements for non-U.S. holders.

If you cannot satisfy the requirements described above, and in any event as to payments of contingent interest, you will nevertheless be exempt from the 30% United States federal withholding tax with respect to payments of interest on the debentures if you provide us with a properly executed (1) IRS Form W-8BEN (or successor form) claiming an exemption from or reduction in withholding under the benefit of an applicable United States income tax treaty or (2) IRS Form W-8ECI (or successor form) stating that interest paid on the debenture is not subject to withholding tax because it is effectively connected with your conduct of a trade or business in the United States.

If you are engaged in a trade or business in the United States and interest on a debenture is effectively connected with your conduct of that trade or business, you will be subject to United States federal income tax on that interest on a net income basis (although you will be exempt from the 30% withholding tax, provided the certification requirements described above are satisfied) in the same manner as if you were a United States person, as defined under the Code. In addition, if you are a foreign corporation, you may be subject to a branch profits tax equal to 30% (or lower rate as may be prescribed under an applicable United States income tax treaty) of your effectively connected earnings and profits for the taxable year, subject to adjustments, that are effectively connected with your conduct of a trade or business in the United States. For this purpose, interest (including original issue discount) will be included in your earnings and profits.

Sale, Exchange or Redemption of Debentures or Common Stock

Any gain realized by you on the sale, exchange or other taxable disposition of a debenture will generally be treated as interest income under the rules described above under Consequences to U.S. Holders , and would generally be taxable as described above under Payments of Interest .

Table of Contents

Any gain realized by you on the sale, exchange or other taxable disposition of our common stock generally will not be subject to United States federal income tax unless:

- the gain is effectively connected with your conduct of a trade or business in the United States;
- you are an individual who is present in the United States for 183 days or more in the taxable year of disposition, and certain conditions are met;
- you are subject to Code provisions applicable to certain United States expatriates; or
- we are or have been a United States real property holding corporation for United States federal income tax purposes at any time during the shorter of the five-year period ending on the date of disposition or the period that you held our common stock.

If your gain is described in the first bullet point above, you generally will be subject to United States federal income tax on the net gain derived from the sale, and if you are a corporation, then any such effectively connected gain received by you may also, under certain circumstances, be subject to the branch profits tax at a 30% rate (or such lower rate as may be prescribed under an applicable United States income tax treaty). If you are an individual described in the second bullet point above, you will be subject to a flat 30% United States federal income tax on the gain derived from the sale, which may be offset by United States source capital losses, even though you are not considered a resident of the United States. Such holders are urged to consult their tax advisers regarding the tax consequences of the acquisition, ownership and disposition of the debentures or the common stock.

We do not believe that we are currently, and do not anticipate becoming, a United States real property holding corporation. Even if we were, or were to become, a United States real property holding corporation, no adverse tax consequences would apply to you if you hold, directly and indirectly, at all times during the applicable period, five percent or less of our common stock, provided that our common stock was regularly traded on an established securities market.

Dividends

In general, dividends, if any, received by you with respect to our common stock (and any deemed distributions resulting from certain adjustments, or failures to make certain adjustments, to the conversion price of the debentures, see Consequences to U.S. Holders Constructive Dividends above) will be subject to withholding of United States federal income tax at a 30% rate, unless such rate is reduced by an applicable United States income tax treaty. Dividends that are effectively connected with your conduct of a trade or business in the United States are generally subject to United States federal income tax on a net income basis and are exempt from the 30% withholding tax (assuming compliance with certain certification requirements). Any such effectively connected dividends received by a non-U.S. holder that is a corporation may also, under certain circumstances, be subject to the branch profits tax at a 30% rate or such lower rate as may be prescribed under an applicable United States income tax treaty.

In order to claim the benefit of a United States income tax treaty or to claim exemption from withholding because dividends paid to you on our common stock are effectively connected with your conduct of a trade or business in the United States, you must provide a properly executed IRS Form W-8BEN for treaty benefits or W-8ECI for effectively connected income (or such successor forms as the IRS designates), prior to the payment of dividends. These forms must be periodically updated. You may obtain a refund of any excess amounts withheld by timely filing an appropriate claim for refund.

Backup Withholding and Information Reporting

If you are a non-U.S. holder, in general, you will not be subject to backup withholding and information reporting with respect to payments that we make to you provided that we do not have actual

Table of Contents

knowledge or reason to know that you are a United States person, as described under the Code, and you have given us the statement described above under Consequences to Non-U.S. Holders Payments of Interest . In addition, you will not be subject to backup withholding or information reporting with respect to the proceeds of the sale of a debenture or a share of common stock within the United States or conducted through certain U.S.-related financial intermediaries, if the payor receives the statement described above and does not have actual knowledge or reason to know that you are a United States person, as defined under the Code, or you otherwise establish an exemption. However, we may be required to report annually to the IRS and to you the amount of, and the tax withheld with respect to, any interest or dividends paid to you, regardless of whether any tax was actually withheld. Copies of these information returns may also be made available under the provisions of a specific treaty or agreement to the tax authorities of the country in which you reside.

You generally will be entitled to credit any amounts withheld under the backup withholding rules against your U.S. federal income tax liability provided that the required information is furnished to the IRS in a timely manner.

NOTICE PURSUANT TO IRS CIRCULAR 230

TO ENSURE COMPLIANCE WITH INTERNAL REVENUE SERVICE CIRCULAR 230, HOLDERS ARE HEREBY NOTIFIED THAT: (A) ANY DISCUSSION OF FEDERAL TAX ISSUES IN THIS PROSPECTUS IS NOT INTENDED OR WRITTEN TO BE RELIED UPON, AND CANNOT BE RELIED UPON BY HOLDERS, FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON HOLDERS UNDER THE INTERNAL REVENUE CODE; (B) SUCH DISCUSSION IS WRITTEN TO SUPPORT THE PROMOTION OR MARKETING (WITHIN THE MEANING OF CIRCULAR 230) BY THE ISSUER OF THE TRANSACTIONS OR MATTERS ADDRESSED HEREIN; AND (C) HOLDERS SHOULD SEEK ADVICE BASED ON THEIR PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

Table of Contents

SELLING SECURITYHOLDERS

We originally issued the debentures to Jefferies & Company, Inc., the initial purchaser, in a private placement exempt from the registration requirements of the Securities Act pursuant to Section 4(2) of the Securities Act, which closed on July 12, 2006. Debentures were resold by the initial purchaser in transactions exempt from the registration requirements of the Securities Act to persons reasonably believed by the initial purchaser to be qualified institutional buyers , or QIBs, within the meaning of Rule 144A under the Securities Act and we relied on the representations and warranties made to such effect by (i) the initial purchaser in the Purchase Agreement between us and the initial purchaser and (ii) the selling securityholders in the Notice and Questionnaires delivered to us.

Selling securityholders, including their transferees, pledgees or donees or their successors, may from time to time offer and sell any or all the debentures and common stock into which the debentures are convertible pursuant to this prospectus.

The selling securityholders have represented to us that they purchased the debentures and the common stock issuable upon conversion of the debentures for their own account for investment only and not with a view toward selling or distributing them, except through sales registered under the Securities Act or pursuant to exemptions therefrom. We agreed with the initial purchaser of the debentures to file this registration statement to register the resale of the debentures and the common stock. We agreed to prepare and file all necessary amendments and supplements to the registration statement to keep it effective until the date on which the debentures and the common stock issuable upon their conversion no longer qualify as registrable securities under our registration rights agreement, subject to our ability to suspend the registration statement under certain circumstances for valid business reasons.

The following table sets forth, as of December 14, 2006, information regarding the beneficial ownership of the debentures and our common stock by the selling securityholders. The information is based on information provided by or on behalf of the selling securityholders. Information about the selling securityholders may change over time. Any material changed information will be set forth in prospectus supplements.

The selling securityholders may offer from time to time all, some or none of the debentures or common stock into which the debentures are convertible. See Plan of Distribution . Thus, we cannot estimate the amount of the debentures or the common stock that will be held by the selling securityholders upon termination of any sales. In addition, the selling securityholders identified below may have sold, transferred or otherwise disposed of all or a portion of their debentures since the date on which they provided the information about their debentures in transactions exempt from the registration requirements of the Securities Act. Except as otherwise may be described in the footnotes below, none of the selling securityholders has had any material relationship with us or our affiliates within the past three years.

Name	Principal Amount of Debentures Beneficially Owned that May Be Sold	Percentage of Debentures Outstanding	Number of Shares of Common Stock Beneficially Owned Before This Offering	Number of Shares of Common Stock that May Be Sold Pursuant to This Prospectus (1)	Number of Shares of Common Stock Beneficially Owned After This Offering	Percentage of Common Stock Outstanding (2)
CBARB, a segregated account of Geode Capital Master Fund, Ltd. (3)	$ 5,000,000	4.5%	0	244,141	0	*

Citadel Equity Fund Ltd. (4)	$ 7,500,000	6.8%	0	366,211	0	*

65

Table of Contents

Name	Principal Amount of Debentures Beneficially Owned that May Be Sold	Percentage of Debentures Outstanding	Number of Shares of Common Stock Beneficially Owned Before This Offering	Number of Shares of Common Stock that May Be Sold Pursuant to This Prospectus (1)	Number of Shares of Common Stock Beneficially Owned After This Offering	Percentage of Common Stock Outstanding (2)
CNH CA Master Account, L.P. (5)	$ 3,500,000	3.2%	760,388	170,899	589,489	1.0%
Empyrean Capital Fund, L.P. (6)	$ 3,363,000	3.1%	0	164,209	0	*
Empyrean Capital Overseas Benefit Plan Fund, Ltd. (6)	$ 698,000	*	0	34,083	0	*
Empyrean Capital Overseas Fund, Ltd. (6)	$ 6,669,000	6.1%	0	325,635	0	*
Forest Global Convertible Fund, Ltd., Class A-5 (7)	$ 1,339,000	1.2%	0	65,381	0	*
Forest Multi Strategy Master Fund SPC, on behalf of its Multi Strategy Segregated Portfolio (7)	$ 80,000	*	0	3,907	0	*
HFR CA Global Opportunity Master Trust (7)	$ 597,000	*	0	29,151	0	*
HFR RVA Select Performance Master Trust (7)	$ 102,000	*	0	4,981	0	*
Highbridge International LLC (8)	$ 3,500,000	3.2%	1,974,877	170,899	1,803,978	3.1%
	$ 283,000	*	0	13,819	0	*

Institutional Benchmarks Master Fund, Ltd.(7)						
Jefferies & Company, Inc. (9)	$ 2,750,000	2.5%	3,358,118	134,278	3,223,840	5.7%
LLT Limited (7)	$ 302,000	*	0	14,747	0	*

Table of Contents

Name	Principal Amount of Debentures Beneficially Owned that May Be Sold	Percentage of Debentures Outstanding	Number of Shares of Common Stock Beneficially Owned Before This Offering	Number of Shares of Common Stock that May Be Sold Pursuant to This Prospectus (1)	Number of Shares of Common Stock Beneficially Owned After This Offering	Percentage of Common Stock Outstanding (2)
Lyxor/Forest Fund Limited (7)	$ 1,297,000	1.2%	0	63,331	0	*
Lyxor / PRS Convertible Fund Limited (10)	$ 100,000	*	0	4,883	0	*
Mohican VCA Master Fund, Ltd. (11)	$ 500,000	*	57,938	24,415	33,523	*
Morgan Stanley Convertible Securities Trust (12)	$ 1,225,000	1.1%	0	59,815	0	*
Plexus Fund Limited (13)	$ 4,000,000	3.6%	0	195,313	0	*
Polygon Global Opportunities Master Fund (14)	$ 4,500,000	4.1%	0	219,727	0	*
PRS Convertible Arbitrage Master Fund (10)	$ 150,000	*	0	7,325	0	*
PRS Convertible Arbitrage Master II Fund (10)	$ 200,000	*	0	9,766	0	*
Radcliffe SPC, Ltd. for and on behalf of the Class A Convertible Crossover Segregated Portfolio (15)	$ 6,250,000	5.7%	0	305,176	0	*
RHP Master Fund, Ltd. (16)	$ 7,000,000	6.4%	0	341,797	0	*
Silvercreek II Limited (17)	$ 1,640,000	1.5%	0	80,079	0	*
Silvercreek Limited Partnership (17)	$ 2,610,000	2.4%	0	127,442	0	*
Stark Master Fund Ltd. (18)	$ 4,000,000	3.6%	1,007,813	195,313	812,500	1.4%
	$ 4,000,000	3.6%	0	195,313	0	*

Tribeca Global Convertible
Investments Ltd. (19)

67

Table of Contents

Name	Principal Amount of Debentures Beneficially Owned that May Be Sold	Percentage of Debentures Outstanding	Number of Shares of Common Stock Beneficially Owned Before This Offering	Number of Shares of Common Stock that May Be Sold Pursuant to This Prospectus (1)	Number of Shares of Common Stock Beneficially Owned After This Offering	Percentage of Common Stock Outstanding (2)
Van Kampen Harbor Fund (20)	$ 2,275,000	2.1%	0	111,084	0	*
Vicis Capital Master Fund (21)	$ 3,000,000	2.7%	0	146,485	0	*
Wachovia Securities International Ltd. (22)	$ 3,000,000	2.7%	0	146,485	0	*
Wolverine Convertible Arbitrage Funds Limited (23)	$ 4,000,000	3.6%	0	195,313	0	*
Xavex Convertible Arbitrage 8 Fund (10)	$ 50,000	*	0	2,442	0	*
Any other holder of debentures or future transferee from any holder (24)	$ 24,520,000	22.3%	0	1,197,266	0	*

* Less than 1%.

(1) Assumes conversion of all of the securityholders debentures at a conversion price of $20.48 per share of common stock. The initial conversion price of $21.50 per share has been adjusted to reflect

a 5% stock dividend paid by us on September 29, 2006. The conversion price is subject to further adjustment as described under Description of Debentures-Conversion Rights and, as a result, the amount of common stock issuable upon conversion of the notes may increase or decrease in the future.

(2) Calculated based on Rule 13d-3(d)(i) of the Exchange Act using shares of common stock outstanding as of December 14, 2006. In calculating this amount, we treated as outstanding the number of shares of common stock issuable upon conversion of all of that particular securityholder s debentures. We did not assume, however, the conversion of any other securityholder s debentures.

(3) Phil Dumas exercises voting and dispositive power over these securities.

(4) Citadel Limited Partnership (CLP) is the trading manager of the selling securityholder and has investment discretion over these securities. Citadel Investment Group, L.L.C. (CIG) controls CLP. Kenneth C. Griffin controls CIG

and has ultimate investment discretion over these securities. CLP, CIG and Mr. Griffin each disclaim beneficial ownership of these securities. The selling securityholder has informed us that (i) it is an affiliate of Aragon Investments Ltd., Palofax Trading LLC, Citadel Trading Group, LLC and Citadel Derivatives Group, LLC, registered broker-dealers, (ii) it purchased the securities in the ordinary course of business, and (iii) at the time of purchase, the selling securityholder had no agreements or understandings, directly or indirectly, with any person to distribute the securities.

Table of Contents

(5) CNH Partners, LLC is the investment advisor of the selling securityholder and has sole voting and dispositive power over these securities. Investment principals for the advisor are Robert Krail, Mark Mitchell and Todd Pulvino. The selling securityholder also beneficially owns $10,375,000 principal amount of our 5% variable interest senior convertible notes due 2011 issued in April 2005, convertible into 589,489 shares of our common stock.

(6) Tian Xue exercises voting and dispositive power over these securities.

(7) Forest Investment Management LLC (Forest) exercises voting and dispositive power over these securities. Forest

is wholly owned by Forest Partners II, LP, the sole general partner of which is Michael A. Boyd Inc., which is solely owned by Michael A. Boyd.

(8) Highbridge Capital Management, LLC (Highbridge) is the trading manager of the selling securityholder and exercises voting control and dispositive power over these securities. Glenn Dubin and Henry Swieca control Highbridge. Each of Highbridge, Glenn Dubin and Henry Swieca disclaims beneficial ownership of these securities. The selling securityholder also beneficially owns $31,750,000 principal amount of our 5% variable interest senior convertible notes due 2011 issued in November 2004, convertible into 1,803,978 shares of our common

stock.

(9) Jefferies & Company, Inc. (Jefferies), a subsidiary of Jefferies Group, Inc., was the initial purchaser of the debentures. Jefferies or its affiliates has from time to time provided investment banking, general financing and banking services to us and our affiliates, for which they have received customary compensation. Jonathan Cunningham exercises voting and dispositive power over these securities. Jefferies has informed us that it is a registered broker-dealer. As a result, it will be deemed to be an underwriter within the meaning of Section 2(11) of the Securities Act and be subject to the prospectus delivery requirements of the Securities Act and certain statutory liabilities.

Jefferies also beneficially owns (i) $140,000 principal amount of our 5% variable interest senior convertible notes due 2011 issued in April 2005, convertible into 7,955 shares of our common stock, (ii) $56,000 principal amount of our 5% variable interest senior convertible notes due 2011 issued in November 2004, convertible into 3,182 shares of our common stock, and (iii) 40,916 shares of our common stock. Jefferies Group, Inc. beneficially owns 3,171,787 shares of our common stock.

(10) Jonathan Arnold exercises voting and dispositive power over these securities.

(11) Eric Hage and Daniel Hage act as portfolio managers for the selling securityholder and exercise voting and dispositive

power over these securities. The selling securityholder also beneficially owns $590,000 principal amount of our 5% variable interest senior convertible notes due 2011 issued in November 2004, convertible into 33,523 shares of our common stock.

(12) Morgan Stanley Investment Management is the investment advisor of the selling securityholder and exercises voting and dispositive power over these securities. The portfolio managers for the advisor are Ellen Gold and David McLaughlin. The selling securityholder has informed us that (i) it is an affiliate of a registered broker-dealer, (ii) it purchased the securities in the ordinary course of business, and (iii) at the time of purchase, the selling securityholder

had no agreements or understandings, directly or indirectly, with any person to distribute the securities.

(13) Dermot Keane exercises voting and dispositive power over these securities.

(14) Polygon Investment Partners LLP and Polygon Investment Partners LP (the Investment Managers), Polygon Investments Ltd. (the Manager), Alexander E. Jackson, Reade E. Griffith and Patrick G. G. Dear share voting and dispositive power over these securities. The Investment Managers, the Manager, Alexander E. Jackson, Reade E. Griffith and Patrick G. G. Dear disclaim beneficial ownership of these securities.

(15) Pursuant to an investment management agreement, RG

Capital Management, L.P. (RG Capital) serves as the investment manager of Radcliffe SPC, Ltd. s Class A Convertible Crossover

Table of Contents

Segregated Portfolio. RGC Management Company, LLC (Management) is the general partner of RG Capital. Steve Katznelson and Gerald Stahlecker serves as the managing members of Management. Each of RG Capital, Management and Messrs. Katznelson and Stahlecker disclaims beneficial ownership of the securities owned by Radcliffe SPC, Ltd. for and on behalf of the Class A Convertible Crossover Segregated Portfolio.

(16) RHP Master Fund, Ltd. is a party to an investment management agreement with Rock Hill Investment Management, L.P., a limited partnership of which the general partner is RHP General Partner, LLC. Pursuant to such agreement, Rock Hill Investment Management directs the voting and disposition of

shares owned by RHP Master Fund. Wayne Bloch and Peter Lockhart own all of the interests in RHP General Partner. The aforementioned entities and individuals disclaim beneficial ownership of our common stock owned by the RHP Master Fund.

(17) Louise Morwick, President Silver Creek Management Inc., and Bryn Joynt, Vice President Silvercreek Management Inc., exercise voting and dispositive power over these securities.

(18) Brian J. Stark and Michael A. Roth exercise voting and dispositive power over these securities. The selling securityholder has informed us that (i) it is an affiliate of Reliant Trading and Shepherd Trading Limited, registered broker-dealers, (ii) it purchased the securities in the ordinary course of business, and (iii) at the time of purchase, the selling securityholder had

no agreements or understandings, directly or indirectly, with any person to distribute the securities. The selling securityholder also beneficially owns (i) $2,600,000 principal amount of our 5% variable interest senior convertible notes due 2011 issued in April 2005, convertible into 147,728 shares of our common stock, and (ii) $11,700,000 principal amount of our 5% variable interest senior convertible notes due 2011 issued in November 2004, convertible into 664,772 shares of our common stock.

(19) Jeffrey Chmielewski exercises voting and dispositive power over these securities. The selling securityholder has informed us that (i) it is an affiliate of a registered broker-dealer, (ii) it purchased the securities in the ordinary course of business, and (iii) at the time of purchase, the selling securityholder had no agreements or

understandings, directly or indirectly, with any person to distribute the securities.

(20) Van Kampen Asset Management is the investment advisor of the selling securityholder and exercises voting and dispositive power over these securities. The portfolio managers for the advisor are Ellen Gold and David McLaughlin. The selling securityholder has informed us that (i) it is an affiliate of a registered broker-dealer, (ii) it purchased the securities in the ordinary course of business, and (iii) at the time of purchase, the selling securityholder had no agreements or understandings, directly or indirectly, with any person to distribute the securities.

(21) Vicis Capital LLC is the investment manager of the selling securityholder and exercises voting and dispositive power over these securities. John Succo, Sky Lucas and Shad Stastney

jointly control Vicis Capital LLC but disclaim individual beneficial ownership of these securities.

(22) Dan Duggan exercises voting and dispositive power over these securities. The selling securityholder has informed us that (i) it is a registered broker-dealer, (ii) it purchased the securities in the ordinary course of business, and (iii) at the time of purchase, the selling securityholder has no agreements or understandings, directly or indirectly, with any person to distribute the securities. The selling securityholder will be deemed to be an underwriter within the meaning of Section 2(11) of the Securities Act and be subject to the prospectus delivery requirements of the Securities Act and certain statutory liabilities.

(23) Rob Bellick exercises voting and dispositive power over these securities.

(24) Information about other selling securityholders will be set forth in prospectus supplements, if required. Assumes that any other holders of debentures, or any future transferees, pledgees, donees or successors of or from any such other holders of debentures, do not beneficially own any common stock other than the common stock issuable upon conversion of the debentures at the initial conversion rate.

Table of Contents

PLAN OF DISTRIBUTION

We will not receive any of the proceeds of the sale of the debentures or the underlying common stock offered by this prospectus. The debentures and the underlying common stock may be sold from time to time to purchasers:

directly by the selling securityholders; or

through underwriters, broker-dealers or agents that may receive compensation in the form of discounts, concessions or commissions from the selling securityholders or the purchasers of the debentures and the underlying common stock.

The selling securityholders and any such broker-dealers or agents that participate in the distribution of the debentures and the underlying common stock may be deemed to be underwriters within the meaning of the Securities Act in connection with such sales. As a result, any profits on the sale of the debentures and underlying common stock by selling securityholders and any discounts, commissions or concessions received by any such broker-dealers or agents might be deemed to be underwriting discounts and commissions under the Securities Act. If the selling securityholders were to be deemed underwriters, the selling securityholders may be subject to certain statutory liabilities, including, but not limited to, those set forth in Sections 11, 12 and 17 of the Securities Act and Rule l0b-5 under the Exchange Act. Selling securityholders Jefferies & Company, Inc. and Wachovia Securities International Ltd. have informed us that they are registered broker-dealers. As a result, they will be deemed to be underwriters within the meaning of the Securities Act.

If the debentures and underlying common stock are sold through underwriters or broker-dealers, the selling securityholders will be responsible for underwriting discounts or commissions or agent s commissions.

The debentures and underlying common stock may be sold in one or more transactions at:

fixed prices,

prevailing market prices at the time of sale,

varying prices determined at the time of sale, or

negotiated prices.

These sales may be effected in transactions:

on any national securities exchange or quotation service on which the debentures and underlying common stock may be listed or quoted at the time of the sale, including the New York Stock Exchange in the case of the common stock,

in the over-the-counter market,

in transactions otherwise than on such exchanges or services or in the over-the-counter market,

through the writing of options, whether the options are listed on an option exchange or otherwise,

through the settlement of short sales, or

through other types of transactions.

Table of Contents

These transactions may include block transactions or crosses. Crosses are transactions in which the same broker acts as an agent on both sides of the trade.

In connection with sales of the debentures and underlying common stock or otherwise, the selling securityholders may enter into hedging transactions with broker-dealers or other financial institutions. These broker-dealers or financial institutions may in turn engage in short sales of the debentures and underlying common stock in the course of hedging their positions. The selling securityholders may also sell the debentures and underlying common stock short and deliver debentures and underlying common stock to close out short positions, or loan or pledge debentures and underlying common stock to broker-dealers that in turn may sell the debentures and underlying common stock.

The selling securityholders may pledge or grant a security interest in some or all of the convertible debentures or shares of common stock owned by them and, if they default in the performance of their secured obligations, the pledgees or secured parties may offer and sell the shares of common stock from time to time pursuant to this prospectus or any amendment to this prospectus under Rule 424(b)(3) or other applicable provision of the Securities Act, amending, if necessary, the list of selling securityholders to include the pledgee, transferee or other successors in interest as selling securityholders under this prospectus. The selling securityholders also may transfer and donate the shares of common stock in other circumstances in which case the transferees, donees, pledgees or other successors in interest will be the selling beneficial owners for purposes of this prospectus.

To our knowledge, there are currently no plans, arrangements or understandings between any selling securityholders and any underwriter, broker-dealer or agent regarding the sale of the debentures and the underlying common stock by the selling securityholders. Selling securityholders may decide not to sell any of the debentures and the underlying common stock offered by them pursuant to this prospectus. In addition, there may be circumstances where a selling securityholder may transfer, devise or gift the debentures and the underlying common stock by other means not described in this prospectus.

Our common stock trades on the New York Stock Exchange under the symbol VGR . We cannot assure you as to the development of liquidity or any trading market for the debentures. See Risk Factors No public trading market for the Debentures exists .

With respect to a particular offering of debentures or common stock, to the extent required, an accompanying prospectus supplement or, if appropriate, a post-effective amendment to the registration statement of which this prospectus is a part will be prepared and will set forth the following information:

- the specific debentures or common stock to be offered or sold,
- the names of the selling securityholders,
- the respective purchase prices and public offering prices and other material terms of the offering,
- the names of any participating agents, broker-dealers or underwriters, and
- any applicable commissions, discounts, concessions and other items constituting compensation from the selling securityholders.

There can be no assurance that any selling securityholder will sell any or all of the debentures or underlying common stock pursuant to this prospectus. In addition, any debentures or underlying common stock covered by this prospectus that qualify for sale pursuant to Rule 144 or Rule 144A of the Securities

Table of Contents

Act may be sold under Rule 144 or Rule 144A, as the case may be, rather than pursuant to this prospectus.

The securityholders and any other person participating in such distribution will be subject to the Exchange Act. The Exchange Act rules include, without limitation, Regulation M, which may limit the timing of purchases and sales of any of the debentures and the underlying common stock by the selling securityholders and any other such person. In addition, Regulation M of the Exchange Act may restrict the ability of any person engaged in the distribution of the debentures and the underlying common stock to engage in market-making activities with respect to the particular debentures and the underlying common stock being distributed for a period of up to five business days prior to the commencement of such distribution. This may affect the marketability of the debentures and the underlying common stock and the ability of any person or entity to engage in market-making activities with respect to the debentures and the underlying common stock.

Pursuant to the registration rights agreement filed as an exhibit to this registration statement, we have agreed to indemnify the selling securityholders and the selling securityholders have agreed to indemnify us against certain liabilities, including certain liabilities under the Securities Act, or we will be entitled to contribution in connection with these liabilities.

We have agreed to pay substantially all of the expenses incidental to the registration, offering and sale of the debentures and underlying common stock to the public other than commissions, fees and discounts of underwriters, brokers, dealers and agents.

LEGAL MATTERS

The validity of the issuance of the debentures and the shares of common stock issuable upon conversion of the debentures has been passed upon by McDermott Will & Emery LLP, Los Angeles, California.

EXPERTS

The financial statements and management s assessment of the effectiveness of internal control over financial reporting (which is included in Management s Report on Internal Control over Financial Reporting) incorporated in this prospectus by reference to the Annual Report on Form 10-K/A Amendment No. 2 of Vector Group Ltd. for the year ended December 31, 2005, filed on November 24, 2006, have been so incorporated in reliance on the report (which contains an explanatory paragraph relating to the Company s restatement of its financial statements discussed in Notes 2 and 23 to the financial statements and which contains an adverse opinion on the effectiveness of internal control over financial reporting) of PricewaterhouseCoopers LLP, an independent registered certified public accounting firm, given on the authority of said firm in auditing and accounting.

The financial statements for Douglas Elliman LLC incorporated in this prospectus by reference to the Vector Group Ltd. Annual Report on Form 10-K/A Amendment No. 1 for the year ended December 31, 2005 have been so incorporated in reliance on the report of PricewaterhouseCoopers LLP, an independent registered public accounting firm, given on the authority of said firm in auditing and accounting.

The financial statements for Koa Investors, LLC incorporated in this prospectus by reference to the Vector Group Ltd. Annual Report on Form 10-K/A Amendment No.1 for the year ended December 31, 2005 have been so incorporated in reliance on the report of Weiser LLP, an independent registered public accounting firm, given on the authority of said firm in auditing and accounting.

Table of Contents

PART II
INFORMATION NOT REQUIRED IN THE PROSPECTUS

Item 14. Other Expenses of Issuance and Distribution

The aggregate estimated (other than the registration fee) expenses to be paid by us in connection with this offering are as follows:

Securities and Exchange Commission registration fee	$ 11,770
Trustee s fees and expenses	10,000
Accounting fees and expenses	20,000
Legal fees and expenses	40,000
Miscellaneous	8,230
Total	$ 90,000

Item 15. Indemnification of Directors and Officers

Section 145 of the Delaware General Corporation Law authorizes a court to award, or a corporation s Board of Directors to grant, indemnity to officers and directors in terms sufficiently broad to permit such indemnification under certain circumstances for liabilities (including reimbursement for expenses incurred) arising under the Securities Act. Article VI of our By-Laws provides for indemnification of our directors and officers to the maximum extent permitted by law.

Section 102 of the Delaware General Corporation Law allows a corporation to eliminate the personal liability of a director of a corporation to the corporation or to any of its stockholders for monetary damages for a breach of his fiduciary duty as a director, except in the case where the director (i) breaches his duly of loyalty, (ii) fails to act in good faith, engages in intentional misconduct or knowingly violates a law, (iii) authorizes the payment of a dividend or approves a stock repurchase in violation of the Delaware General Corporation Law or (iv) obtains an improper personal benefit. Article Eighth of our Amended and Restated Certificate of Incorporation includes a provision which eliminates directors personal liability to the full extent permitted under the Delaware General Corporation Law, as the same exists or may hereafter be amended.

Item 16. Exhibits

The following exhibits are filed herewith or incorporated by reference herein:

Exhibit Number	Exhibit Title
3.1	Amended and Restated Certificate of Incorporation of Vector (incorporated by reference to Exhibit 3.1 in Vector s Form 10-Q for the quarter ended September 30, 1999).
3.2	Certificate of Amendment to the Amended and Restated Certificate of Incorporation of Vector (incorporated by reference to Exhibit 3.1 in Vector s Form 8-K dated May 24, 2000).
3.3	Bylaws of Vector (incorporated by reference to Exhibit 3.3 in Vector s Form 10-K for the year ended December 31, 2003).
5	Opinion of McDermott Will & Emery LLP.*

Table of Contents

Exhibit Number	Exhibit Title
10.1	Indenture, dated as of July 12, 2006, between Vector and Wells Fargo Bank, N.A. (incorporated by reference to Exhibit 4.1 in Vector s Form 8-K dated July 17, 2006).
10.2	Registration Rights Agreement, dated as of July 12, 2006, between Vector and the purchasers set forth therein (incorporated by reference to Exhibit 4.2 in Vector s Form 8-K dated July 12, 2006).
10.3	Purchase Agreement, dated as of June 27, 2006, between Vector and Jefferies & Company, Inc. (incorporated by reference to Exhibit 1.1 in Vector s Form 8-K dated June 30, 2006).
12	Computation of Ratio of Earnings to Fixed Charges.
23.1	Consent of PricewaterhouseCoopers LLP, independent registered certified public accounting firm.
23.2	Consent of PricewaterhouseCoopers LLP, independent registered public accounting firm.
23.3	Consent of Weiser LLP, independent registered public accounting firm.
23.4	Consent of McDermott Will & Emery LLP (included in Exhibit 5)*
24	Power of Attorney (included on signature page).*
25	Form T-1 Statement of Eligibility of Trustee for Indenture under the Trust Indenture Act of 1939.*

* Previously filed.

Item 17. Undertakings

The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933,

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement, and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4) That, for purposes of determining any liability under the Securities Act:

(i) If the registrant is relying on Rule 430B:

(a) each prospectus filed by the registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and

Table of Contents

(b) each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5), or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii), or (x) for the purpose of providing the information required by Section 10(a) of the Securities Act of 1933 shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof. Provided, however, that no statement made in a registration statement or incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date.

(5) That, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant s annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan s annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in this registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(6) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

Table of Contents

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant has duly caused this Amendment No. 2 to the Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Miami, State of Florida on December 15, 2006.

VECTOR GROUP LTD.

By: /s/ J. Bryant Kirkland III
J. Bryant Kirkland III,
Vice President, Chief Financial Officer
and Treasurer

Pursuant to the requirements of the Securities Act of 1933, this Amendment No. 1 to the Registration Statement has been signed below by the following persons in the capacities indicated on December 15, 2006.

/s/ Howard M. Lorber*	
Howard M. Lorber	President and Chief Executive Officer (Principal Executive Officer)
/s/ J. Bryant Kirkland III	
J. Bryant Kirkland III	Vice President, Treasurer and Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)
/s/ Henry C. Beinstein*	
Henry C. Beinstein	Director
/s/ Ronald J. Bernstein*	
Ronald J. Bernstein	Director
/s/ Robert J. Eide*	
Robert J. Eide	Director
/s/ Bennett S. LeBow*	
Bennett S. LeBow	Director
/s/ Howard M. Lorber*	
Howard M. Lorber	Director
/s/ Jeffrey S. Podell*	Director

Jeffrey S. Podell

/s/ Jean E. Sharpe*

Jean E. Sharpe Director

*By: /s/ J. Bryant Kirkland III
J. Bryant Kirkland III
Attorney-in-Fact