Ternium S.A.
Form SC 13D
February 14, 2011
UNITED STATES

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

SCHEDULE 13D
Under the Securities Exchange Act of 1934

Ternium S.A.
(Name of Issuer)

Ordinary Shares, $1.00 par value per share
(Title of Class of Securities)

880890108
(CUSIP Number)

Fernando R. Mantilla, Av. Leandro N. Alem 1067, 28th Floor, Buenos Aires, Argentina,
Telephone: +54-11-4018-2245
(Name, Address and Telephone number of Person Authorized to Receive Notices and Communications)

February 11, 2011
(Date of Event Which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of §§240.13d–1(e), 240.13d–1(f) or 240.13d–1(g), check the following box. ¨

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See Rule 13d–7 for other parties to whom copies are to be sent.

*The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be “filed” for the purpose of section 18 of the Securities Exchange Act of 1934 (“Act”) or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

CUSIP
NO. 880890108

1. NAMES OF REPORTING PERSONS

ROCCA & PARTNERS STICHTING ADMINISTRATIEKANTOOR AANDELEN SAN FAUSTIN

I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY)

00-0000000

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (SEE INSTRUCTIONS)

(a) ¨

(b) ¨

3. SEC USE ONLY

4. SOURCE OF FUNDS (SEE INSTRUCTIONS):

N/A

5. CHECK IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) OR 2(e): ¨

6. CITIZENSHIP OR PLACE OF ORGANIZATION

THE NETHERLANDS

	7. SOLE VOTING POWER 0
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	8. SHARED VOTING POWER 1,473,146,206
	9. SOLE DISPOSITIVE POWER 0
	10. SHARED DISPOSITIVE POWER 1,473,146,206

11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON: 1,473,146,206

12. CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (SEE INSTRUCTIONS)

..

13. PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11): 73.5%

14. TYPE OF REPORTING PERSON (SEE INSTRUCTIONS): HC

CUSIP
NO. 880890108

1. NAMES OF REPORTING PERSONS

SAN FAUSTIN S.A.

I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY)

00-0000000

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (SEE INSTRUCTIONS)

(a) ¨

(b) ¨

3. SEC USE ONLY

4. SOURCE OF FUNDS (SEE INSTRUCTIONS):

N/A

5. CHECK IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) OR 2(e): ¨

6. CITIZENSHIP OR PLACE OF ORGANIZATION

GRAND DUCHY OF LUXEMBOURG

NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7. SOLE VOTING POWER 0
	8. SHARED VOTING POWER 1,473,146,206
	9. SOLE DISPOSITIVE POWER 0
	10. SHARED DISPOSITIVE POWER 1,473,146,206

11.

AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON: 1,473,146,206

12. CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (SEE INSTRUCTIONS)

..

13. PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11): 73.5%

14. TYPE OF REPORTING PERSON (SEE INSTRUCTIONS): CO

CUSIP
NO. 880890108

1. NAMES OF REPORTING PERSONS

TECHINT HOLDINGS S.À R.L.

I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY)

00-0000000

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (SEE INSTRUCTIONS)

(a) ¨

(b) ¨

3. SEC USE ONLY

4. SOURCE OF FUNDS (SEE INSTRUCTIONS):

N/A

5. CHECK IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) OR 2(e): ¨

6. CITIZENSHIP OR PLACE OF ORGANIZATION

GRAND DUCHY OF LUXEMBOURG

	7. SOLE VOTING POWER 1,243,433,012
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	8. SHARED VOTING POWER 229,713,194
	9. SOLE DISPOSITIVE POWER 1,243,433,012
	10. SHARED DISPOSITIVE POWER 229,713,194

11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON: 1,473,146,206

12. CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (SEE INSTRUCTIONS)

..

13. PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11): 73.5%

14. TYPE OF REPORTING PERSON (SEE INSTRUCTIONS): CO

CUSIP
NO. 880890108

1. NAMES OF REPORTING PERSONS

TENARIS S.A.

I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY)

00-0000000

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (SEE INSTRUCTIONS)

(a) ¨

(b) ¨

3. SEC USE ONLY

4. SOURCE OF FUNDS (SEE INSTRUCTIONS):

N/A

5. CHECK IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) OR 2(e): ¨

6. CITIZENSHIP OR PLACE OF ORGANIZATION

GRAND DUCHY OF LUXEMBOURG

	7. SOLE VOTING POWER 0
NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	8. SHARED VOTING POWER 1,473,146,206
	9. SOLE DISPOSITIVE POWER 0
	10. SHARED DISPOSITIVE POWER 1,473,146,206

11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON: 1,473,146,206

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13. PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11): 73.5%

14. TYPE OF REPORTING PERSON (SEE INSTRUCTIONS): CO

CUSIP
NO. 880890108

1. NAMES OF REPORTING PERSONS

TENARIS INVESTMENTS S.À R.L.

I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY)

00-0000000

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (SEE INSTRUCTIONS)

(a) ¨

(b) ¨

3. SEC USE ONLY

4. SOURCE OF FUNDS (SEE INSTRUCTIONS):

N/A

5. CHECK IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) OR 2(e): ¨

6. CITIZENSHIP OR PLACE OF ORGANIZATION

GRAND DUCHY OF LUXEMBOURG

NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH	7. SOLE VOTING POWER 229,713,194
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11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON: 1,473,146,206

12. CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES (SEE INSTRUCTIONS)

..

13. PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11): 73.5%

14. TYPE OF REPORTING PERSON (SEE INSTRUCTIONS): CO

Item 1. Security and Issuer

This statement on Schedule 13D (this "Schedule 13D") relates to the Ordinary Shares, par value $1 per share (the "Ordinary Shares"), of Ternium S.A. (the "Issuer"). The principal executive offices of the Issuer are located at 46A, Av. J. F. Kennedy, L-1855 Luxembourg, Grand-Duchy of Luxembourg.

Item 2. Identity and Background

This Schedule 13D is being jointly filed by each of the following persons pursuant to Rule 13d-1(k) (collectively, the "Reporting Persons").

(a) ROCCA & PARTNERS STICHTING ADMINISTRATIEKANTOOR AANDELEN SAN FAUSTIN ("RP STAK")
Wilhelminakade 91 – 3072 AP Rotterdam, The Netherlands.
RP STAK is a private foundation (stichting) organized under the laws of The Netherlands. RP STAK was incorporated on December 17, 2010, by Rocca & Partners S.A., a company organized under the laws of the British Virgin Islands ("R&P"). No person or group of persons controls RP STAK.

(b) SAN FAUSTIN S.A. ("SAN FAUSTIN")
Boulevard Prince Henri 3B – 3rd floor, L-1724 Luxembourg, Grand-Duchy of Luxembourg.
SAN FAUSTIN (formerly San Faustin N.V.) is a holding company formerly organized under the laws of the Netherlands Antilles, which, on January 27, 2011, transferred its seat to the Grand-Duchy of Luxembourg and became a société anonyme (public limited liability company) under the Luxembourg Companies Act. RP STAK controls a significant portion of the voting power of SAN FAUSTIN and has the ability to influence matters affecting, or submitted to a vote of the shareholders of SAN FAUSTIN, including the election of directors, the approval of certain corporate transactions and other matters concerning SAN FAUSTIN's policies.

(c) TECHINT HOLDINGS S.À R.L. ("TECHINT HOLDINGS")
Boulevard Prince Henri 3B– 3rd floor, L-1724 Luxembourg, Grand-Duchy of Luxembourg.
TECHINT HOLDINGS (formerly I.I.I.-Industrial Investments Incorporated) is a holding company formerly organized under the laws of the Cayman Islands, which, on January 27, 2011, transferred its seat to the Grand-Duchy of Luxembourg and became a société à responsabilité limitée (private limited liability company) under the Luxembourg Companies Act. All of the shares of TECHINT HOLDINGS are held by SAN FAUSTIN.

(d) TENARIS S.A. ("TENARIS")

46A, Av. J. F. Kennedy, L-1855 Luxembourg, Grand-Duchy of Luxembourg.

TENARIS is a société anonyme (public limited liability company) organized under the laws of the Grand-Duchy of Luxembourg. Approximately 60.4% of the shares of TENARIS are held by TECHINT HOLDINGS.

(e) TENARIS INVESTMENTS S.À R.L. ("TENARIS INVESTMENTS")

46A, Av. J. F. Kennedy, L-1855 Luxembourg, Grand-Duchy of Luxembourg.

TENARIS INVESTMENTS S.À R.L. is a société à responsabilité limitée (private limited liability company) organized under the laws of the Grand-Duchy of Luxembourg. All of the shares of TENARIS INVESTMENTS are held by TENARIS.

The name, present principal occupation or employment (and the name, principal business and address of any corporation or other organization in which such employment is conducted) and citizenship of each voting committee member or director, as applicable, of each Reporting Person is set forth in Schedule I and is incorporated into this Item 2 by reference. The name, present principal occupation or employment (and the name, principal business and address of any corporation or other organization in which such employment is conducted) and citizenship of each executive officer of each Reporting Person is set forth in Schedule I and is incorporated into this Item 2 by reference.

During the last five years, none of the Reporting Persons, nor, to the knowledge of the Reporting Persons, none of the persons listed on Schedule I has (i) been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) or (ii) been a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to federal or state securities laws or finding any violation with respect to such laws.

Information with respect to each of the Reporting Persons is given solely by such Reporting Person, and no Reporting Person assumes responsibility for the accuracy or completeness of information given by another Reporting Person.

Item 3. Source and Amount of Funds or Other Consideration

Except as described in the second following paragraph, the events requiring the filing of this Schedule 13D did not involve any transfer of funds or any kind of consideration. As discussed in "Item 4 – Purpose of Transaction" below, RP STAK acquired all of its SAN FAUSTIN shares as a result of the deposit of such shares with RP STAK by certain shareholders of SAN FAUSTIN. RP STAK did not acquire and does not own any Ordinary Shares.

There were no changes in the holdings of Ordinary Shares of SAN FAUSTIN, TECHINT HOLDINGS or TENARIS since such Reporting Persons filed their most recent statement on Schedule 13G on February 2, 2010. The holdings of Ordinary Shares by TENARIS are now held through TENARIS's wholly owned subsidiary TENARIS INVESTMENTS.

Except as described in the next sentence, none of the Reporting Persons and none of the individuals listed on Schedule I has contributed any funds or other consideration towards the purchase of securities of the Issuer, except that TECHINT HOLDINGS will fund its purchase of Usiminas Shares described in Item 4 below using cash on hand.

Item 4. Purpose of Transaction

RP STAK

On December 17, 2010, R&P incorporated RP STAK as a private foundation (stichting) organized under the laws of The Netherlands.

Immediately prior to the incorporation of RP STAK, R&P controlled a significant portion of the voting power and had the ability to influence matters affecting, or submitted to a vote of the shareholders of SAN FAUSTIN, including the election of directors and the approval of certain corporate transactions and other matters concerning SAN FAUSTIN's policies.

In connection with the redomiciliation of SAN FAUSTIN into the Grand-Duchy of Luxembourg, it was deemed convenient that certain significant holdings in SAN FAUSTIN be reorganized. For these purposes, R&P incorporated RP STAK and, on February 11, 2011, shares in SAN FAUSTIN representing approximately 51.6% of SAN FAUSTIN's votes and 39.7% of SAN FAUSTIN's share capital were deposited with RP STAK. RP STAK holds all such SAN FAUSTIN shares in its own name but for the account of the depositors. The voting of the SAN FAUSTIN shares deposited with RP STAK is determined by RP STAK's voting committee. The members of RP STAK's voting committee (listed on Schedule I) are appointed annually by the meeting of depositors of SAN FAUSTIN voting shares.

Following the deposit with RP STAK of the SAN FAUSTIN shares, RP STAK will continue to control SAN FAUSTIN (i.e., it will have the ability to influence matters affecting, or submitted to a vote of the shareholders of SAN FAUSTIN, including the election of directors and the approval of certain corporate transactions and other matters concerning SAN FAUSTIN's policies)

USIMINAS SHARES

The information presented in this Schedule 13D gives effect to the completion of the transactions contemplated by the Purchase Agreement described below on or about February 15, 2011.

TECHINT HOLDINGS and Usinas Siderúrgicas de Minas Gerais S.A. – Usiminas, a sociedade anônima organized under the laws of the Federative Republic of Brazil ("Usiminas Brazil") are parties to that certain Shareholders' Agreement, dated as of July 20, 2005 (the "Shareholders' Agreement"), which provides for certain restrictions on the transferability of the Ordinary Shares held by Usiminas or its subsidiaries (the "Usiminas Shares"), including a right of first refusal granted in favor of TECHINT HOLDINGS with respect to any sales or transfers of the Usiminas Shares, subject to the conditions specified therein. In response to the desire by Usiminas Europa A/S, an aktieselskaber organized under the laws of Denmark ("Usiminas Europa") and a subsidiary of Usiminas Brazil, to sell all or a portion of the Usiminas Shares in an underwritten public offering registered with the Commission, Usiminas Brazil and TECHINT HOLDINGS engaged in negotiations over several months concerning the waiver of TECHINT HOLDINGS' right of first refusal in connection with any such sale of Usiminas Shares. As a result of those negotiations the parties entered into the Transaction and Registration Rights Agreement, made and entered into as of January 30, 2011, by and among the Issuer, TECHINT HOLDINGS, Usiminas Brazil and Usiminas Europa (the "TRRA").

Pursuant to the TRRA, TECHINT HOLDINGS agreed to waive its right of first refusal under the Shareholders' Agreement, subject to the terms and conditions set forth in the TRRA, to permit the sale of the Usiminas Shares in an underwritten public offering registered with the Commission and in certain other circumstances, as expressly provided in the TRRA.

Pursuant to the TRRA, on January 31, 2011, TECHINT HOLDINGS exercised its election to purchase from Usiminas Europa Usiminas Shares in an aggregate amount of US$100 million concurrently with and subject to, among other conditions, the closing of an underwritten registered public offering of Usiminas Shares within a specified period of time, and on February 9, 2011, following the pricing of the registered public offering, TECHINT HOLDINGS entered into a purchase agreement with Usiminas Brazil and Usiminas Europa (the "Purchase Agreement") pursuant to which TECHINT HOLDINGS agreed to purchase from Usiminas Europa 27,777,780 Usiminas Shares concurrently with and

subject to, among other conditions, the closing of the registered public offering on February 15, 2011.

The purchase price for the Usiminas Shares purchased by TECHINT HOLDINGS under the Purchase Agreement is $3.6 per share, which is the equal to the public offering price of the American Depositary Shares (adjusted for the ratio of 10 Usiminas Shares per American Depositary Share) in the public offering. In connection with the TRRA and the Purchase Agreement, Usiminas Brazil and Usiminas Europa have agreed to pay TECHINT HOLDINGS a fee of US$13 million as consideration for the waiver of the right of first refusal described above and an additional fee of US$6.8 million in respect of the purchase by TECHINT HOLDINGS of the Usiminas Shares under the Purchase Agreement.

In connection with the registered public offering referred to above, TECHINT HOLDINGS has entered into a lock-up agreement, dated January 31, 2011 (the "Lock-Up Agreement"), in favor of the underwriters of the public offering, under which TECHINT HOLDINGS has agreed not to dispose of Ordinary Shares or to engage in certain specified transactions in the Ordinary Shares, subject to certain exceptions or with the consent of the representatives of the underwriters, for a period ending 90 days after the date of the prospectus relating to the registered public offering.

The description contained in this Item 4 under the caption "RP STAK" is qualified in its entirety by reference to the Articles of Association of RP STAK and the Conditions of Administration of RP STAK, the terms of each of which are incorporated herein by reference to Exhibits A and B hereto, and the description contained in this Item 4 under the caption "USIMINAS SHARES" is qualified in its entirety by reference to the Shareholders' Agreement, the TRRA, the Purchase Agreement and the Lock-Up Agreement, the terms of each of which are incorporated herein by reference to Exhibits C, D and E hereto.

Except as stated above, none of the Reporting Persons, or, to the best of each the Reporting Person's knowledge, any of the individuals or entities named in Schedule I hereto, currently has any plans or proposals which relate to or would result in any of the actions listed in subparagraphs (a) through (j) of item 4 of Schedule 13D.

Item 5. Interest in Securities of the Issuer

(a) (b) RP STAK. See items (7) through (11) and (13) on page 2
SAN FAUSTIN. See items (7) through (11) and (13) on page 3
TECHINT HOLDINGS. See items (7) through (11) and (13) on page 4
TENARIS. See items (7) through (11) and (13) on page 5
TENARIS INVESTMENTS. See items (7) through (11) and (13) on page 6

(c) Except as described in this Schedule 13D, there have been no transactions in Ordinary Shares effected by the Reporting Persons or, to the best of the Reporting Person's knowledge, any person or entity identified on Schedule I hereto, during the last 60 days.

(d) Not applicable.

(e) Not applicable.

Item 6. Contracts, Arrangements, Understandings or Relationships with Respect to Securities of the Issuer

The information set forth under Items 3, 4 and 5, the Articles of Association of RP STAK and the Conditions of Administration of RP STAK set forth on Exhibits A and B, respectively, and the Transaction and Registration Rights Agreement referred to in Item 7, are incorporated herein by reference.

Other than the Articles of Association of RP STAK, the Conditions of Administration of RP STAK, and the TRRA, the Purchase Agreement and the Lock-up Agreement, there are no contracts, arrangements, understandings or

relationships (legal or otherwise) among the Reporting Persons or, to the best of the Reporting Person's knowledge, any person listed on Schedule I hereto, and any person with respect to any Ordinary Shares.

Item 7. Material to Be Filed as Exhibits

Exhibit	Description
A	Articles of Association of ROCCA & PARTNERS STICHTING ADMINISTRATIEKANTOOR AANDELEN SAN FAUSTIN, dated December 17, 2010.
B	Conditions of Administration of ROCCA & PARTNERS STICHTING ADMINISTRATIEKANTOOR AANDELEN SAN FAUSTIN, dated December 27, 2011
C	Shareholders' Agreement, dated July 20, 2005, between I.I.I.—Industrial Investments Inc. (now TECHINT HOLDINGS) and Usinas Siderurgicas de Minas Gerais, S.A.—USIMINAS (Incorporated by reference to the F-1 Registration Statement filed by Ternium S.A. on January 11, 2006 (File No. 333-130950).
D	Transaction and Registration Rights Agreement, including form of Purchase Agreement (incorporated by reference to Exhibit 10.1 to Registration Statement on Form S-3 of Ternium S.A., File No. 333-171964, filed with the Commission on January 31, 2011).
E	Lock-Up Agreement, dated January 30, 2011, between TECHINT HOLDINGS and J.P. Morgan Securities LLC (incorporated by reference to the Report on Form 6-K of Ternium S.A., filed with the Commission on February 11, 2011).
F	Power of Attorney of ROCCA & PARTNERS STICHTING ADMINISTRATIEKANTOOR AANDELEN SAN FAUSTIN dated February 4, 2011.
G	Power of Attorney of San Faustín S.A. (formerly San Faustin N.V.) dated February 4, 2011.
H	Power of Attorney of Techint Holdings S.à r.l. (formerly I.I.I.- Industrial Investments Inc.), dated February 3, 2011.
I	Power of Attorney of Tenaris S.A., dated February 3, 2011.
J	Power of Attorney of Tenaris Investments S.à r.l., dated February 3, 2011.

Schedule I

ROCCA & PARTNERS STICHTING ADMINISTRATIEKANDOOR AANDELEN SAN FAUSTIN

MANAGEMENT

Manager	Business Address	Present Principal occupation	Citizenship
Zenco Management BV	Wilhelminakade 91, 3072 AP, Rotterdam, Netherlands	Management Company	Dutch

VOTING COMMITTEE

Members	Business Address	Present principal occupation	Citizenship
Paolo Rocca (Chairman)	Av. Leandro N. Alem 1067, 29th floor, Buenos Aires, Argentina	Chairman & CEO of Tenaris S.A.	Italian
Gianfelice Rocca	Via Monte Rosa 93, Milano, Italy	Chairman of San Faustin S.A.	Italian
Roberto Bonatti	Av. Leandro N. Alem 1067, 29th floor, Buenos Aires, Argentina	President of San Faustin S.A.	Italian
Enrico Bonatti	Via Monte Rosa 93, Milano, Italy	Chairman of Techint Compagnia Tecnica Internazionale S.pA.	Italian
Giovanni Sardagna	Via Monte Rosa 93, Milano, Italy	Director of Investors' relations of Tenaris S.A.	Italian
Andres Piñeyro	Cerrito 1266, Buenos Aires, Argentina	President of Meridium S.A.	Argentine
Lodovico Rocca	Itaim Bibi 41, Sao Paulo, Brasil	VicePresident, Techint Engenharia e Construçao S.A., São Paulo, Brazil	Italian

SAN FAUSTIN S.A.

BOARD OF DIRECTORS

Name	Business Address	Present principal occupation	Citizenship
Gianfelice Rocca	Via Monte Rosa 93, Milan, Italy	Chairman of San Faustin S.A.	Italian
Roberto Bonatti	Av. Leandro N. Alem 1067, 29th floor, Buenos Aires, Argentina	President of San Faustin S.A.	Italian
Paolo Rocca	Av. Leandro N. Alem 1067, 29th floor, Buenos Aires, Argentina	Chairman & CEO of Tenaris S.A.	Italian
Guido Bonatti	Via Donizetti 57, Milan, Italy	Financial Advisor	Italian
Marco Drago	13, via Cattaneo, Novara, Italy	Chairman, De Agostini SpA	Italian
Vincenzo Figus	Via Parigi 11, Roma, Italy	Attorney-at-Law	Italian
Bruno Marchettini	Via Dante, 25, San Quirico D'Orcia, 53027, Siena, Italy	Director, Ternium S.A., Luxembourg	Italian
Andres Piñeyro	Cerrito 1266, Buenos Aires, Argentina	President, Meridium S.A., Buenos Aires	Argentine
Lodovico Rocca	Itaim Bibi 41, São Paulo, Brazil	VicePresident, Techint Engenharia e Construçao S.A., São Paulo, Brazil	Italian
Giovanni Sardagna	Via Monte Rosa 93, Milan, Italy	Director of Investors' relations of Tenaris S.A.	Italian
Alberto Valsecchi	Av. Leandro N. Alem 1067, 29th floor, Buenos Aires, Argentina	President, Dalmine SpA, Bergamo, Italy	Italian
Roberto Vidigal	Rua Manoel Coelho 303, São Paulo, Brazil	Chairman of the Board of Directors, Confab Industrial S.A., Brazil	Brazilian

OFFICERS

Name	Business Address	Present principal occupation	Citizenship
Chairman of the Board Gianfelice Rocca	Via Monte Rosa 93, Milan, Italy	Chairman of San Faustin S.A.	Italian
President Roberto Bonatti	Av. Leandro N. Alem 1067, 29th floor, Buenos Aires, Argentina	President of San Faustin S.A.	Italian
Vice-president Paolo Rocca	Av. Leandro N. Alem 1067, 29th floor, Buenos Aires, Argentina	Chairman & CEO of Tenaris S.A.	Italian
Secretary of the Board of Directors Fernando Mantilla	Av. Leandro N. Alem 1067, 28th floor, Buenos Aires, Argentina	Secretary of the Board of Directors	Argentine

TECHINT HOLDINGS S.à r.l.

BOARD OF DIRECTORS

Name	Business Address	Present principal occupation	Citizenship
Carlos M. Franck	Av. Leandro N. Alem 1067, 28th floor, Buenos Aires, Argentina	President of Santa Maria SAIyF.	Argentine
Alain Renard	412F, route d'Esch, L-2086, Luxembourg	Executive Vice- president of S.G.G. S.A., Luxembourg	French
Mauro L. A. Rezzonico	1, via Emilio Bossi, Lugano, Switzerland	Director of TCH Services S.A.	Swiss
Juan P. Boo	Edificio Beta 3, Zonamerica, Montevideo, Uruguay	President of Socominter S.A., Uruguay	U.S.A.
Fernando R. Mantilla	Av. Leandro N. Alem 1067, 28th floor, Buenos Aires, Argentina	Secretary of San Faustin S.A.	Argentine

TENARIS S.A.

BOARD OF DIRECTORS

Name	Business Address	Present principal occupation	Citizenship
Paolo Rocca	Av. Leandro N. Alem 1067, 29th floor, Buenos Aires, Argentina	Chairman & CEO of Tenaris S.A.	Italian
Roberto Bonatti	Av. Leandro N. Alem 1067, 29th floor, Buenos Aires, Argentina	President of San Faustin S.A.	Italian
Carlos A. Condorelli	Av. Leandro N. Alem 1067, 28th floor, Buenos Aires, Argentina	Director of Ternium S.A and Tenaris S.A.	Argentine
Carlos M. Franck	Av. Leandro N. Alem 1067, 28th floor, Buenos Aires, Argentina	President of Santa Maria SAIyF.	Argentine
Roberto Monti	Sugarberry Circle 263, Houston, Texas, U.S.A.	Non executive Chairman of Trefoil Ltd.	Argentine
Gianfelice Rocca	Via Monte Rosa 93, Milan, Italy	Chairman of San Faustin S.A.	Italian
Jaime Serra Puche	Paseo de La Reforma 600, Piso 1, Edif. Plaza de la Reforma Santa Fe, Mexico	Chairman of SAI Consultores	Mexican
Alberto Valsecchi	Av. Leandro N. Alem 1067, 29th floor, Buenos Aires, Argentina	President, Dalmine SpA, Bergamo, Italy	Italian
Amadeo Vazquez y Vazquez	Austria 2670, Buenos Aires, Argentina	Director of Gas Natural Ban	Argentine
Guillermo Vogel Hinojosa	Campos Eliseos 400 Piso 17, Col. Chapultepec Polanco, Mexico	Vice-Chairman of Tubos de Acero de Mexico S.A.	Mexican

OFFICERS

Name	Business Address	Present principal occupation	Citizenship
Chief Executive Officer Paolo Rocca	Av. Leandro N. Alem 1067, 29th floor, Buenos Aires, Argentina	Chairman & CEO of Tenaris S.A.	Italian
Chief Financial Officer Ricardo J. P. Soler	Av. Leandro N. Alem 1067, 25th floor, Buenos Aires, Argentina	Chief Financial Officer, Tenaris SA	Argentine
Vice-president, Finance Guillermo Vogel Hinojosa	Campos Eliseos 400 Piso 17, Col. Chapultepec Polanco, Mexico	Vice-Chairman of Tubos de Acero de Mexico S.A.	Mexican
Secretary of the Board of Directors	Campos Eliseos 400 Piso 17, Col. Chapultepec Polanco,	Secretary of the Board of Directors of Tenaris S.A.	Argentine

Cecilia Bilesio Mexico

TENARIS INVESTMENTS S.à r.l.

BOARD OF DIRECTORS

Name	Business Address	Present principal occupation	Citizenship
Ricardo J.P. Soler	Av. Leandro N. Alem 1067, 25th floor, Buenos Aires, Argentina	Chief Financial Officer, Tenaris S.A.	Argentine
Carlos A. Condorelli	Av. Leandro N. Alem 1067, 28th floor, Buenos Aires, Argentina	Director of Ternium S.A and Tenaris S A	Argentine
Cecilia Bilesio	Campos Eliseos 400 Piso 17, Col. Chapultepec Polanco, Mexico	Secretary of the Board of Directors of Tenaris S.A.	Argentine

SIGNATURE

After reasonable inquiry and to the best of my knowledge and belief, I, Fernando R. Mantilla, attorney duly authorized by ROCCA & PARTNERS STICHTING
ADMINISTRATIEKANTOOR AANDELEN SAN FAUSTIN to sign this statement, certify that the information set forth in this statement is true, complete and correct.

Pursuant to Rule 13d-1(k)(1), the undersigned joins in the filing of this Schedule 13D on his own behalf and on behalf of SAN FAUSTIN S.A., TECHINT HOLDINGS S.A.R.L., TENARIS S.A. and TENARIS INVESTMENTS S.À R.L.

February 14, 2011

/s/ Fernando R. Mantilla
Fernando R. Mantilla
Attorney-in-fact

SIGNATURE

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Pursuant to Rule 13d - 1(k)(1), the undersigned joins in the filing of this Schedule 13D on his own behalf and on behalf of ROCCA & PARTNERS STICHTING ADMINISTRATIEKANTOOR AANDELEN SAN FAUSTIN, TECHINT HOLDINGS S.À R.L., TENARIS S.A. and TENARIS INVESTMENTS S.À R.L.

February 14, 2011

/s/ Fernando R. Mantilla
Fernando R. Mantilla
Attorney-in-fact

SIGNATURE

After reasonable inquiry and to the best of my knowledge and belief, I, Fernando R. Mantilla, attorney duly authorized by TECHINT HOLDINGS S.À R.L. to sign this statement, certify that the information set forth in this statement is true, complete and correct.

Pursuant to Rule 13d-1(k)(1), the undersigned joins in the filing of this Schedule 13D on his own behalf and on behalf of ROCCA & PARTNERS STICHTING ADMINISTRATIEKANTOOR AANDELEN SAN FAUSTIN, SAN FAUSTIN S.A., TENARIS S.A. and TENARIS INVESTMENTS S.À R.L.

February 14, 2011

/s/ Fernando R. Mantilla
Fernando R. Mantilla
Attorney-in-fact

SIGNATURE

After reasonable inquiry and to the best of my knowledge and belief, I, Fernando R. Mantilla, attorney duly authorized by TENARIS S.A. to sign this statement, certify that the information set forth in this statement is true, complete and correct.

Pursuant to Rule 13d -1(k)(1), the undersigned joins in the filing of this Schedule 13D on his own behalf and on behalf of ROCCA & PARTNERS STICHTING ADMINISTRATIEKANTOOR AANDELEN SAN FAUSTIN, SAN FAUSTIN S.A., TECHINT HOLDINGS S.A.R.L. and TENARIS INVESTMENTS S.À R.L.

February 14, 2011

/s/ Fernando R. Mantilla
Fernando R. Mantilla
Attorney-in-fact

SIGNATURE

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Pursuant to Rule 13d -1(k)(1), the undersigned joins in the filing of this Schedule 13D on his own behalf and on behalf of ROCCA & PARTNERS STICHTING ADMINISTRATIEKANTOOR AANDELEN SAN FAUSTIN, SAN FAUSTIN S.A., TECHINT HOLDINGS S.A.R.L. and TENARIS S.A.

February 14, 2011

/s/ Fernando R. Mantilla
Fernando R. Mantilla
Attorney-in-fact

Exhibit A

ROCCA & PARTNERS Stichting Administratiekantoor Aandelen SAN FAUSTIN

ARTICLES OF ASSOCIATION:
CHAPTER I. DEFINITIONS.
Definitions.
Article 1.

1.1 In these Articles of Association the following words shall have the following meanings:

(a) the “Board”:
the board of the Foundation consisting of one member (the Manager);

(b) a “Business Day”:
any day on which banks are usually open for business in Uruguay, Italy as well as Luxembourg, excluding Saturdays, Sundays and public holidays in any of these countries;

(c) the “Company”:
San Faustin N.V., a limited liability company under the laws of Curaçao, having its registered office in Willemstad, Curaçao and its office address at Berg Ararrat 1, Willemstad, Curaçao, which company intends to transfer its seat to Luxembourg and to be converted into a Luxembourg “SA” company (‘Société Anonyme’);

(d) the “Conditions of Administration”:
the terms and conditions of the Foundation for the custody and holding in administration (in Dutch: 'in administratie') of Shares, in exchange for the issuance of Depositary Receipts, to be established in accordance with Article 18 as they will read from time to time;

(e) a “Depositary Receipt”:
a convertible (in Dutch: ‘decertificeerbaar’) registered depositary receipt (in Dutch: ‘een certificaat') issued by the Foundation for a deposited Share, representing the beneficial ownership of (in Dutch: ‘economische gerechtigdheid tot’) the Share corresponding to the relevant depositary receipt;
unless the contrary is apparent, this shall include each Ordinary Depositary Receipt, each Reconvertible Ordinary Depositary Receipt and each Preferred Depositary Receipt;

(f) a “Depositor”:
a holder of one or more Depositary Receipts, and as such the beneficial owner of (in Dutch: ‘economisch gerechtigde tot’) the Shares corresponding to the relevant Depositary Receipts;
unless the contrary is apparent, this shall include each Ordinary Depositor, each Reconvertible Ordinary Depositor and each Preferred Depositor;

(g) the “Distributions”:
has the meaning as attributed thereto in Article 3.1;

(h) the “Foundation”:
ROCCA & PARTNERS Stichting Administratiekantoor Aandelen SAN FAUSTIN, a foundation under the laws of the Netherlands, having its registered office in the municipality of Rotterdam, the Netherlands, and its office address at 3072 AP Rotterdam, the Netherlands, Wilhelminakade 91, Maastoren;

(i) the “General Meeting of Shareholders”:
a meeting of Shareholders and other persons entitled to attend meetings of Shareholders or the body of the Company consisting of Shareholders entitled to vote;

(j) the "Incorporator":
Rocca & Partners S.A., a company under the laws of the British Virgin Islands, having its registered office in Road Town, Tortola, British Virgin Islands and its office address at Vanterpool Plaza 1, Tortola, British Virgin Islands and registered in the companies register of the British Virgin Islands under number 435.473;

(k) an "Instruction Notice":
a notice in writing from the Voting Committee to the Manager including instructions in respect of the exercise of the voting rights on the Shares;

(l) "in writing":
by letter, by telecopier, by e-mail or by message which is transmitted via any current means of communication and which can be received in writing, provided that the identity of the sender can be sufficiently established;

(m) the "Joint Meeting of Ordinary/Reconvertible Depositors":
the joint meeting of Ordinary Depositors and Reconvertible Ordinary Depositors and other persons entitled to attend such a meeting, as referred to in Article 17;

(n) the "Management Fee":
has the meaning as attributed thereto in Article 5.5;

(o) the "Manager":
the sole member of the Board;

(p) the "No Instruction for Ordinary Company Matters Proxy":
has the meaning as attributed thereto in Article 12.3 (ii);

(q) the "Nominated Person Proxy":
has the meaning as attributed thereto in Article 12.2;

(r) the "Ordinary Company Matters":
Ordinary Company Matters 1 and/or the Ordinary Company Matters 2;

(s) the "Ordinary Company Matters 1":
has the meaning as attributed thereto in Article 12.1 paragraph a. (i).;

(t) the "Ordinary Company Matters 2":
has the meaning as attributed thereto in Article 12.1 paragraph a. (ii);

(u) an "Ordinary Depositary Receipt":
a convertible (in Dutch: 'decertificeerbaar') registered depositary receipt (in Dutch: 'een certificaat') issued for a deposited Ordinary Share by the Foundation, representing the beneficial ownership of (in Dutch: 'economische gerechtigdheid tot') the Ordinary Share corresponding to the relevant depositary receipt;

(v) an "Ordinary Depositor":
a holder of one or more Ordinary Depositary Receipts and as such the beneficial owner of (in Dutch: 'economisch gerechtigde tot') the Ordinary Shares corresponding to the relevant Ordinary Depositary Receipts;

(w) an "Ordinary Share":
an ordinary share in the capital of the Company;

(x) an "Ordinary Shares Meeting":
a meeting of holders of Ordinary Shares and other persons entitled to attend such meetings or the body of the Company consisting of holders of Ordinary Shares entitled to vote;

(y) the "Other Company Matters":
has the meaning as attributed thereto in Article 12.1 paragraph c.;

(z) the "Other Company Matters Proxy":
has the meaning as attributed thereto in Article 12.1 paragraph c. (i);
(aa) a "Preferred Depositary Receipt":
a convertible (in Dutch: 'decertificeerbaar') registered depositary receipt (in Dutch: 'een certificaat') issued for a deposited Preferred Share by the Foundation, representing the beneficial ownership of (in Dutch: 'economische gerechtigdheid tot') the Preferred Share corresponding to the relevant depositary receipt;
(bb) a "Preferred Depositor":
a holder of one or more Preferred Depositary Receipts, and as such the beneficial owner of (in Dutch: 'economisch gerechtigde tot') the Preferred Shares corresponding to the relevant Preferred Depositary Receipts;
(cc) a "Preferred Share":
a preferred share in the capital of the Company;
(dd) a "Preferred Shares Meeting":
a meeting of holders of Preferred Shares and other persons entitled to attend such meetings or the body of the Company consisting of holders of Preferred Shares entitled to vote;
(ee) a "Qualified Majority Resolution":
a resolution to be taken by the meeting of Depositors (and/or by the meeting of Ordinary Depositors, the meeting of Reconvertible Ordinary Depositors, the meeting of Preferred Depositors and/or the Joint Meeting of Ordinary/Reconvertible Depositors, as the case may be) in the manner as set forth in Article 13.6 (second paragraph) (and Article 14, 15, 16 or 17 as the case may be);
(ff) a "Reconvertible Ordinary Depositary Receipt":
a convertible (in Dutch: 'decertificeerbaar') registered depositary receipt (in Dutch: 'een certificaat') issued for a deposited Reconvertible Ordinary Share by the Foundation, representing the beneficial ownership of (in Dutch: 'economische gerechtigdheid tot') the Reconvertible Ordinary Share corresponding to the relevant depositary receipt;
(gg) a "Reconvertible Ordinary Depositor":
a holder of one or more Reconvertible Ordinary Depositary Receipts and as such the beneficial owner of (in Dutch: 'economisch gerechtigde tot') the Reconvertible Ordinary Shares corresponding to the relevant Reconvertible Ordinary Depositary Receipts;
(hh) a "Reconvertible Ordinary Share":
a reconvertible ordinary share in the capital of the Company;
(ii) a "Reconvertible Ordinary Shares Meeting":
a meeting of holders of Reconvertible Ordinary Shares and other persons entitled to attend such meetings or the body of the Company consisting of holders of Reconvertible Ordinary Shares entitled to vote;
(jj) a "Share":
a share in the capital of the Company, unless the contrary is apparent, this shall include each Ordinary Share, each Reconvertible Ordinary Share and each Preferred Share in the capital of the Company;
(kk) a "Shareholder":
a holder of one or more Shares;

(ll) a “Simple Majority Resolution”:
a resolution to be taken by the meeting of Depositors (and/or by the meeting of Ordinary Depositors, the meeting of Reconvertible Ordinary Depositors, the meeting of Preferred Depositors and/or the Joint Meeting of Ordinary/Reconvertible Depositors, as the case may be) in the manner as set forth in Article 13.6 (first paragraph) (and Article 14, 15, 16 or 17 as the case may be);

(mm) a “Specific Class of Depositors Meeting”:
a meeting of Ordinary Depositors, a meeting of Reconvertible Ordinary Depositors, a meeting of Preferred Depositors and/or a Joint Meeting of Ordinary/Reconvertible Depositors, as the case may be;

(nn) a “Specific Class Meeting”:
an Ordinary Shares Meeting, a Reconvertible Ordinary Shares Meeting and/or a Preferred Shares Meeting, as the case may be;

(oo) the “VC Interim Members”:
has the meaning as attributed thereto in Article 9.4;

(pp) the “VC Interim Vacancies”:
has the meaning as attributed thereto in Article 9.4;

(qq) the “Voting Committee”:
the committee entitled to give voting instructions to the Manager in respect of exercising the voting rights attached to Shares held by the Foundation pursuant to and in accordance with the provisions of these Articles of Association.

1.2 References to Articles shall be deemed to refer to articles of these Articles of Association, unless the contrary is apparent.

CHAPTER II. NAME, REGISTERED OFFICE AND OBJECTS.

Name and registered office.

Article 2.

2.1 The name of the Foundation is:
ROCCA & PARTNERS Stichting Administratiekantoor Aandelen SAN FAUSTIN.

2.2 It shall have its registered office in the municipality of Rotterdam, the Netherlands.

Objects.

Article 3.

3.1 The object of the Foundation is to custody (and within the framework thereof to acquire) Shares in its own name for the risk and account of the Depositors, in exchange for the issuance of Depositary Receipts, for the purposes of administration of such Shares and to exercise the rights attributable to such Shares, such as the voting rights as well as the collecting of dividends, capital repayments and other distributions due on account of such Shares (the “Distributions”) under the obligation to pay such Distributions immediately upon receipt thereof to the Depositors or to have the Distributions that are due on account of such Shares being paid directly by the Company to the Depositors, and to take all actions connected therewith, all in accordance with the Conditions of Administration.

3.2 The Foundation shall exercise the rights attached to the Shares in such a way as to safeguard the interests of the Depositors taking into account the relevant laws applicable to the Company from time to time.

3.3 The Foundation exceptionally may -pursuant to and in accordance with the provisions of Article 6.2 (iii) and (iv), Article 8, Article 12.1 paragraph a. (i) and (ii), Article 12.1 paragraph c. (i) as well as Article 12.3 (ii)- grant a power of attorney to Depositors to exercise the voting rights attached to the Shares corresponding to the Depositary Receipts held by such Depositors.

3.4 The object shall exclude disposal and encumbrance of the Shares. Disposal shall not include the transfer of (the legal title to) the Shares to Depositors made upon the conversion of the Depositary Receipts into Shares and termination of the custody and holding in administration of Shares in accordance with the Conditions of Administration and upon the dissolution and liquidation of the Foundation.

3.5 Administration of the Shares, exercising the rights attached thereto and any other activities related thereto shall be conducted duly observing the applicable Conditions of Administration.

CHAPTER III. FINANCE REPORTING.

Finance Reporting.

Article 4.

4.1 The funds of the Foundation shall consist of contributions made by the Depositors to the Foundation to reimburse it for its expenses, including but not limited to the Management Fee, as well as any amounts received by the Foundation from other sources, such as the contributions or payments that the Incorporator will make to cover the expenses of the Foundation until there will be an inflow of contributions by the Depositors.

4.2 The financial year of the Foundation shall run from the first day of July of a calendar year until the thirtieth day of June of the following calendar year.

4.3 The Manager shall administer the financial position of the Foundation and all activities associated with the Foundation, in such a way as required by these activities and shall keep the books, documents and other exponents of data belonging thereto in such a way that its rights and obligations may be established at any time.

4.4 Each year, within six months from the end of the financial year, the Manager shall prepare and put the balance sheet and the statement of income and expenditure of the Foundation in writing. The balance sheet and the statement of income and expenditures of the Foundation will not include the Shares nor any income there from for accounting purposes.

4.5 The Manager shall keep the documents referred to in the Articles 4.3 and 4.4 for seven (7) years.

4.6 The Manager may appoint a certified accountant (‘register-accountant’) to conduct an audit of the balance sheet and the statement of income and expenditure, to report and issue an opinion in this respect.

CHAPTER IV. THE MANAGER.

The Manager.

Article 5.

5.1 The Board shall only consist of one (1) member, being the Manager.

5.2 The Manager is appointed -for a limited or unlimited period of time- by the Joint Meeting of Ordinary/Reconvertible Depositors.

The Manager may be dismissed by the Joint Meeting of Ordinary/Reconvertible Depositors at any time.

The resolutions of the Joint Meeting of Ordinary/Reconvertible Depositors to appoint or dismiss the Manager (or to ratify the appointment of the interim-Manager as referred to in Article 5.4) are taken by a Simple Majority Resolution.

5.3 The Manager ceases to hold office:

(a) upon the expiry of the period for which he was appointed;

(b) upon his voluntary resignation;

(c) upon his dismissal by Joint Meeting of Ordinary/Reconvertible Depositors;

(d) upon his removal from office by the court in cases provided for by law;

(e) upon his death;

(f) upon his being declared bankrupt, applying for a suspension of payments or petitioning for application of the debt restructuring provision referred to in the Dutch Bankruptcy Act.

5.4 In case the Manager ceases to hold office and Joint Meeting of Ordinary/Reconvertible Depositors has not appointed a new Manager in stead of the Manager ceasing to hold office at the time of his resignation, the Voting Committee shall be entitled to appoint an interim-Manager with the same powers and duties as the Manager, which interim-Manager will be in office until the moment of appointment of a new Manager by Joint Meeting of Ordinary/Reconvertible Depositors.

The Joint Meeting of Ordinary/Reconvertible Depositors shall appoint a new Manager or ratify the appointment of the interim-Manager made by the Voting Committee at the earliest opportunity. In case the Joint Meeting of Ordinary/Reconvertible Depositors ratifies the appointment of the interim-Manager made by the Voting Committee, the interim-Manager shall remain in office with the understanding that as of the date of such ratification the interim-Manager shall be the Manager.

The provisions of this Article 5 and the provisions of Articles 6, 7 and 8 as well as all other relevant provisions of these Articles of Association in respect of the Manager, shall -to the extent required- equally apply to the interim-Manager.

5.5 The Manager shall be entitled to a remuneration for its services performed as sole member of the Board (the "Management Fee").

Duties and powers of the Manager.

Article 6.

6.1 The Manager shall be entrusted with the management of the Foundation.

6.2 The Manager shall -in accordance with the provisions of these Articles of Association and the Conditions of Administration- for the exercise of the voting rights attached to the Shares which are held by the Foundation:

(i) attend the General Meetings of Shareholders and Specific Class Meetings and exercise (or abstain from the exercise of) the voting rights in such meetings in accordance with the voting instructions given by the Voting Committee in the Instruction Notice, which voting instructions in their turn are to be determined by the Voting Committee itself or by the relevant Specific Class of Depositors Meeting, as the case may be,

pursuant to and in accordance with the provisions of Article 12 (and more specifically the provisions of Article 12.1 and 12.3 (i));

(ii) grant a power of attorney -pursuant to and in accordance with the Instruction Notice given by the Voting Committee- to a person nominated by the Voting Committee (the Nominated Person Proxy, as defined hereafter in Article 12.2 last paragraph), on the basis of the provisions of Article 7.2 and Article 12.2 last paragraph;

(iii) grant a power of attorney -pursuant to and in accordance with the Instruction Notice given by the Voting Committee- to each of the relevant Depositors to exercise all or some of the voting rights attached to the Shares corresponding to the Depositary Receipts held by such Depositor in respect of Other Company Matters (the Other Company Matters Proxy, as defined hereafter in Article 12.1 paragraph c.(i)), on the basis of the provisions of Article 12.1 paragraph c.(i) and Article 8.1; or

(iv) grant a power of attorney to each (a) Ordinary Depositor to exercise all or some of the voting rights attached to the Ordinary Shares corresponding to the Ordinary Depository Receipts held by such Ordinary Depositor and (b) Reconvertible Ordinary Depositor to exercise the voting rights attached to the Reconvertible Ordinary Shares corresponding to the Reconvertible Ordinary Depository Receipts held by such Reconvertible Ordinary Depositor, in respect of any Ordinary Company Matter for which the Voting Committee has not granted any voting instructions by means of the Instruction Notice to the Manager in time (No Instruction for Ordinary Company Matters Proxy as defined hereafter in Article 12.3 (ii)), on the basis of the provisions of Article 12.1 paragraph a., Article 12.3 (ii) and Article 8.2.

6.3 Prior to the exercise of the voting rights attached to the Shares which are held by the Foundation in a General Meeting of Shareholders and in a Specific Class Meeting, the Manager shall obtain voting instructions from the Voting Committee on such exercise to be determined and given by the Voting Committee to the Manager in accordance with the provisions of Article 12.

6.4 If a resolution of the General Meeting of Shareholders or a Specific Class Meeting is to be taken outside a (formal) meeting, whether or not in writing, the Manager shall obtain voting instructions from the Voting Committee in respect of the exercise of the voting rights attached to the Shares which are held by the Foundation to be determined and given by the Voting Committee to the Manager in accordance with the provisions of Article 12, prior to taking or signing such resolution on behalf of the Foundation.

Representation and delegation by the Manager.

Article 7.

7.1 The Foundation shall be represented by the Manager.

7.2 The Manager shall grant special power of attorney to a person nominated by the Voting Committee (the Nominated Person Proxy, as defined hereafter) to represent the Foundation in the General Meeting of Shareholders or in a Specific Class Meeting, if and when the Voting Committee instructs the Manager to grant such power of attorney, such in accordance with the provisions of Article 12.2 last paragraph and the provisions of the Conditions of Administration.

Power of attorney to Depositors.

Article 8.

8.1 The Manager shall grant special power of attorney in respect of Other Company Matters,
to each Depositor that holds Depositary Receipts issued in exchange for Shares, the holder whereof is entitled to vote in respect of the relevant Other Company Matter,
to exercise the voting rights attached to the Shares corresponding to the Depository Receipts held by such Depositor in the General Meeting of Shareholders or in a Specific Class Meeting for some or all of the items on the agenda of the General Meeting of Shareholders and/or on the agenda of any Specific Class Meeting, as the case may be,
in so far as it regards Other Company Matters and if and when the Manager is so instructed by the Voting Committee in the Instruction Notice, in accordance with and pursuant to the provisions of Article 12.1 paragraph c.(i)
(the Other Company Matters Proxy as defined hereafter in Article 12.1 paragraph c. (i)).
The Other Company Matters Proxy shall be limited to the Other Company Matters detailed in the Instruction Notice only.

8.2 In addition, the Manager shall grant special power of attorney to each Ordinary Depositor and each Reconvertible Ordinary Depositor (the No Instruction for Ordinary Company Matters Proxy as defined hereafter in Article 12.3 (ii)) to exercise voting rights attached to:

(a) the Ordinary Shares corresponding to the Ordinary Depository Receipts held by such Ordinary Depositor in the General Meeting of Shareholders (and/or in the Ordinary Shares Meeting), and

(b) the Reconvertible Ordinary Shares corresponding to the Reconvertible Ordinary Depository Receipts held by such Reconvertible Ordinary Depositor in the General Meeting of Shareholders (and/or in the Reconvertible Ordinary Shares Meeting),

if and when with respect to any of the Ordinary Company Matters no voting instructions have been given (nor can be given) to the Manager by the Voting Committee by means of a duly executed Instruction Notice -in accordance with the provisions of these Articles of Association- ultimately five Business Days prior to the date of the General Meeting of Shareholders (and/or the Ordinary Shares Meeting and/or the Reconvertible Ordinary Shares Meeting, as the case may be).

The No Instruction for Ordinary Company Matters Proxy shall be limited to Ordinary Company Matters only.

8.3 The Foundation shall not exercise the voting rights attached to Shares with regard to a relevant subject matter in respect of which a power of attorney to a Depositor has been granted.

A Depositor shall be free to vote in the manner as preferred by him by and pursuant to the power of attorney granted to him in accordance with the provisions of this Article 8. and the Foundation shall not be liable for the voting behaviour of a Depositor or the consequences thereof.

A power of attorney will only be granted for a certain General Meeting of Shareholders and/or a certain Specific Class Meeting, as the case may be, and shall terminate at the closing of such meeting.

CHAPTER V. VOTING COMMITTEE.

Voting Committee members.

Article 9.

9.1 The Voting Committee shall consist of an odd number of at least three (3) and at the maximum nine (9) members. The Voting Committee members are appointed by the Joint Meeting of Ordinary/Reconvertible Depositors annually.

9.2 The number of members of the Voting Committee shall be determined by the Joint Meeting of Ordinary/Reconvertible Depositors when annually appointing the members of the Voting Committee.

The resolutions of the Joint Meeting of Ordinary/Reconvertible Depositors to appoint the new Voting Committee members (by means of a renewal of all Voting Committee members as described in Article 9.3) and to determine the number of members of the Voting Committee are taken by a Simple Majority Resolution.

9.3 Voting Committee members are appointed for the first time by this deed.

The first renewal (of all Voting Committee members) is to be made by the Joint Meeting of Ordinary/Reconvertible Depositors during the first semester of two thousand and eleven and subsequently every year thereafter, each time for a one year term, which term starts to run as of the date of appointment and shall end on the date of the appointment of the new Voting Committee members.

9.4 If any (interim) vacancies arise during the (one year) term as referred to in Article 9.3 (the “VC Interim Vacancies”), the (remaining members of the) Voting Committee shall -without prejudice to the provisions of Article 9.5- appoint (interim) members of the Voting Committee (the “VC Interim Members”) at the earliest opportunity.

A VC Interim Member that is appointed by the Voting Committee to fill a VC Interim Vacancy shall take the seat (and continue the already running term) of its predecessor and shall have the same authorities and duties.

An incomplete Voting Committee shall retain its authorities.

9.5 Any member of the Voting Committee as well as any VC Interim Member as appointed by the Voting Committee in accordance with the provisions of Article 9.4, may be dismissed by means of a Qualified Majority Resolution of the Joint Meeting of Ordinary/Reconvertible Depositors.

The Joint Meeting of Ordinary/Reconvertible Depositors shall be entitled by means of a Simple Majority Resolution to appoint a VC Interim Member at the time of dismissal, which entitlement to appoint a new VC Interim Member shall prevail over the entitlement of the Voting Committee as referred to in Article 9.4.

A VC Interim Member as appointed by the Joint Meeting of Ordinary/Reconvertible Depositors to fill a VC Interim Vacancy shall take the seat (and continue the already running term) of its predecessor and shall have the same authorities and duties.

9.6 The Voting Committee shall appoint one of its members as chairperson of the Voting Committee.

The Voting Committee may also, from among its members, appoint a deputy chairperson, who shall take over the duties and powers of the chairperson the latter's absence.

The Voting Committee shall also appoint a secretary of the Voting Committee who may not be member of the Voting Committee, and make arrangements for his substitution in case of absence.

9.7 The Voting Committee may establish rules regarding its decision-making process and its working methods, in addition to the relevant provisions of these Articles of Association and the Conditions of Administration.

Voting Committee meetings.

Article 10.

10.1 A Voting Committee meeting shall be held, at least ten Business Days prior to each General Meeting of Shareholders, whether or not provided for in the Articles of Association of the Company, and in which voting rights can be exercised which are attached to one or more Shares held in administration by the Foundation, unless, for the relevant meeting, decision-making with regard to all proposals mentioned in the notice of that meeting, has taken place in accordance with Article 11.6.

Additional meetings of the Voting Committee shall be held as often as a Voting Committee member, the Manager or Ordinary Depositors and/or Reconvertible Ordinary Depositors jointly representing at least one-twentieth of the aggregate nominal value of the Ordinary Depositary Receipts and/or Reconvertible Ordinary Depositary Receipts issued,

deems/deem such necessary for the giving of voting instructions by the Voting Committee in respect of the exercise of the voting rights attached to the Shares held by the Foundation, such in accordance with and with view to the provisions of Article 12.

10.2 Voting Committee meetings shall be convened by:

- the chairperson of the Voting Committee,
- the secretary of the Voting Committee, in consultation with the chairperson of the Voting Committee; or
- two or more (other) Voting Committee members.

If the chairperson, the secretary or two or more (other) Voting Committee members have not convened a meeting within five Business Days after a request has been made thereto to the Voting Committee by any of the parties as referred to in the second paragraph of Article 10.1, the parties who made the request shall be authorized to convene a meeting themselves.

10.3 Notice of a Voting Committee meeting shall be given in writing, no later than on the fifth business day prior to the day of the meeting.

In urgent cases, however, at the discretion of the Voting Committee members or other persons as referred to in Articles 10.1 (second paragraph) and 10.2 convening the meeting, notice to convene a meeting may be given within a shorter period, but not later than twenty-four hours before the relevant meeting.

10.4 The notice of the meeting shall specify the subjects to be discussed. Subjects which were not specified in such notice may be announced at a later date, with due observance of the provisions of this Article 10.

10.5 Voting Committee meetings are held at a place to be determined by the chairperson of the Voting Committee. However, if a meeting is called by two or more other Voting Committee members or any of the persons referred to in Articles 10.1 (second paragraph) and 10.2, the place of the meeting shall be determined by them.

10.6 A Voting Committee member may be represented at a meeting by another Voting Committee member authorized in writing. A Voting Committee member may not represent more than one other Voting Committee member at a meeting. The Voting Committee members present at the meeting may decide on admittance of other persons to the meeting, by majority of votes.

10.7 The Voting Committee meetings shall be presided over by the chairperson of the Voting Committee or his deputy. In their absence, the chairperson of the meeting shall be appointed by the Voting Committee members present at the meeting, by majority of votes. The chairperson of the meeting shall appoint a secretary for the meeting.

10.8 The secretary of the meeting shall take minutes of the proceedings at the meeting. Evidencing the adoption, the minutes shall be signed by the chairperson and the secretary of the meeting at which they are adopted and by two other members of the Voting Committee attending the meeting (if any).

Voting Committee. Decision-making Process.

Article 11.

11.1 When making Voting Committee resolutions, each member may cast one vote.

11.2 To the extent that, for the adoption of a resolution, the law or these Articles of Association or the Conditions of Administration do not require a higher majority and/or quorum, all resolutions of the Voting Committee shall be adopted by a simple majority of votes, representing a majority of all members of the Voting Committee then in office.

11.3 If there is a tie in voting, the proposal is thus rejected.

11.4 Meetings of the Voting Committee may be held by means of an assembly of its members in person at a formal meeting or by conference call, video conference or by any other means of communication, provided that all members of the Voting Committee participating in such meeting are able to communicate with each other simultaneously. Participation in a meeting held in any of the above ways shall constitute presence at such meeting.

11.5 If the formalities for convening and holding of Voting Committee meetings, as prescribed by these Articles of Association, have not been complied with, valid resolutions of the Voting Committee may only be adopted in a meeting, if in such meeting all Voting Committee members then in office are present or represented and none of the Voting Committee members then opposes to adopting resolutions.

11.6 Voting Committee resolutions may also be adopted in a manner other than at a meeting, in writing or otherwise, provided the proposal concerned is submitted to all members and none of them objects to the relevant manner of adopting resolutions. A report shall be prepared by the secretary of the Voting Committee on a resolution adopted other than at a meeting which is not adopted in writing, and such report shall be signed by the chairman and the secretary of the Voting Committee and at least two other members of the Voting Committee. Adoption of resolutions in writing shall be effected by written statements from all Voting Committee members in office.

Voting Committee. Voting instructions to the Manager.

Article 12.

12.1 The voting instructions to be given by the Voting Committee to the Manager for the exercise of the voting rights attached to the Shares shall be determined by the Voting Committee as follows:

a. pursuant to and in accordance with a resolution of the Voting Committee:

(i) taken with a two/thirds (2/3) majority of votes, representing a two/thirds (2/3) majority of all members of the Voting Committee then in office, in respect of the following matters (these matters jointly also referred to as the "Ordinary Company Matters 1"):

- to appoint, suspend and/or dismiss members of the board of directors of the Company;

if said majority and/or quorum is not reached in the Voting Committee for any such Ordinary Company Matter(s) 1, each Ordinary Depositor and each Reconvertible Ordinary Depositor shall be entitled to cast the votes corresponding to (a) the Ordinary Share for which his Ordinary Depositary Receipt has been issued and (b) the Reconvertible Ordinary Share for which his Reconvertible Ordinary Depositary Receipt has been issued, respectively,

in the General Meeting of Shareholders directly;

for that purpose, the Manager shall grant a power of attorney (the No Instruction for Ordinary Company Matters Proxy as defined hereafter in Article 12.3 sub (ii)) in accordance with the provisions of Article 12.3 sub (ii);

(ii) taken with a simple majority of votes, representing a majority of all members of the Voting Committee then in office, in respect of the following matters (these matters jointly also referred to as the "Ordinary Company Matters 2"):

(a) to approve the financial statements of the Company;

(b) to approve profit allocations and dividend distributions as well as other Distributions of the Company;

(c) to grant discharge to the members of the board of directors of the Company for the management and duties performed;

(d) to authorize to acquire Shares by the Company, up to ten per cent (10%) of the Company’s outstanding capital;

(e) to cancel Shares held by the Company and any related reduction of capital;

if said majority and/or quorum is not reached in the Voting Committee for any such Ordinary Company Matter 2, the relevant Ordinary Company Matter(s) 2 shall subsequently be subject to a Simple Majority Resolution of the Joint Meeting of Ordinary/Reconvertible Depositors;

if the majority (or majorities) and/or quorum as required for the Simple Majority Resolution(s), as the case may be, is (are) not reached in the Joint Meeting of Ordinary/Reconvertible Depositors,

each Ordinary Depositor and each Reconvertible Ordinary Depositor shall be entitled to cast the votes corresponding to (a) the Ordinary Share for which his Ordinary Depositary Receipt has been issued and (b) the Reconvertible Ordinary Share for which his Reconvertible Ordinary Depositary Receipt has been issued, respectively,

in the General Meeting of Shareholders directly;

for that purpose, the Manager shall grant a power of attorney (the No Instruction for Ordinary Company Matters Proxy as defined hereafter in Article 12.3 sub (ii)) in accordance with the provisions of Article 12.3 sub (ii);

(the "Ordinary Company Matters 1" and the "Ordinary Company Matters 2" jointly also referred to as the "Ordinary Company Matters");

b. pursuant to and in accordance with:

(i) a Qualified Majority Resolution of the meeting of Depositors, that are holding Depositary Receipts issued in exchange for Shares, the holders whereof are entitled to vote in respect of the relevant matter in the General Meeting of Shareholders of the Company, and/or

(ii) a Qualified Majority Resolution or Qualified Majority Resolutions of a separate Specific Class of Depositors Meeting(s) of the separate class or classes of Depositors, that are holding Depositary Receipts issued for the corresponding (respective) class(es) of Shares, the holders whereof are entitled to vote in respect of the relevant matter in the relevant Specific Class Meeting(s),

as the case may be,

in respect of the following matters:

(x) any amendment to the articles of association of the Company; and

(y) any resolution that may affect the rights of the Shareholders and requires a resolution of the General Meeting of Shareholders, a resolution of a Specific Class Meeting and/or resolutions of the Ordinary Shares Meeting, the Reconvertible Ordinary Shares Meeting as well as the Preferred Shares Meeting pursuant to or on the basis of the articles of association of the Company;

if the majority (or majorities) and/or quorum as required for the Qualified Majority Resolution(s), as the case may be, is (are) not reached, the proposal is deemed to be rejected by the relevant meeting;

c. in respect of all other matters, which are not included in a. and b. above (hereinafter also referred to as: the "Other Company Matters"):

(i) unless the provision below under c. (ii) applies,

pursuant to and in accordance with a resolution of the Voting Committee, taken with a simple majority of votes, representing a majority of all members of the Voting Committee in office;

if said majority and/or quorum is not reached, the proposal is deemed to be rejected and no Other Company Matters Proxy (as referred to below in this paragraph (i)) can be granted;

said resolution of the Voting Committee can -in stead of or next to voting instructions to the Manager in respect of some of the Other Company Matters- include the instruction to the Manager

to grant a general or specific power of attorney to Depositors -that are holding Depositary Receipts issued in exchange for Shares, the holders whereof are entitled to vote in respect of the relevant Other Company Matter-

to exercise all or some of the voting rights attached to the Shares corresponding to the Depositary Receipts held by such Depositor in respect of (some or all of the relevant) Other Company Matters (the "Other Company Matters Proxy");

the provisions of Articles 8.1 and 8.3, apply to the Other Company Matters Proxy;

(ii) if any two members of the Voting Committee request to the Voting Committee, that the relevant Other Company Matter is submitted to a resolution of the meeting of Depositors:

- pursuant to and in accordance with a Simple Majority Resolution of the meeting of Depositors;

if the majority and/or quorum as required for the Simple Majority Resolution is not reached, the proposal is deemed to be rejected.

12.2 The Voting Committee shall give instructions to the Manager in respect of the exercise of the voting rights on Shares ultimately five Business Days prior to the relevant General Meeting of Shareholders or Specific Class Meeting where voting rights on Shares can be exercised, by means of an Instruction Notice signed by the chairperson, the secretary and two other members (if any) of the Voting Committee.

The Instruction Notice shall be drawn up pursuant to and in accordance with the resolutions taken or rejected by the Voting Committee or the meeting of Depositors (of the relevant class), as the case may be, in the way as provided for in Article 12.1.

An Instruction Notice may also include the instruction to the Manager to grant a power of attorney to a person nominated by the Voting Committee to attend the General Meeting of Shareholders and/or a Specific Class Meeting and to exercise the voting rights on the relevant Shares in such meeting; such power of attorney may be split (and granted to different nominated persons) for different items to be voted on in the relevant meeting(s) (the "Nominated Person Proxy").

12.3 In respect of any matter where no voting instructions (nor proxy granting instructions) are given (nor can be given) to the Manager by the Voting Committee in time, by means of a duly executed Instruction Notice (whether or not including the instruction to grant a Nominated Person Proxy and/or an Other Company Matters Proxy), in accordance with the provisions of these Articles of Association, the Manager shall:

(i) abstain from exercising any voting rights on behalf of the Foundation in respect of the relevant matter, except in so far as it regards an Ordinary Company Matter, in which case paragraph (ii) of this Article 12.3 applies; or

(ii) grant a power of attorney on behalf of the Foundation to each Ordinary Depositor and to each Reconvertible Ordinary Depositor to exercise the voting rights attached to (a) the Ordinary Shares corresponding to the Ordinary Depository Receipts held by such Ordinary Depositor and (b) the Reconvertible Ordinary Shares corresponding to the Reconvertible Ordinary Depository Receipts held by such Reconvertible Ordinary Depositor, respectively,

in respect of any Ordinary Company Matter,

the contents of which power of attorney shall be limited to the exercise of voting rights in respect of the relevant Ordinary Company Matter only (the "No Instruction for Ordinary Company Matters Proxy"); the provisions of Articles 8.2 and 8.3 apply to the No Instruction for Ordinary Company Matters Proxy.

CHAPTER VI. MEETINGS OF DEPOSITORS.

Meetings of Depositors.

Article 13.

13.1 Meetings of Depositors shall be held if pursuant to (i) these Articles of Association or (ii) the Conditions of Administration, a resolution of the meeting of Depositors is required, and in addition whenever the Manager deems such necessary. Moreover, the Manager shall convene a meeting of Depositors, stating the reasons therefore, at the written request of Depositors, representing in the aggregate at least one-twentieth of the aggregate nominal value of the Depositary Receipts issued.

If the Manager has not called a meeting within fourteen Business Days after such request, the Depositors who made the request shall be authorized to convene a meeting themselves.

13.2 Notice of meetings of Depositors shall be given in writing, no later than five Business Days prior to the day of the meeting, and shall specify the topics to be dealt with.

Any notice will include a convocation for a first meeting and a convocation for a second meeting, if there is no quorum for the first meeting, to be held three Business Days after the first meeting.

If notice has not been given in writing, if the topics to be dealt with have not been specified in the notice, or if the (first) meeting is convened with shorter notice than five Business Days or other convocation formalities have not been complied with,

Depositors may nevertheless adopt valid resolutions, provided that all Depositors are present or represented at the meeting, none of the Depositors objects to the adoption of such resolutions, and the Manager as well as the secretary of the Voting Committee were informed of the holding of the meeting.

13.3 Meetings of Depositors shall be held in the municipality in which the Foundation, according to these Articles of Association, has its registered office, as well as in Amsterdam, Luxembourg (Luxembourg), Lugano (Switzerland) or Montevideo (Uruguay) or other place that the Manager deems appropriate.

13.4 Each Depositor -either personally or by attorney-, the chairperson of the meeting, the Manager as well as those who are expressly admitted by the Depositors at a meeting shall be entitled to attend such meeting of Depositors.

A Depositor may be represented at a meeting by any other Depositor or by any other person authorized in writing for that purpose, who shall in that case be admitted to the meeting.

13.5 Each Depositor shall have one vote per Depository Receipt held by him for each corresponding Share deposited under the Conditions of Administration.

13.6 Unless these Articles of Association or the Conditions of Administration provide otherwise, resolutions can be validly taken in meetings of Depositors as follows:

- if it regards a first meeting of Depositors as referred to in Article 13.2, resolutions can be taken if a quorum of a majority of the Depositary Receipts that have been issued is present or represented at such meeting, with a simple majority of the votes cast in such meeting;
- if it regards a second meeting of Depositors as referred to in Article 13.2, which is to be held within three Business Days after the first meeting if the quorum requirement for the first meeting has not been met, resolutions can be taken if a quorum of one third (1/3) of the Depositary Receipts that have been issued is present or represented at such meeting, with a simple majority of the votes cast in such meeting;

the resolution taken (or to be taken) by the meeting of Depositors in the manner as set forth above, hereinafter referred to as: a “Simple Majority Resolution”.

In addition, certain resolutions as specifically described in these Articles of Association or the Conditions of Administration require a resolution taken with a qualified majority to be validly taken in meetings of Depositors as follows:

- if it regards a first meeting of Depositors as referred to in Article 13.2, such resolutions can be taken if a quorum of a majority of the Depositary Receipts that have been issued is present or represented at such meeting, with a two/thirds (2/3) majority of the votes cast;
- if it regards a second meeting of Depositors as referred to in Article 13.2, which is to be held within three Business Days after the first meeting if the quorum requirement for the first meeting has not been met, such resolutions can be taken if a quorum of one third (1/3) of the Depositary Receipts that have been issued is present or represented at such meeting, with a two/thirds (2/3) majority of the votes cast;

the resolution taken (or to be taken) by the meeting of Depositors in the manner as set forth above, hereinafter referred to as: the "Qualified Majority Resolution".

Abstentions and invalid votes shall not be counted as votes cast.

13.7 All votes shall be taken orally, unless one of the Depositors present at the meeting requires a vote by ballot, in which case voting shall take place by means of unsigned ballot papers.

13.8 The meetings shall be presided over by a chairperson to be elected by the meeting.

13.9 The business transacted at a meeting shall be recorded in minutes by a person designated for that purpose by the chairperson of the meeting. The minutes shall be adopted either at that meeting or at the next meeting and shall, as evidence thereof, be signed by the chairperson and the person who took such minutes.

13.10 The Depositors may also adopt resolutions in a manner other than at a meeting thereof, provided that the Manager was informed, all Depositors are given the opportunity to cast their votes and that all of them have declared in writing that they do not object to the manner of adopting resolutions.

A resolution shall then be adopted if the required majority of the votes are cast in favour of the proposal.

13.11 The Manager shall prepare a report of a resolution adopted without holding a meeting and shall attach such report to the minutes.

Meetings of Ordinary Depositors.

Article 14.

The provisions of Article 13 of these Articles of Association with respect to meetings of Depositors shall apply by analogy to meetings of Ordinary Depositors, with the understanding that the terms "Depositary Receipt" and "Depositor" should be read as "Ordinary Depositary Receipt" and "Ordinary Depositors", as the case may be, and that the terms "Simple Majority Resolution" and "Qualified Majority Resolution" have the same meaning in respect of resolutions (to be) taken by the meeting of Ordinary Depositors as in respect of resolutions (to be) taken by the meeting of Depositors.

Meetings of Reconvertible Ordinary Depositors.

Article 15.

The provisions of Article 13 of these Articles of Association with respect to meetings of Depositors shall apply by analogy to meetings of Reconvertible Ordinary Depositors, with the understanding that the terms "Depositary Receipt" and "Depositor" should be read as "Reconvertible Ordinary Depositary Receipt" and "Reconvertible Ordinary Depositors", as the case may be, and that the terms "Simple Majority Resolution" and "Qualified Majority Resolution" have the same meaning in respect of resolutions (to be) taken by the meeting of Reconvertible Ordinary Depositors as in respect of resolutions (to be) taken by the meeting of Depositors.

Meetings of Preferred Depositors.

Article 16.

The provisions of Article 13 of these Articles of Association with respect to meetings of Depositors shall apply by analogy to meetings of Preferred Depositors, with the understanding that the terms "Depositary Receipt" and "Depositor" should be read as "Preferred Depositary Receipt" and "Preferred Depositors", as the case may be, and that the terms "Simple Majority Resolution" and "Qualified Majority Resolution" have the same meaning in respect of resolutions (to be) taken by the meeting of Preferred Depositors as in respect of resolutions (to be) taken by the meeting of Depositors.

Joint Meetings of Ordinary/Reconvertible Depositors.

Article 17.

17.1 The provisions of Article 13 of these Articles of Association with respect to meetings of Depositors shall apply by analogy to the joint meetings of Ordinary Depositors and Reconvertible Ordinary Depositors -such as the meetings to appoint members of the Voting Committee or decide the voting on the Deposited Shares as provided for in Article 12-, with the understanding that the terms “Depositary Receipt” and “Depositor” should be read as “Ordinary Depositary Receipt and Reconvertible Ordinary Depositary Receipt” and “Ordinary Depositors and Reconvertible Ordinary Depositors”, as the case may be, and that the terms “Simple Majority Resolution” and “Qualified Majority Resolution” have the same meaning in respect of resolutions (to be) taken by the joint meeting of Ordinary Depositors and Reconvertible Ordinary Depositors (the “Joint Meeting of Ordinary/Reconvertible Depositors”) as in respect of resolutions (to be) taken by the meeting of Depositors.

17.2 The rights and obligations of each of the Ordinary Depositors and Reconvertible Ordinary Depositors shall be (deemed to be) equal in the Joint Meeting of Ordinary/Reconvertible Depositors.

In such meeting, each Ordinary Depositor and each Reconvertible Ordinary Depositor shall have one vote per Ordinary Depository Receipt and/or per Reconvertible Ordinary Depositary Receipt held by him for each corresponding Ordinary Share or Reconvertible Ordinary Share, as the case may be, deposited under the Conditions of Administration.

CHAPTER VII. CONDITIONS OF ADMINISTRATION.

Conditions of Administration.

Article 18.

18.1 The Foundation shall establish the Conditions of Administration, by having the Manager executing the Conditions of Administration annexed as exhibit 1 hereto, with its signature and capacity as Manager of the Foundation certified by a notary.

18.2 The Conditions of Administration may be amended pursuant to a Qualified Majority Resolution of the meeting of Depositors. The provisions of Article 19.2 of these Articles of Association shall apply by analogy to a resolution of the meeting of Depositors to amend the Conditions of Administration. The Conditions of Administration may include further regulations with respect to (the effectuation of) amendments thereof.

CHAPTER VIII. AMENDMENT TO THE ARTICLES OF ASSOCIATION AND DISSOLUTION.

Article 19.

19.1 The Manager shall be authorized to amend these Articles of Association pursuant to a Qualified Majority Resolution to that effect of the meeting of the Depositors.

19.2 A copy of the proposal, containing the verbatim text of the proposed amendment, shall be attached to the notice of the meeting in which an amendment of the Articles of Association is to be discussed.

19.3 An amendment of these Articles of Association shall be laid down in a notarial deed. The Manager shall be authorized to execute such deed.

Dissolution and Liquidation.

Article 20.

20.1 The Foundation may be dissolved pursuant to a Qualified Majority Resolution to that effect of the meeting of the Depositors.

If there are no Depositors, the Foundation may be dissolved pursuant to a resolution to that effect by the Manager.

20.2 The resolution to dissolve the Foundation shall determine how the balance of the remaining funds is to be used, which funds may be transmitted to a charitable institution.
20.3 The Manager shall become the liquidator of the dissolved Foundation's property unless the meeting of Depositors appoints one or more (other) liquidators (next to or in stead of the Manager).
20.4 During liquidation, the provisions of these Articles of Association shall remain in force to the extent possible.
20.5 After the dissolution, the Shares held by the Foundation shall be transferred to the Depositors and the Depositary Receipts issued therefore shall be cancelled.
20.6 After completion of the liquidation, the books and records of the dissolved Foundation shall remain in the custody of the person to be designated for the purpose by the liquidators, for the period prescribed by law.
20.7 In addition, the liquidation shall be subject to the relevant provisions of Book 2, Title 1 of the Dutch Civil Code.
Final Provision.
Article 21.
The first financial year of the Foundation shall end on the thirtieth day of June [two thousand and eleven].
Finally, the person appearing declared:
1. The first Manager of the Foundation shall be:
Zenco Corporate Services B.V., a company under Dutch law, having its registered office in Rotterdam, the Netherlands, and its office address at 3072 AP Rotterdam, the Netherlands, Wilhelminakade 91, Maastoren, registered with the trade register of the Chamber of Commerce of Rotterdam, the Netherlands, under number 24191163.
2. In deviation from the provisions of Articles 9.1 and 9.2 of these Articles of Association, the first Voting Committee shall consist of seven (7) members, which initial members of the Voting Committee are hereby appointed:
(i) Paolo Rocca, residing at Buenos Aires, Argentina, born at Milan, Italy, on the fourteenth day of October nineteen hundred fifty-two;
(ii) Gianfelice Mario Rocca, residing at Milan, Italy, born at Milan, Italy, on the second day of March nineteen hundred forty-eight;
(iii) Roberto Bonatti, residing at Buenos Aires, Argentina, born at Milan, Italy, on the eleventh day of December nineteen hundred forty-nine.
(iv) Enrico Luca Maria Bonatti, residing at Milan, Italy, born at Buenos Aires, Argentina, on the fourteenth day of July nineteen hundred fifty-eight;
(v) Andres Pineyro, residing at Buenos Aires, Argentina, born at Buenos Aires, Argentina, on the fifteenth day of September nineteen hundred sixty-two;
(vi) Giovanni Sardagna, residing at Milan, Italy, born at Milan, Italy, on the tenth day of August nineteen hundred sixty-seven; and
(vii) Lodovico Andrea Palu Rocca, residing at Sao Paulo, Brasil, born at Milan, Italy, on the fourth day of April nineteen hundred seventy-four,
and which initial members of the Voting Committee shall be in office until the meeting of Ordinary Depositors has appointed new Voting Committee members in accordance with the provisions of Article 9.3, in the first semester of two thousand and twelve.

, identify important factors that could cause actual results to differ materially from those predicted in any such forward-looking statements. We caution you to not place undue reliance on these forward-looking statements, which reflect management's analysis and expectations only as of the date of this report. We undertake no obligation to update forward-looking statements to reflect events or circumstances occurring after the date of this Form 10-Q.

Introduction

The Management's Discussion and Analysis, or MD&A, is organized as follows:

- Executive Summary. This section provides a general description and history of our business, a brief discussion of our product lines and the opportunities, trends, challenges and risks we focus on in the operation of our business.
- Critical Accounting Policies and Estimates. This section describes the key accounting policies that are affected by critical accounting estimates.
- Recent Accounting Pronouncements. This section describes the issuance and effect of new accounting pronouncements that may be applicable to us.
- Results of Operations. This section provides our analysis and outlook for the significant line items on our Consolidated Statements of Operations.
- Liquidity and Capital Resources. This section provides an analysis of our liquidity and cash flows, as well as a discussion of our commitments.

Executive Summary

Company Description

We are a global medical device company specializing in the design, development, manufacture, marketing and servicing of laser and light-based aesthetics systems for practitioners worldwide. We offer easy-to-use products based on five platforms — CoolGlide®, Xeo®, Solera®, GenesisPlusTM and Excel VTM — each of which enables physicians and other qualified practitioners to perform safe and effective aesthetic procedures for their customers. Commencing in the fourth quarter of 2011, we plan to launch a new Q-switched laser product called myQTM in Japan, that Cutera shall be sourcing from a third party original equipment manufacturer (OEM). In addition to systems and upgrade revenue, we generate revenue from the sale of post warranty service contracts, providing services for products that are out of warranty, Titan hand piece refills, and dermal fillers and cosmeceuticals.

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Our corporate headquarters and U.S. operations are located in Brisbane, California, from where we conduct our manufacturing, warehousing, research and development, regulatory, sales and marketing, service, and administrative activities. In the United States, we market, sell and service our products through direct sales and service employees, and a distribution relationship with PSS World Medical Shared Services, Inc. (“PSS”), a wholly owned subsidiary of PSS World Medical which has over 700 sales representatives serving physician offices throughout the United States. We also sell certain items such as our Titan hand piece refills and marketing brochures online.

International sales are generally made through direct sales employees and a worldwide distributor network in over 35 countries. Outside of the United States, we have a direct sales presence in Australia, Canada, France, Japan, Spain, Switzerland (however, beginning October 1, 2011 we engaged a distributor in Switzerland instead of selling directly) and the United Kingdom.

Products

Our revenue is derived from the sale of Products, Upgrades, Service, Titan hand piece refills, and Dermal fillers and cosmeceutical products. Product revenue represents the sale of a system. A system consists of a console that incorporates a universal graphic user interface, a laser and/or light-based module, control system software and high voltage electronics; as well as one or more hand pieces. However, depending on the application, the laser or light-based module is sometimes contained in the hand piece such as with our Pearl and Pearl Fractional applications instead of within the console. Commencing in the fourth quarter of 2011, we plan to launch a new Q-switched laser system called myQ.

We offer our customers the ability to select the system that best fits their practice at the time of purchase and then to cost-effectively add applications to their system as their practice grows. This provides customers the flexibility to upgrade their systems whenever they want and provides us with a source of recurring revenue which we classify as Upgrade revenue. Service revenue relates to amortization of prepaid service contract revenue and receipts for time and materials services on out-of-warranty products. Titan hand piece refill revenue is associated with our Titan hand piece which requires replacement of the optical source after a set number of pulses have been used. In Japan, we distribute Merz Pharma GmbH’s (Merz) Radiesse® dermal filler product and Xeomin®; and Obagi Medical Products, Inc.’s (Obagi) cosmeceutical products.

Significant Business Trends

Growth
We believe that our ability to grow revenue will be primarily dependent on the following:

- Continuing to expand our product offerings both through internal development and sourcing from other vendors.
- Ongoing investment in our global sales and marketing infrastructure.
- Use of clinical results to support new aesthetic products and applications.
- Enhanced luminary development and reference selling efforts (to develop a location where our products can be displayed and used to assist in selling efforts).
- Customer demand for our products.
- Consumer demand for the application of our products.
- Marketing to physicians in the core dermatology and plastic surgeon specialties, as well as outside those specialties.
- Generating ongoing revenue from our growing installed base of customers through the sale of Service, Upgrade, Titan hand piece refills, and Dermal fillers and cosmeceutical products.

U.S. Revenue

Our U.S. revenue increased by $1.8 million, or 43%, in the three-month period ended September 30, 2011 and by $2.4 million, or 18%, in the nine-month period ended September 30, 2011, compared to the same periods in 2010, respectively. This increase was primarily attributable to an increase in product revenue due to the:

- FDA clearance of our GenesisPlus system for onychomycosis, or toenail fungus, in April 2011;
- Commencement of Excel V shipments in the second quarter of 2011; and
- Result of effective U.S. sales management changes implemented in early 2011.

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International Revenue

International revenue increased by $1.3 million or 17%, in the three-month period ended September 30, 2011 and by $1.3 million or 5% in the nine-month period ended September 30, 2011, compared to the same periods in 2010, respectively. This increase was primarily attributable to:

- Higher product revenue from Canada, Australia and several of our distributor countries as a result of new products and a general improved economic environment in the three and nine-month period ended September 30, 2011, compared to the same period in 2010;
- An increase in our Dermal filler and cosmeceuticals revenue in Japan, due primarily to a higher number of customers purchasing Obagi products, which we began distributing in the first quarter of 2010, and due to the expansion of product lines being distributed; which was partly offset by
- A decline in our direct and distributor revenue from European countries due primarily to a restructuring of our sales team.

Product Revenue

Products revenue increased by $3.2 million or 56%, in the three-month period ended September 30, 2011 and by $3.6 million, or 19%, in the nine-month period ended September 30, 2011, compared to the respective periods in 2010. These increases in revenue were due primarily to the U.S. FDA clearance of our GenesisPlus system for toenail fungus in April 2011 and the commencement of Excel V shipments in the second quarter of 2011. This was offset by a decline in revenue for the nine-month period ended September 30, 2011, compared to the same period in 2010, due to the catastrophic earthquake in Japan in March 2011 and a decline in our European revenue due to the European debt crisis and sales employee turnover.

Upgrade Revenue

Upgrades revenue decreased by $727,000, or 51%, in the three-month period ended September 30, 2011 and by $1.6 million, or 40%, in the nine-month period ended September 30, 2011, compared to the respective periods in 2010. In the past, we introduced new products that allowed existing customers to upgrade their previously purchased systems to obtain benefits from the additional capabilities, which drove our Upgrade revenue. However, since 2008 we have not introduced any new products that our customers could purchase as an upgrade to their previously purchased system. Instead, we have launched new stand alone products (GenesisPlus and Excel V), which has resulted in a decline of our upgrade revenue since 2009.

Voluntary Titan XL Recall

In the second quarter of 2010, we initiated a voluntary recall of our Titan XL hand pieces. As part of the voluntary recall program, we provided our customers with a fully “refilled” Titan XL hand piece. As a result, our Titan hand piece refills revenue was negatively impacted since the announcement of the recall and as of the third quarter ended September 30, 2011, it has not recovered to the pre-recall revenue level of approximately $1.3 to $1.4 million per quarter. Cost of revenue for the nine months ended September 30, 2010, included an expense of $487,000 for the estimated cost of this voluntary recall.

Factors that May Impact Future Performance.

Our industry is impacted by numerous competitive, regulatory, macroeconomic and other significant factors. The March 2011 earthquake and tsunami in Japan had a negative impact on our Japanese business and operations. Our industry is highly competitive and our future performance depends on our ability to compete successfully. Additionally, our future performance is dependent upon our ability to continue to expand our product offerings, develop innovative technologies, obtain regulatory clearances for our products, protect the proprietary technology of our products and our manufacturing processes, manufacture our products cost-effectively, and successfully market and distribute our products in a profitable manner. If we fail to execute on the aforementioned initiatives, our business would be adversely affected. A detailed discussion of these and other factors that could impact our future performance

are provided in Part II, Item 1A “Risk Factors” section below.

Critical Accounting Policies and Estimates.

The preparation of our Condensed Consolidated Financial Statements and related disclosures in conformity with generally accepted accounting principles in the United States, or GAAP, requires us to make estimates, judgments and assumptions that affect the reported amounts of assets, liabilities, revenue and expenses. These estimates, judgments and assumptions are based on historical experience and on various other factors that we believe are reasonable under the circumstances. We periodically review our estimates and make adjustments when facts and circumstances dictate. To the extent that there are material differences between these estimates and actual results, our financial condition or results of operations will be affected.

Critical accounting estimates, as defined by the Securities and Exchange Commission (SEC), are those that are most important to the portrayal of our financial condition and results of operations and require our management’s most difficult and subjective judgments and estimates of matters that are inherently uncertain. The accounting policies and estimates that we consider to be critical, subjective, and requiring judgment in their application are summarized in “Item 7—Management’s Discussion and Analysis of Financial Condition and Results of Operations” in our Annual Report on Form 10-K for the year ended December 31, 2010 filed with theSEC on March 15, 2011. There have been no significant changes to the accounting policies and estimates disclosed in our Form 10-K,except for revenue recognition as described in Note 1.

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Recent Accounting Pronouncements

For a full description of recent accounting updates, including the respective expected dates of adoption and effects on results of operations and financial condition see Note 1 “Summary of Significant Accounting Policies – Recent Accounting Updates” in the Notes to Condensed Consolidated Financial Statements in Part I, Item 1 of this Form 10-Q.

Results of Operations

The following table sets forth selected consolidated financial data for the periods indicated, expressed as a percentage of total revenue, net.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2011	2010	2011	2010
Operating Ratio:				
Net revenue	100%	100%	100%	100%
Cost of revenue	44%	47%	44%	44%
Gross margin	56%	53%	56%	56%
Operating expenses:				
Sales and marketing	42%	48%	45%	49%
Research and development	16%	16%	17%	13%
General and administrative	15%	19%	17%	19%
Total operating expenses	73%	83%	79%	81%
Loss from operations	(17)%	(30)%	(23)%	(25)%
Interest and other income, net	0%	1%	1%	1%
Loss before income taxes	(17)%	(29)%	(22)%	(24)%
Provision for income taxes	2%	—%	—%	—%
Net loss	(19)%	(29)%	(22)%	(24)%

Percentages in this table and throughout our discussion and analysis of financial condition and results of operations may reflect rounding adjustments.

Total Net Revenue

	Three Months Ended September 30,			Nine Months Ended September 30,		
(Dollars in thousands)	2011	% Change	2010	2011	% Change	2010
Revenue mix by geography:						
United States	$6,037	43 %	$4,214	$15,941	18 %	$13,545
International	9,195	17 %	7,878	25,807	5 %	24,513
Consolidated total revenue	$15,232	26 %	$12,092	$41,748	10 %	$38,058
United States as a percentage of total revenue	40 %		35 %	38 %		36 %
International as a percentage of total revenue	60 %		65 %	62 %		64 %
Revenue mix by product category:						

Products	$8,975	56 %	$5,767	$22,462	19 %	$18,888	
Upgrades	687	(51 %)	1,414	2,364	(40 %)	3,955	
Service	3,227	2 %	3,166	10,149	2 %	9,917	
Titan hand piece refills	1,031	59 %	647	3,336	14 %	2,929	
Dermal fillers and cosmeceuticals	1,312	19 %	1,098	3,437	45 %	2,369	
Consolidated total revenue	$15,232	26 %	$12,092	$41,748	10 %	38,058	

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Discussion of Revenue by Product Type:

Products Revenue
As explained in more detail in the Products section of the Executive Summary above, some of our products consist of a configurable system platform that includes a console and one or more hand pieces. Each product is configured to give our customers the ability to select the combination of platform and hand pieces that provides the applications that best fit their practice.

Products revenue increased by $3.2 million, or 56%, in the three-month period ended September 30, 2011 and by $3.6 million, or 19%, in the nine-month period ended September 30, 2011, compared to the respective periods in 2010. These increases in revenue were due primarily to the U.S. FDA clearance of our GenesisPlus system for toenail fungus in April 2011 and the commencement of Excel V shipments in the second quarter of 2011. This was offset by a decline in revenue for the nine-month period ended September 30, 2011, compared to the same period in 2010, due to the catastrophic earthquake in Japan in March 2011 and a decline in our European revenue due to the European debt crisis and sales employee turnover.

Upgrades Revenue
As explained in more detail in the Products section of the Executive Summary above, our configurable system platforms allow customers to add applications to their existing systems to meet the changing needs of their practices. In some cases, when certain applications are desired that are only available on a platform other than the one owned by the customer, the upgrades revenue will include a platform exchange and additional hand pieces.

Upgrades revenue decreased by $727,000, or 51%, in the three-month period ended September 30, 2011 and by $1.6 million, or 40%, in the nine-month period ended September 30, 2011, compared to the respective periods in 2010. In the past, we introduced new products that allowed existing customers to upgrade their previously purchased systems to obtain benefits from the additional capabilities, which drove our Upgrade revenue. However, since 2008 we have not introduced any new products that our customers could purchase as an upgrade to their previously purchased system. Instead we have launched new stand alone products (GenesisPlus and Excel V), which has resulted in a decline of our upgrade revenue since 2009.

Service Revenue
Our worldwide service revenue increased by $61,000, or 2%, in the three-month period ended September 30, 2011 and by $232,000 or 2% in the nine-month period ended September 30, 2011, compared to the respective periods in 2010. This increase was the result of higher international service revenue being partially offset by a decline in U.S. service revenue. The increase in international service revenue is due to an increased installed base and a higher number of purchased service contracts. The decline in our U.S. service revenue was primarily attributable to lower contract amortizations as a result of fewer customers purchasing extended service contracts.

Titan Hand Piece Refill Revenue
Our Titan hand piece refill revenue increased by $384,000 or 59% in the three-month period ended September 30, 2011 and by $407,000 or 14% in the nine-month period ended September 30, 2011, compared to the respective periods in 2010. This increase was due primarily to the partial recovery of our Titan refill revenue following the voluntary recall of our Titan XL hand piece commencing in the second quarter of 2010, in which we provided our eligible customers with a fully “refilled” Titan XL hand piece, which delayed their purchase of a refill.

Dermal Filler and Cosmeceuticals Revenue
Our Dermal fillers and cosmeceuticals revenue increased by $214,000, or 19%, in the three-month period ended September 30, 2011 and by $1.1 million, or 45%, in the nine-month period ended September 30, 2011, compared to the respective periods in 2010. This increase was due primarily to the higher number of customers purchasing Obagi

products, which we began distributing in Japan in the first quarter of 2010, and due to the expansion of product lines being distributed.

Discussion of Revenue by Geography:

U.S. Revenue
Our U.S. revenue increased by $1.8 million, or 43%, in the three-month period ended September 30, 2011 and by $2.4 million, or 18%, in the nine-month period ended September 30, 2011, compared to the respective periods in 2010. This increase was primarily attributable to an increase in product revenue due to the:

- FDA clearance of our GenesisPlus system for onychomycosis, or toenail fungus, in April 2011;
- Commencement of Excel V shipments in the second quarter of 2011; and
- Result of effective US sales management changes implemented in early 2011.

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International Revenue

International revenue increased by $1.3 million, or 17%, in the three-month period ended September 30, 2011 and by $1.3 million or 5% in the nine-month period ended September 30, 2011, compared to the respective periods in 2010. This increase was primarily attributable to:

- Higher Product revenue from Canada, Australia and several of our distributor countries as a result of new products and a general improved economic environment in the three and nine-month periods ended September 30, 2011, compared to the same periods in 2010;
- An increase in our Dermal filler and cosmeceuticals revenue in Japan, due primarily to additional Obagi and Merz product lines being added and a higher number of customers purchasing such products from Cutera as we started distributing Obagi products in Japan in the first quarter of 2010; which was partly offset by
- A decline in our direct and distributor revenue from European countries due primarily to a restructuring of our sales team.

Gross Profit

	Three Months Ended September 30,			Nine Months Ended September 30,		
(Dollars in thousands)	2011	% Change	2010	2011	% Change	2010
Gross profit	$ 8,460	32%	$ 6,431	$ 23,276	10%	$ 21,233
As a percentage of total net revenue	56%		53%	56%		56%

Our cost of revenue consists primarily of material, personnel expenses, royalty expense, warranty and manufacturing overhead expenses. Gross margin (which is gross profit divided by net revenue) was 56% in the three-month period ended September 30, 2011, compared to 53% for the same period in 2010. Gross margin was 56% in the nine-month period ended September 30, 2011, and 56% for the same period in 2010. Our gross margins were impacted primarily by the following factors:

- Our gross margin was favorably impacted in the three and nine-month periods ended September 30, 2011, due to the leverage of our relatively fixed manufacturing costs as a result of higher Product volume;
- Our Titan refill gross margin was favorably impacted given we did not incur any expenses related to the voluntary Titan XL recall in the nine months ended September 30, 2011, compared to $487,000 of expenses recorded in the nine months ended September 30, 2010;.
- Higher direct revenue as a percentage of total revenue, in the three and nine months ended September 30, 2011, compared to the same periods in 2010, resulted in an improvement of our margins because direct business has a better gross margin than our distributor business; and
- Our gross margins in the three and nine months ended September 30, 2011, compared to the same periods in 2010, were adversely impacted by an unfavorable product mix towards lower margin products.

Sales and Marketing

	Three Months Ended September 30,			Nine Months Ended September 30,		
(Dollars in thousands)	2011	% Change	2010	2011	% Change	2010
Sales and marketing	$ 6,426	11%	$ 5,799	$ 18,720	1%	$ 18,612
As a percentage of total net revenue	42%		48%	45%		49%

Sales and marketing expenses consist primarily of personnel expenses, expenses associated with customer-attended workshops and trade shows, post-marketing studies, and advertising. Sales and marketing expenses increased $627,000, and represented 42% of total net revenue, in the three-month period ended September 30, 2011, compared to 48% in the same period in 2010. This increase was due primarily to: (i) increased personnel expenses of $351,000

attributable primarily to higher commission expenses relating primarily to the higher revenue; and (ii) increased travel, entertainment and sales meeting expenses by $332,000 due to the increased sales activity.

Sales and marketing expenses increased $108,000, and represented 45% of total net revenue, in the nine-month period ended September 30, 2011, compared to 49% in the same period in 2010. This increase was due primarily to: (i) increased personnel expenses of $609,000 attributable primarily to higher commission expenses relating to the higher revenue; (ii) increased travel, entertainment and sales meeting expenses of $474,000 due primarily to increased sales activity; offset by (iii) reduced promotional and marketing related spending of approximately $789,000 attributable to fewer workshops, and lower spending on public relation and other marketing activities.

Research and Development (R&D)

	Three Months Ended September 30,			Nine Months Ended September 30,		
(Dollars in thousands)	2011	% Change	2010	2011	% Change	2010
Research and development	$ 2,352	26%	$ 1,871	$ 6,828	41%	$ 4,831
As a percentage of total net revenue	16%		16%	17%		13%

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R&D expenses consist primarily of personnel expenses, clinical research, regulatory and material costs. R&D expenses increased by $481,000, and represented 16% of total net revenue, in the three-month period ended September 30, 2011, compared to 16% for the same period in 2010. The increase in expenses was due primarily to: (i) higher personnel expenses of $414,000 due to higher headcount to ramp up the research, development and clinical support of our new products (iii) higher consulting services related to our product development efforts of $98,000; offset by (iv) a decrease in material expenses of $106,000 primarily due to significant spending in the three months ended September 30, 2010 related to new product development expenses.

R&D expenses increased by $2.0 million in the nine-month period ended September 30, 2011, compared to the same period in 2010. R&D expenses, as a percentage of total net revenue, increased to 17% for the nine-month period ended September 30, 2011, compared to 13% for the same period in 2010. The increase in expenses was due primarily to: (i) higher personnel expenses of $1.4 million due to higher headcount and higher consulting fees of $176,000, both, to ramp up the research, development and clinical support of our new products; and (ii) higher material expenses of $252,000 related to spending on prototype product development related primarily to our Excel V product launch.

General and Administrative (G&A)

	Three Months Ended September 30,			Nine Months Ended September 30,		
(Dollars in thousands)	2011	% Change	2010	2011	% Change	2010
General and Administrative	$ 2,310	(2%)	$ 2,352	$ 7,226	(2%)	$ 7,338
As a percentage of total net revenue	15%		19%	17%		19%

General and administrative expenses consist primarily of personnel expenses, legal fees, accounting, audit and tax consulting fees, and other general and administrative expenses. G&A expenses decreased $42,000 in the three-month period ended September 30, 2011, compared to the same period in 2010. This decrease was due primarily to: (i) lower personnel expenses of $86,000 attributable to reduced headcount; (ii) lower accounting and tax services fees of $74,000; offset by (iii) an increase of $92,000 related to higher facility costs due to the planned relocation of our offices in Tokyo, Japan.

G&A expenses decreased by $112,000 in the nine-month period ended September 30, 2011, compared to the same period in 2010. G&A expenses, as a percentage of net revenue, decreased to 17% for the nine-month periods ended September 30, 2011, compared to 19% for the same period in 2010. This decrease was due primarily to: (i) lower personnel expenses of $244,000 attributable to reduced headcount; (ii) lower accounting and tax services fee of $96,000; offset by (iii) a $108,000 increase attributable to a reduced benefit associated with doubtful debt recoveries in the nine months ended September 30, 2010, that did not recur in the nine months ended September 30, 2011; and (iv) $92,000 of expenses related to higher facility costs due to the planned relocation of our offices in Tokyo, Japan.

Interest and Other Income, Net

Interest and other income, net consist of the following:

	Three Months Ended September 30,			Nine Months Ended September 30,		
(Dollars in thousands)	2011	% Change	2010	2011	% Change	2010
Interest income	$ 139	34 %	$ 104	$ 457	12%	$ 407
Other income (expense), net	(48)	(271%)	28	17	(47%)	32
Total interest and other income, net	$ 91	(31%)	$ 132	$ 474	8 %	$ 439

Interest and other income, net, decreased $41,000 for the three-month period ended September 30, 2011, compared to the same period in 2010, and increased $35,000 for the nine-month period ended September 30, 2011, compared to the same period in 2010. The increases in interest income in the three and nine months ended September 30, 2011, compared to the same periods in 2010, were primarily attributable to improved yields on our investments as a result of shifting some investments to higher yielding corporate debt instruments, versus municipal bonds. The reduction in other income (expense), net, in the three months ended September 30, 2011, compared to the same period in 2010, was due primarily to an increase in foreign exchange losses of $68,000.

Provision for Income Taxes

	Three Months Ended September 30,			Nine Months Ended September 30,		
(Dollars in thousands)	2011	% Change	2010	2011	% Change	2010
Loss before income taxes	$ (2,537)	27%	$ (3,459)	$ (9,024)	1%	$ (9,109)
Provision for income taxes	326	NA	—	150	16%	129
Effective tax rate	(13%)		—%	(2%)		(1%)

Our income tax provision for the three and nine months ended September 30, 2011 and 2010 was primarily related to income taxes of our non U.S. operations and other discrete items as explained below. We have recorded a 100% valuation allowance against our U.S. deferred tax assets and as such we did not record any income tax benefits related to our U.S. loss.

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For the three months ended September 30, 2011, our income tax provision was $326,000, compared to a provision of less than $1,000 for the three months ended September 30, 2010. Included in the $326,000 provision for the three months ended September 30, 2011, was a discrete charge of $262,000 for the clearing of disproportionate tax effects in accumulated other comprehensive loss related to unrealized gains and losses on marketable and long-term investments.

For the nine months ended September 30, 2011, our income tax provision was $150,000, compared to a provision of $129,000 for the nine months ended September 30, 2010. Included in the $150,000 provision for the nine months ended September 30, 2011 was a discrete net charge of $194,000 for the clearing of disproportionate tax effects in accumulated other comprehensive loss related to unrealized gains and losses on marketable and long term investments, offset by a discrete tax benefit of $246,000 relating to the carry-back of fiscal year 2010 federal losses to obtain a refund of alternative minimum taxes paid for fiscal year 2008.

Net Loss per Diluted Share

	Three Months Ended September 30,			Nine Months Ended September 30,		
(Dollars in thousands)	2011	% Change	2010	2011	% Change	2010
Net loss	$ (2,863)	17%	$ (3,459)	$ (9,174)	1%	$ (9,238)
Net loss per diluted share	$ (0.21)	16%	$ (0.25)	$ (0.67)	1%	$ (0.68)

Net loss per diluted share decreased $0.04, or 16%, in the three-month period ended September 30, 2011, compared to the same period in 2010, due primarily to:

- Higher net revenue of $3.1 million;
- Improved gross margin from 53% to 56%;
- Reduction in general and administrative expenses by $42,000; which was partially offset by
- Increased sales and marketing expenses of $627,000;
- Increased R&D expenses of $481,000;
- Reduction in interest and other income, net, by $41,000; and
- An increase in the income tax provision by $326,000.

Net loss per diluted share decreased $0.01, or 1%, in the nine-month period ended September 30, 2011, compared to the same period in 2010, due primarily to:

- Higher net revenue of $3.7 million;
- Reduction in general and administrative expenses by $112,000;
- Increase in interest and other income, net, by $35,000; which was partly offset by
- Increased R&D expenses of $2.0 million;
- Increased sales and marketing expenses of $108,000; and
- An increase in the income tax provision by $21,000.

Liquidity and Capital Resources

Liquidity is the measurement of our ability to meet potential cash requirements, fund the planned expansion of our operations and acquire businesses. Our sources of cash include operations and stock option exercises. We actively manage our cash usage and investment of liquid cash to ensure the maintenance of sufficient funds to meet our daily needs. The majority of our cash and investments are held in U.S. banks and our foreign subsidiaries maintain a limited amount of cash in their local banks to cover their short-term operating expenses.

Liquidity Ratios

(Dollars in thousands)	September 30, 2011	December 31, 2010
Working Capital(1)	$ 89,041	$ 90,339
Current Ratio(2)	7.0:1	7.9:1

(1) Working capital is defined as the difference between current assets and current liabilities and represents how much a company has in liquid assets available to operate its business.

(2) The current ratio is a financial ratio that measures a Company's resources to pay its current liabilities and is defined as current assets divided by current liabilities.

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Cash and Cash Equivalents, Marketable Investments and Long-Term Investments Summary

The following table summarizes our cash and cash equivalents, marketable investments and long-term investments:

(Dollars in thousands)	September 30, 2011	December 31, 2010	Change
Cash and cash equivalents	$ 13,874	$ 12,519	$ 1,355
Marketable investments	74,502	77,484	(2,982)
Long-term investments	3,014	6,784	(3,770)
Total	$ 91,390	$ 96,787	$ (5,397)

Cash Flows

(Dollars in thousands)	Nine Months Ended September 30, 2011	2010
Net cash flow provided by (used in):		
Operating activities	$ (5,753)	$ (7,631)
Investing activities	6,042	6,125
Financing activities	1,066	380
Net increase (decrease) in cash and cash equivalents	$ 1,355	$ (1,126)

Cash Flows from Operating Activities

Net cash used in operating activities in the nine-month period ended September 30, 2011 was $5.8 million, which was due primarily to:

- $5.6 million used by the net loss of $9.2 million after adjusting for non-cash related items of $3.6 million consisting primarily of stock-based compensation expense of $3.1 million, depreciation and amortization of $483,000 and the tax on unrealized gains of marketable and long term investments of $194,000, partially offset by the provision for excess and obsolete inventories of $174,000;
- $3.0 million used to increase inventory relating primarily to raw materials and finished goods associated with the ramp up of our recently introduced products — GenesisPlus and Excel V;
- $698,000 used as a result of a decrease in deferred revenue due primarily to a decrease in unit sales volume of Products and Upgrades that included purchases of extended service contracts, a reduction in our service contract pricing, a shift by customers towards purchasing shorter term contracts, and fewer customers purchasing extended service contracts;
- $493,000 used in other long-term assets, which was primarily related to a $443,000 lease deposit for our Japan facility; which was offset by
- $2.0 million generated from the reduction of other current assets primarily from the receipt of a U.S. income tax refund of $1.2 million and $1.1 million amortization of discounts and purchased interest relating to our marketable investments, offset by an increase in prepaid expenses of $212,000;
- $1.1 million generated by an increase in accrued liabilities relating primarily to an increase in customer deposits of $453,000, an increase in accrued royalties by $178,000,and accrued but unpaid personnel costs of $464,000; and
- $855,000 generated by an increase in accounts payable due primarily to higher inventory purchases.

Net cash used in operating activities in the nine-month period ended September 30, 2010 was $7.6 million, which was due primarily to:

- $5.0 million used by the net loss of $9.2 million after adjusting for non-cash related items of $4.2 million; consisting primarily of stock-based compensation expense of $3.7 million and other items of $583,000;
- $3.1 million used to pay down the higher 2009 year-end accrued liabilities relating primarily to: (i) a reduction of professional and legal fees of $1.4 million resulting primarily from a settlement payment of $950,000 relating to our TCPA litigation matter and $369,000 related primarily to payment of other legal settlements, (ii) reduction of customer deposits by $588,000, resulting from converting customer prepayments to sales, (iii) reduction of accrued warranty expenses of $389,000 due primarily to fewer units remaining under warranty, (iv) reduction of accrued personnel expenses by $279,000 resulting primarily from the pay-down of year-end commissions and bonuses, and a (v) net reduction of $208,000 for accrued sales and marketing expenses;
- $1.1 million used as a result of a decrease in deferred revenue due primarily to a decrease in unit sales volume of Products and Upgrades that included purchases of extended service contracts, a reduction in our service contract pricing, a shift by customers towards purchasing shorter term contracts, and fewer customers purchasing extended service contracts; and
- $953,000 used to purchase inventory, which primarily resulted from our distribution agreements with Obagi and Merz; partially offset by
- $1.8 million amortization of discounts and purchased interest relating to our marketable and long-term investments.

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Cash Flows from Investing Activities

We generated net cash of $6.0 million from investing activities in the nine-month period ended September 30, 2011, which was attributable primarily to:

- $52.7 million in net proceeds from the sales and maturities of marketable investments; and
- $46.3 million of cash used to purchase marketable investments.

We generated net cash of $6.1 million from investing activities in the nine-month period ended September 30, 2010, which was attributable to:

- $72.9 million in net proceeds from the sales and maturities of marketable investments; partially offset by
- $66.6 million of cash used to purchase marketable investments.

Cash Flows from Financing Activities

Net cash provided by financing activities was $1.1 million in the nine-month period ended September 30, 2011 and $380,000 in the nine-month period ended September 30, 2010, which primarily resulted from cash generated by the issuance of stock as a result of employees exercising their stock options and shares issued pursuant to our employee stock purchase plan.

Adequacy of cash resources to meet future needs

We had cash, cash equivalents, marketable investments, and long-term investments of $91.4 million as of September 30, 2011. Of this amount, we had $3.0 million of long-term ARS investments. For the first nine months of 2011, we financed our operations through the sales and maturities of marketable investments and cash from the sale of stock through employee stock option exercises and our employee stock purchase plan. We believe the existing capital resources, including cash and cash equivalents and marketable investments of $88.4 million, are sufficient to meet our operating and capital requirements for the foreseeable future. Except for the recent trend of cash used to fund our operating activities, we are unaware of any other known trends or any known demands, commitments, events or uncertainties, including collectability of our accounts receivable, that will result in, or that are reasonably likely to result in, liquidity increasing or decreasing in any material way.

Off-Balance Sheet Arrangements

We do not participate in transactions that generate relationships with unconsolidated entities or financial partnerships, such as entities often referred to as structured finance, variable interest or special purpose entities, which would have been established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes.

We have certain contractual arrangements that create potential risk for us and are not recognized in our Condensed Consolidated Balance Sheets. Discussed below are off-balance sheet arrangements that have or are reasonably likely to have a material current or future effect on our financial condition, changes in financial condition, revenue or expenses, results of operations, liquidity, capital expenditures, or capital resources.

We lease various real properties under operating leases that generally require us to pay taxes, insurance, maintenance, and minimum lease payments. Some of our leases have options to renew.

Commitments and Contingencies

The Company maintains certain open inventory purchase commitments with its suppliers to ensure a smooth and continuous supply for key components. The Company's liability in these purchase commitments is generally restricted to a forecasted time-horizon as agreed between the parties. These forecasted time-horizons can vary among different suppliers. In order to maintain an exclusive right to distribute Obagi products in the physician dispensed channel in Japan, we need to purchase a minimum of $1.75 million of products in 2011 and $2.0 million in 2012. Our other open inventory purchase commitments were not material at September 30, 2011.

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We are named from time to time as a party to product liability and contractual lawsuits in the normal course of our business. As of September 30, 2011, we were not a party to any material pending litigation. See Note 8, “Commitments and Contingencies - Litigation,” in the Notes to Condensed Consolidated Financial Statements in Part I, Item 1 of this Quarterly Report on Form 10-Q for more information.

Contractual Obligations

The following are our obligations for future minimum lease commitments related to facility leases as of September 30, 2011 (in thousands):

		Payments Due by Period			
Contractual Obligations	Total	Less Than 1 Year	1-3 Years	3-5 Years	More Than 5 Years
Operating leases	$ 9,668	$ 1,695	$ 3,507	$ 2,793	$ 1,673

Purchase Commitments

We maintain certain open inventory purchase commitments with our suppliers to ensure a smooth and continuous supply for key components. Our liability in these purchase commitments is generally restricted to a forecasted time-horizon as agreed between the parties. These forecasted time-horizons can vary among different suppliers. Our open inventory purchase commitments were not material at September 30, 2011. As a result, this amount is not included in the contractual obligations table above.

Income Tax Liability

We have included in our Consolidated Balance Sheet $489,000 in long-term income tax liability with respect to unrecognized tax benefits and accrued interest as of September 30, 2011. At this time, we are unable to make a reasonably reliable estimate of the timing of payments in individual years beyond 12 months due to uncertainties in the timing of tax audit outcomes. As a result, this amount is not included in the contractual obligations table above.

Indemnifications

In the normal course of business, we enter into agreements that contain a variety of representations, warranties, and indemnification obligations. For example, we entered into indemnification agreements with each of our directors and executive officers. Our exposure under the various indemnification obligations is unknown and not reasonably estimable as they involve future claims that may be made against us. As such, we have not accrued any amounts for such obligations.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Interest Rate Sensitivity

Our exposure to interest rate risk relates primarily to our investment portfolio. Fixed rate securities may have their fair market value adversely impacted due to fluctuations in interest rates, while floating rate securities may produce less income than expected if interest rates fall. Due in part to these factors, our future investment income may fall short of expectation due to changes in interest rates or we may suffer losses in principal if forced to sell securities which have declined in market value due to changes in interest rates. The primary objective of our investment activities is to preserve principal while at the same time maximizing yields without significantly increasing risk. To achieve this

objective, we invest in debt instruments of the U.S. Government and its agencies and municipal bonds, and, by policy, restrict our exposure to any single type of investment or issuer by imposing concentration limits. To minimize the exposure due to adverse shifts in interest rates, we maintain investments at a weighted average maturity (interest reset date for ARS) of generally less than eighteen months. Assuming a hypothetical increase in interest rates of one percentage point, the fair value of our total investment portfolio would have potentially declined by approximately $538,000 as of September 30, 2011.

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We hold interest bearing ARS that represent investments in pools of student loans issued by the Federal Family Education Loan Program. At the time of acquisition, these ARS investments were intended to provide liquidity via an auction process that resets the applicable interest rate at predetermined calendar intervals, allowing investors to either roll over their holdings or gain immediate liquidity by selling such interests at par. Uncertainties in the credit markets affected our holdings in ARS investments and auctions for some of our investments in these securities continue to fail. As of September 30, 2011, of our original $13.4 million par value of ARS portfolio, $9.5 million has been redeemed in full and we had $3.9 million par value (fair value of $3.0 million) whose auctions continue to fail. These investments are not currently liquid and we will not be able to access these funds until a future auction of these investments is successful, a buyer is found outside of the auction process or the ARS is refinanced by the issuer into another type of debt instrument. Maturity dates for these ARS investments range from 2032 to 2041. As a result of the ARS failing, we modified our investment strategy and increased our investments in more liquid money market investments, United States Treasury securities, municipal bonds, commercial paper and high-grade corporate debt. The valuation of our ARS investment portfolio is subject to uncertainties that are difficult to predict. Factors that may impact its valuation include, duration of time that the ARS remain illiquid, changes to credit ratings of the securities, rates of default of the underlying assets, changes in the underlying collateral value, market discount rates for similar illiquid investments, ongoing strength and quality of credit markets. If there is a further decline in the valuation, then we would have to: (i) record additional reductions to the fair value of our ARS investments; and (ii) record unrealized losses in our accumulated comprehensive income (loss) for the losses in value that are associated with market risk. If the decline in fair value is considered other-than-temporary, then we would have to record an impairment charge in our Condensed Consolidated Statement of Operations for the loss in value associated with the worsening of the credit worthiness (credit losses) of the issuer, which would reduce future earnings and harm our business.

Foreign Currency Exchange Risk

We have international subsidiaries and operations and are, therefore, subject to foreign currency rate exposure. Although the majority of our revenue and purchases are denominated in U.S. dollars, we have revenue from certain international customers and expenses denominated in the Japanese Yen, Euro, Pounds Sterling, Australian Dollars, Swiss Francs and Canadian Dollars. The net foreign exchange losses were approximately $25,000 in the nine-month period ended September 30, 2011, which is included in our Condensed Consolidated Statements of Operations. Movements in currency exchange rates could cause variability in our revenues, expenses or interest and other income (expense). Though to date our exposure to exchange rate volatility has not been significant, we cannot assure that there will not be a material impact in the future. Future fluctuations in the value of the U.S. dollar may affect the price competitiveness of our products. We do not believe, however, that we currently have significant direct foreign currency exchange rate risk and have not hedged exposures denominated in foreign currencies.

Derivative Financial Instruments

We do not utilize derivative financial instruments, derivative commodity instruments or other market risk sensitive instruments.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

Attached as exhibits to this Quarterly Report are certifications of our Chief Executive Officer (CEO) and Chief Financial Officer (CFO), which are required in accordance with Rule 13a-14 of the Securities Exchange Act of 1934, as amended (Exchange Act). This Controls and Procedures section includes the information concerning the controls evaluation referred to in the certifications, and it should be read in conjunction with the certifications for a more complete understanding of the topics presented.

We conducted an evaluation of the effectiveness of the design and operation of its disclosure controls and procedures (as defined in the Rules 13a-15(e) and 15d-15(e) under the Exchange Act) (Disclosure Controls) as of the end of the period covered by this Report required by Exchange Act Rules 13a-15(b) or 15d-15(b). The controls evaluation was conducted under the supervision and with the participation of our management, including the CEO and CFO. Based on this evaluation, the CEO and CFO have concluded that as of the end of the period covered by this report the disclosure controls and procedures were effective at a reasonable assurance level.

Definition of Disclosure Controls

Disclosure Controls are controls and procedures designed to reasonably assure that information required to be disclosed in our reports filed under the Exchange Act, such as this Report, is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms. Disclosure Controls are also designed to reasonably assure that such information is accumulated and communicated to our management, including the CEO and CFO, as appropriate to allow timely decisions regarding required disclosure. Our Disclosure Controls include components of internal control over financial reporting, which consists of control processes designed to provide reasonable assurance regarding the reliability of its financial reporting and the preparation of financial statements in accordance with generally accepted accounting principles in the U.S. To the extent that components of our internal control over financial reporting are included within Disclosure Controls, they are included in the scope of our annual controls evaluation.

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Limitations on the Effectiveness of Controls

Our management, including the CEO and CFO, does not expect that our disclosure controls or internal control over financial reporting will prevent all error and all fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control system's objectives will be met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, have been detected. These inherent limitations include the realities that judgments in decision making can be faulty and that breakdowns can occur because of simple error or mistake. Controls can also be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the controls. The design of any system of controls is based in part on certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Over time, controls may become inadequate because of changes in conditions or deterioration in the degree of compliance with policies or procedures. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected.

Changes in Internal Control over Financial Reporting

There were no changes in our internal control over financial reporting that occurred during the most recent fiscal quarter that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

The information under the heading "Litigation" set forth in Note 8 of the Notes to Condensed Consolidated Financial Statements in Part I, Item 1 of this quarterly report on Form 10-Q is incorporated herein by reference.

ITEM 1A. RISK FACTORS

We operate in a rapidly changing economic and technological environment that presents numerous risks, many of which are driven by factors that we cannot control or predict. The following discussion, as well as our discussion in Management's Discussion and Analysis of Financial Condition and Results of Operations (Item 2), highlights some of these risks. The risks described below are not exhaustive and you should carefully consider these risks and uncertainties before investing in our securities.

In the three and nine-month periods ended September 30, 2011, our U.S. revenue increased by approximately 43% and 18%, respectively, compared to the same periods in 2010. However, in fiscal year 2010 our U.S. revenue decreased by approximately 8% compared to the same period in 2009. Even though our U.S. revenue has increased in 2011, it continues to be significantly below the pre-2009 levels. If our U.S. revenue does not continue to improve, it could have a material adverse effect on our total revenue, profitability, employee retention and stock price.

In the three and nine-month periods ended September 30, 2011 our U.S. revenue increased by approximately 43% and 18% respectively, compared to the same periods in 2010. However it remains significantly below the pre-2009 level due to several factors, some of which are:

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Our Product and Upgrade ASPs were lower than the pre-2009 levels as a result of customers purchasing fewer applications for systems, lower pricing resulting from competitive discounting pressures and the impact of a shift in our product mix towards lower priced systems.

- Historically, we have introduced a new product every year since 2000, which typically resulted in increased revenue. However, in 2009 and until August 2010, we did not have a new product. In August 2010, we launched GenesisPlus and in February 2011, we launched Excel V. Even though we have introduced these new products and experienced sales increases as a result, there can be no assurance that they will translate into increased revenue in the long term in the U.S.
- Although our U.S. Titan hand piece refill revenue increased by 75% in the three-month period ended September 30, 2011, compared to the same period in 2010, our U.S. Titan hand piece refill revenue for the three-month period ended September 30, 2011 was still lower than the levels prior to the second quarter of 2010. That was due to a voluntary recall of certain Titan XL hand pieces in the second quarter of 2010, whereby all customers that had a Titan XL hand piece subject to the recall were provided with a fully refilled Titan XL hand piece. This delayed their purchase of a refill and resulted in a decline of our Titan refill revenue.

If our U.S. revenue does not continue to improve to our pre-2009 levels, it could have a material adverse effect on our total revenue, profitability, employee retention and stock price.

We rely heavily on our sales professionals to market and sell our products worldwide. If we are unable to hire, effectively train, manage, improve the productivity of, and retain the sales professionals, our business will be harmed, which would impair our future revenue and profitability.

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Our success largely depends on our ability to hire, train, manage and improve the productivity levels of our sales professionals worldwide. Because of our focus on the non-core market in the past, several of our sales professionals do not have established relationships with core market physicians (Dermatologists and Plastic Surgeons) or where those relationships exist, they are not very strong. In addition, we have lost some of our sales professionals in response to the decline in their earnings resulting from the decreases in their commissions.

We have selectively hired new sales professionals and managers in key territories to fill vacant positions. For example, in December 2010, Michael Poole joined us as Vice President of North American Sales, which allowed our previous Vice President of North American Sales to return to Japan in an expanded role to lead our Pacific Rim operations. Although Mr. Poole has over 17 years of a broad range of sales experience and was employed by us from 2004 to 2008, Mr. Poole has limited prior experience in managing a large sales force. We have been training our existing, and recently recruited, sales professionals to better understand our product technology and how it can be positioned against our competitors' products. These initiatives are intended to improve the productivity of our sales professionals, our revenue and profitability.

In the third quarter of 2011, our European sourced direct and distributor revenue declined significantly, compared to the same period in 2010. We have restructured our European sales team as well as our direct hub operation in Switzerland. For Switzerland, we recently engaged a distributor that was set up by some of our former sales employees. In addition, we continue to hire additional sales personnel to manage our European business. These initiatives are intended to improve our European sourced revenue.

Measures we implement in an effort to retain, train and manage our sales professionals, strengthen their relationships with core market physicians, and improve their productivity may not be successful and may instead contribute to instability in our operations, additional departures from our sales organization, or further reduce our revenue and harm our business.

If our revenue does not continue to improve from the 2010 level, or if our cost of revenue and/ or operating expenses increase, our gross margins and operating margins may be adversely impacted, our loss from operations will increase, and our cash used in operating activities will increase, which could reduce our assets and have a material adverse effect on our stock price.

Our gross margin remained flat at 56% in the nine-month period ended September 30, 2011 compared to 56% in the same period of 2010. Our gross margin for the full-year was 57% in 2010, compared with 59% in 2009 and 61% in 2008. Our gross margin is impacted by the revenue that we generate and the costs incurred to generate the revenue. Our future revenue may be adversely affected by a number of factors including, the competitive market environment in which we operate, which may result in a decrease in the number of units sold, a decrease in the number of applications per system purchased by customers, a decrease in the average selling prices achieved for our product sales, or a shift in our product mix towards products with lower average selling prices. Our cost of revenue may also be adversely impacted by various factors such as obsolescence of our inventory, increased expenses associated with repairing defective products covered by our warranty program, utilization of our relatively fixed manufacturing costs, and a shift in our product mix towards products that have a higher cost of manufacturing. We have also been investing significant resources in our research and development activities and using cash in the process. We plan to continue making such investments in order to bring new products to market.

If our revenue does not continue to improve from the 2010 level, or if our cost of revenue increases, or if we are not able to reduce expenses in the event of a decline in revenue, we may continue to generate losses from operations and use cash, which could reduce our assets and have a material adverse effect on our operations and stock price.

Economic, political and market conditions, including the recent recession and global economic crisis, and catastrophic events may adversely affect our business, results of operations, financial condition and stock price.

Our business is influenced by a range of factors that are beyond our control, including:

- General economic and business conditions;
- The overall demand for our products by the core market specialties of dermatologists and plastic surgeons;
- Governmental budgetary constraints or shifts in government spending priorities;
- General political developments;
- Natural disasters, such as the March 2011 earthquake and tsunami in Japan; and
- Currency exchange rate fluctuations.

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Macroeconomic developments like the recent recessions in the U.S. and Europe and the debt crisis in the U.S. and certain countries in the European Union could negatively affect our business, operating results or financial condition which, in turn, could adversely affect our stock price. A general weakening of, and related declining corporate confidence in, the global economy or the curtailment in government or corporate spending could cause current or potential customers to reduce their budgets or be unable to fund product or upgrade application purchases, which could cause customers to delay, decrease or cancel purchases of our products and services or cause customers not to pay us or to delay paying us for previously purchased products and services.
In addition, political unrest in regions like the Middle East, terrorist attacks around the globe and the potential for other hostilities in various parts of the world, potential public health crises and natural disasters continue to contribute to a climate of economic and political uncertainty that could adversely affect our results of operations and financial condition, including our revenue growth and profitability. For example, the March 2011 earthquake and tsunami, and other collateral events in Japan adversely affected the demand for our products and services in the Japanese market. These factors may have a strong effect on our sales of product or upgrade application purchases and, to a lesser extent, also may affect our renewal rates for contract service agreements, which may cause a decline in revenues and negatively affect our operating results.

Demand for our products in any of our markets could be weakened by several factors, including:

- Our ability to develop and market our products to the core market specialties of dermatologists and plastic surgeons;
- Poor financial performance of market segments that try introducing aesthetic procedures to their businesses;
- The inability to differentiate our products from those of our competitors;
- Reduced patient demand for elective aesthetic procedures;
- Failure to build and maintain relationships with opinion leaders within the various market segments;
- An increase in malpractice lawsuits that result in higher insurance costs; and
- The lack of credit financing for some of our potential customers.

If we do not achieve anticipated demand for our products, it could have a material adverse effect on our total revenue, profitability, employee retention and stock price.

The aesthetic equipment market is characterized by rapid innovation. To compete effectively, we must develop and/or acquire new products, market them successfully, and identify new markets for our technology.

We have created products to apply our technology to hair removal, treatment of veins and skin rejuvenation, including the treating of diffuse redness, skin laxity, fine lines, wrinkles, skin texture, pore size and pigmented lesions. Commencing in the fourth quarter of 2011, we plan to begin distribution of a Q-switched laser in Japan, that Cutera shall be sourcing from a third party OEM for superficial and deep pigmented lesions (i.e. melasma), skin rejuvenation, laser skin toning and tattoo removal. Currently, these applications represent the majority of offered laser and light-based aesthetic procedures. Since the first quarter of 2010, we have been distributing topical skin creams and dermal fillers in the Japanese market. To grow in the future, we must continue to develop and acquire new and innovative aesthetic products and applications, identify new markets, and successfully launch the newly acquired or developed product offerings.

To successfully expand our product offerings, we must, among other things:

- Develop and acquire new products that either add to or significantly improve our current product offerings;
- Convince our existing and prospective customers that our product offerings would be an attractive revenue-generating addition to their practice;
- Sell our product offerings to a broad customer base;
- Identify new markets and alternative applications for our technology;

- Protect our existing and future products with defensible intellectual property; and
- Satisfy and maintain all regulatory requirements for commercialization.

Except for 2009, we have introduced a new product every year since 2000. In the first quarter 2011, we announced the release of our Excel V laser system (we commenced recognizing revenue in the second quarter 2011), a unique vascular work station designed specifically for the core-market of dermatologists and plastic surgeons. In 2010, we launched GenesisPlus, a laser specifically created for the aesthetic treatment of toes and feet. Historically, product introductions have been a significant component of our financial performance. To be successful in the aesthetics industry, we need to continue to innovate. Our business strategy has therefore been based, in part, on our expectation that we will continue to increase our product offerings. We need to continue to devote substantial research and development resources to make new product introductions, which can be costly and time consuming to our organization.

In January 2011, we announced the appointment of Len DeBenedictis as Chief Technology Officer to lead our research and product development efforts. Our current Vice President of Research and Development reports to Mr. DeBenedictis. Although Mr. DeBenedictis has over 20 years of laser and light-based industry experience and an outstanding background to lead our research and product development efforts, there is no guarantee that we will be able to continue our trend of regular new product introductions or that such management change will result in an improved research and development organization. Also, we may need additional research and development resources to make new product introductions, which may be more costly and time consuming to our organization.

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We also believe that, to increase revenue from sales of new products, we need to continue to develop our clinical support, further expand and nurture relationships with industry thought leaders and increase market awareness of the benefits of our new products. However, even with a significant investment in research and development, we may be unable to continue to develop, acquire or effectively launch and market new products and technologies regularly, or at all. If we fail to successfully commercialize new products, our business may be harmed. While we attempt to protect our products through patents and other intellectual property, there are few barriers to entry that would prevent new entrants or existing competitors from developing products that compete directly with ours. For example, while our CoolGlide product was the first long-pulse Nd:YAG, or long wavelength, laser system cleared by the FDA for permanent hair reduction on all skin types, competitors have subsequently introduced systems that utilize Nd:YAG lasers, and received FDA clearances to market these products as treating all skin types. We expect that any competitive advantage we may enjoy from other current and future innovations, such as combining multiple hand pieces in a single system to perform a variety of applications, may diminish over time as companies successfully respond to our, or create their own, innovations. Consequently, we believe that we will have to continuously innovate and improve our products and technology to compete successfully. If we are unable to innovate successfully, our products could become obsolete and our revenue could decline as our customers and prospects purchase our competitors' products.

Our ability to effectively compete and generate additional revenue from new and existing products depend upon our ability to distinguish our company and our products from our competitors and their products, and to develop and effectively market new and existing products. Our success is dependent on many factors, including the following:

- Speed of new and innovative product development;
- Effective strategy and execution of new product launches;
- Identify and develop clinical support for new indications of our existing products;
- Product performance;
- Product pricing;
- Quality of customer support;
- Development of successful distribution channels, both domestically and internationally; and
- Intellectual property protection.

To compete effectively, we have to demonstrate that our new and existing products are attractive alternatives to other devices and treatments, by differentiating our products on the basis of such factors as innovation, performance, brand name, service, and price. This is difficult to do, especially in a crowded aesthetic market. Some of our competitors have newer or different products and more established customer relationships than we do, which could inhibit our market penetration efforts. For example, we have encountered, and expect to continue to encounter, situations where, due to pre-existing relationships, potential customers decided to purchase additional products from our competitors. Potential customers also may need to recoup the cost of products that they have already purchased from our competitors and may decide not to purchase our products, or to delay such purchases.

If we are unable to increase our market penetration or compete effectively, our revenue and profitability will be adversely impacted.

We compete against companies that offer alternative solutions to our products, or have greater resources, a larger installed base of customers and broader product offerings than ours. If we are not able to effectively compete with these companies, it may harm our business.

Our industry is subject to intense competition. Our products compete against similar products offered by public companies, such as Cynosure, Elen (in Italy), Iridex, Palomar, Solta, and Syneron and as well as private companies such as Alma, Lumenis, Sciton and several other companies. Recently, there has been consolidation in the aesthetic

industry leading to companies combining their resources. For example, Solta (previously Thermage) acquired Reliant in December 2008 and Aesthera in February 2010; and Syneron acquired Candela in September 2009. We are likely to compete with new companies in the future. Competition with these companies could result in reduced selling prices, reduced profit margins and loss of market share, any of which would harm our business, financial condition and results of operations.

The energy-based aesthetic market faces competition from non energy-based medical products, such as Botox, an injectable compound used to reduce wrinkles, and collagen injections. Other alternatives to the use of our products include electrolysis, a procedure involving the application of electric current to eliminate hair follicles, and chemical peels. We may also face competition from manufacturers of pharmaceutical and other products that have not yet been developed.

If there is not sufficient consumer demand for the procedures performed with our products, practitioner demand for our products could be inhibited, resulting in unfavorable operating results and reduced growth potential.

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Continued expansion of the global market for laser and light-based aesthetic procedures is a material assumption of our business strategy. Most procedures performed using our products are elective procedures not reimbursable through government or private health insurance, with the costs borne by the patient. The decision to utilize our products may therefore be influenced by a number of factors, including:

- Consumer disposable income and access to consumer credit, which as a result of the unstable economy, may have been significantly impacted;
- The cost of procedures performed using our products;
- The cost, safety and effectiveness of alternative treatments, including treatments which are not based upon laser or light-based technologies and treatments which use pharmaceutical products;
- The success of our sales and marketing efforts; and
- The education of our customers and patients on the benefits and uses of our products, compared to competitors' products and technologies.

If, as a result of these factors, there is not sufficient demand for the procedures performed with our products, practitioner demand for our products could be reduced, which could have a material adverse effect on our business, financial condition, revenue and result of operations.

Any defects in the design, material or workmanship of our products may not be discovered prior to shipment to customers, which could materially increase our expenses, adversely impact profitability and harm our business.

The design of our products is complex. To manufacture them successfully, we must procure quality components and employ individuals with a significant degree of technical expertise. If our designs are defective, or the material components used in our products are subject to wearing out, or if suppliers fail to deliver components to specification, or if our employees fail to properly assemble, test and package our products, the reliability and performance of our products will be adversely impacted. As an example, in 2010, we incurred significant expenses for the voluntary recall of our Titan XL hand pieces.

If our products contain defects that cannot be repaired easily, inexpensively, or on a timely basis, we may experience:

- Damage to our brand reputation;
- Loss of customer orders and delay in order fulfillment;
- Increased costs due to product repair or replacement;
- Inability to attract new customers;
- Diversion of resources from our manufacturing and research and development departments into our service department; and
- Legal action.

The occurrence of any one or more of the foregoing could materially increase expenses, adversely impact profitability and harm our business.

As a result of our voluntary Titan XL recall in 2010, our Titan refills revenue declined significantly lower than the revenue levels prior to the recall. If customers do not return to using their Titan hand pieces at our pre second quarter 2010 revenue levels due to this voluntary recall, our Titan refill revenue and profitability could be negatively impacted in the future.

Although our worldwide Titan hand piece refill revenue for the three and nine-month periods ended September 30, 2011 increased 59% and 14%, respectively, compared to the same periods in 2010, our Titan hand piece refill revenue in the U.S. remains below the revenue level for the second quarter of 2010. For the full-year of 2010, it decreased by

31%, compared to 2009. These decreases were due primarily to our voluntary recall of our Titan XL hand piece in 2010, in which we provided our eligible customers with a fully refilled Titan XL hand piece. If customers do not return to using their Titan hand pieces at our pre-2010 revenue levels due to this voluntary recall, our Titan refill revenue and profitability could be negatively impacted in the future.

To successfully market and sell our products internationally, we must address many issues that are unique to our international business.

International revenue represented 62% of our total revenue for the nine-month period ended September 30, 2011 and 64% for the full-year 2010. International revenue is a material component of our business strategy. We depend on third-party distributors and a direct sales force to sell our products internationally, and if they underperform, we may be unable to increase or maintain our level of international revenue. In the fourth quarter of 2011, some of our direct sales personnel in Switzerland set up an independent distributor company. We plan to sell in this geography through this distributor company. To grow our business, we will need to improve productivity in current sales territories and expand into new territories. However, direct sales productivity may not improve and distributors may not accept our business or commit the necessary resources to market and sell our products to the level of our expectations. As a result, we may not be able to increase or maintain international revenue growth.

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We believe, as we continue to manage our international operations and develop opportunities in additional international territories, our international revenue will be subject to a number of risks, including:

- Difficulties in staffing and managing our foreign operations;
- Export restrictions, trade regulations and foreign tax laws;
- Fluctuating foreign currency exchange rates;
- Foreign certification and regulatory requirements;
- Lengthy payment cycles and difficulty in collecting accounts receivable;
- Customs clearance and shipping delays;
- Political and economic instability;
- Lack of awareness of our brand in international markets;
- Preference for locally-produced products; and
- Reduced protection for intellectual property rights in some countries.

If one or more of these risks were realized, it could require us to dedicate significant resources to remedy the situation; and if we were unsuccessful at finding a solution, we may not be able to sell our products in a particular market and, as a result, our revenue may decline.

Federal regulatory reforms and changes occurring at the U.S. Food and Drug Administration, or FDA, could adversely affect our ability to sell our products profitably and financial condition.

From time to time, legislation is drafted and introduced in Congress that could significantly change the statutory provisions governing the clearance or approval, manufacture and marketing of a device. It is impossible to predict whether legislative changes will be enacted or FDA regulations, guidance or interpretations changed, and what the impact of such changes, if any, may be.

In addition, FDA regulations and guidance are often revised or reinterpreted by the agency in ways that may significantly affect our business and our products. Changes in FDA regulations may lengthen the regulatory approval process for medical devices and require additional clinical data to support regulatory clearance for the sale and marketing of our new products. In addition, it may require additional safety monitoring, labeling changes, restrictions on product distribution or use, or other measures after the introduction of our products to market. Either of these changes lengthen the duration to market, increase our costs of doing business, adversely affect the future permitted uses of approved products, or otherwise adversely affect the market for our products.

If we fail to obtain or maintain necessary FDA clearances for our products and indications, if clearances for future products and indications are delayed or not issued, if there are federal or state level regulatory changes or if we are found to have violated applicable FDA marketing rules, our commercial operations would be harmed.

Our products are medical devices that are subject to extensive regulation in the United States by the FDA for manufacturing, labeling, sale, promotion, distribution and shipping. Before a new medical device, or a new use of or labeling claim for an existing product, can be marketed in the United States, it must first receive either 510(k) clearance or pre-marketing approval from the FDA, unless an exemption applies. Either process can be expensive and lengthy. In the event that we do not obtain FDA clearances or approvals for our products, our ability to market and sell them in the United States and revenue derived there from may be adversely affected. Medical devices may be marketed in the United States only for the indications for which they are approved or cleared by the FDA. For example, up until April 2011 our recently introduced GenesisPlus product had a number of general indications for use in the U.S. that allowed us to market the product in the U.S., however we could only market it internationally for the treatment of toenail fungus as it has a CE Mark approval. In April 2011, we received FDA clearance to market GenesisPlus in the U.S. for the treatment of toenail fungus. Another example is our Pearl Fractional product which is

cleared only for skin resurfacing in the U.S. and our Titan product only for deep heating for the temporary relief of muscle aches and pains in the U.S. Therefore, we are prevented from promoting or advertising Titan and Pearl Fractional in the United States for any other indications. If we fail to comply with these regulations, it could result in enforcement action by the FDA which could lead to such consequences as warning letters, adverse publicity, criminal enforcement action and/or third-party civil litigation, each of which could adversely affect us.

We have obtained 510(k) clearance for the indications for which we market our products. However, our clearances can be revoked if safety or effectiveness problems develop. We also are subject to Medical Device Reporting regulations, which require us to report to the FDA if our products cause or contribute to a death or serious injury, or malfunction in a way that would likely cause or contribute to a death or serious injury. Our products are also subject to state regulations, which are, in many instances frequently changing. Changes in state regulations may impede sales. For example, federal regulations allow our products to be sold to, or on the order of, “licensed practitioners,” as determined on a state-by-state basis. As a result, in some states, non-physicians may legally purchase our products. However, a state could change its regulations at any time, thereby disallowing sales to particular types of end users. We cannot predict the impact or effect of future legislation or regulations at the federal or state levels.

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The FDA and state authorities have broad enforcement powers. If we fail to comply with applicable regulatory requirements, it could result in enforcement action by the FDA or state agencies, which may include any of the following sanctions:

- Warning letters, fines, injunctions, consent decrees and civil penalties;
- Repair, replacement, recall or seizure of our products;
- Operating restrictions or partial suspension or total shutdown of production;
- Refusing our requests for 510(k) clearance or pre-market approval of new products, new intended uses, or modifications to existing products;
- Withdrawing 510(k) clearance or pre-market approvals that have already been granted; and
- Criminal prosecution.

If any of these events were to occur, it could harm our business.

If we fail to comply with the FDA's Quality System Regulation and laser performance standards, our manufacturing operations could be halted, and our business would suffer.

We are currently required to demonstrate and maintain compliance with the FDA's Quality System Regulation, or QSR. The QSR is a complex regulatory scheme that covers the methods and documentation of the design, testing, control, manufacturing, labeling, quality assurance, packaging, storage and shipping of our products. Because our products involve the use of lasers, our products also are covered by a performance standard for lasers set forth in FDA regulations. The laser performance standard imposes specific record-keeping, reporting, product testing and product labeling requirements. These requirements include affixing warning labels to laser products, as well as incorporating certain safety features in the design of laser products. The FDA enforces the QSR and laser performance standards through periodic unannounced inspections. We had a full quality system audit in 2008 and an FDA audit of compliance with laser performance standards in 2010 and a full quality system audit plus laser performance standard audit in August 2011. There were no significant findings as a result of these audits and our responses have been accepted by the FDA. Our failure to take satisfactory corrective action in response to an adverse QSR inspection or our failure to comply with applicable laser performance standards could result in enforcement actions, including a public warning letter, a shutdown of our manufacturing operations, a recall of our products, civil or criminal penalties, or other sanctions, such as those described in the preceding paragraph, which would cause our sales and business to suffer.

If we modify one of our FDA-approved devices, we may need to seek re-approval, which, if not granted, would prevent us from selling our modified products or cause us to redesign our products.

Any modifications to an FDA-cleared device that would significantly affect its safety or effectiveness or that would constitute a major change in its intended use would require a new 510(k) clearance or possibly a pre-market approval. We may not be able to obtain additional 510(k) clearance or pre-market approvals for new products or for modifications to, or additional indications for, our existing products in a timely fashion, or at all. Delays in obtaining future clearance would adversely affect our ability to introduce new or enhanced products in a timely manner, which in turn would harm our revenue and future profitability.

We have made modifications to our devices in the past and may make additional modifications in the future that we believe do not or will not require additional clearance or approvals. If the FDA disagrees, and requires new clearances or approvals for the modifications, we may be required to recall and to stop marketing the modified devices, which could harm our operating results and require us to redesign our products.

We may be unable to obtain or maintain international regulatory qualifications or approvals for our current or future products and indications, which could harm our business.

Sales of our products outside the United States are subject to foreign regulatory requirements that vary widely from country to country. In addition, exports of medical devices from the United States are regulated by the FDA. Complying with international regulatory requirements can be an expensive and time-consuming process and approval is not certain. The time required for obtaining clearance or approvals, if required by other countries, may be longer than that required for FDA clearance or approvals, and requirements for such clearances or approvals may significantly differ from FDA requirements. We may be unable to obtain or maintain regulatory qualifications, clearances or approvals in other countries. We may also incur significant costs in attempting to obtain and in maintaining foreign regulatory approvals or qualifications. If we experience delays in receiving necessary qualifications, clearances or approvals to market our products outside the United States, or if we fail to receive those qualifications, clearances or approvals, we may be unable to market our products or enhancements in international markets effectively, or at all, which could have a material adverse effect on our business and growth strategy.

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Product liability suits could be brought against us due to a defective design, material or workmanship or misuse of our products and could result in expensive and time-consuming litigation, payment of substantial damages and an increase in our insurance rates.

If our products are defectively designed, manufactured or labeled, contain defective components or are misused, we may become subject to substantial and costly litigation by our customers or their patients. Misusing our products or failing to adhere to operating guidelines could cause significant eye and skin damage, and underlying tissue damage. In addition, if our operating guidelines are found to be inadequate, we may be subject to liability. We have been involved, and may in the future be involved, in litigation related to the use of our products. Product liability claims could divert management's attention from our core business, be expensive to defend and result in sizable damage awards against us. We may not have sufficient insurance coverage for all future claims. We may not be able to obtain insurance in amounts or scope sufficient to provide us with adequate coverage against all potential liabilities. Any product liability claims brought against us, with or without merit, could increase our product liability insurance rates or prevent us from securing continuing coverage, could harm our reputation in the industry and could reduce product sales. In addition, we historically experienced steep increases in our product liability insurance premiums as a percentage of revenue. If our premiums continue to rise, we may no longer be able to afford adequate insurance coverage.

If customers are not trained and / or our products are used by non-physicians, it could result in product misuse and adverse treatment outcomes, which could harm our reputation, result in product liability litigation, distract management, result in additional costs, all of which could harm our business.

Because we do not require training for users of our products, and sell our products at times to non-physicians, there exists an increased potential for misuse of our products, which could harm our reputation and our business. U.S. federal regulations allow us to sell our products to or on the order of "licensed practitioners." The definition of "licensed practitioners" varies from state to state. As a result, our products may be purchased or operated by physicians with varying levels of training, and in many states, by non-physicians, including nurse practitioners, chiropractors and technicians. Outside the United States, many jurisdictions do not require specific qualifications or training for purchasers or operators of our products. We do not supervise the procedures performed with our products, nor do we require that direct medical supervision occur. We and our distributors generally offer but do not require product training to the purchasers or operators of our products. In addition, we sometimes sell our systems to companies that rent our systems to third parties and that provide a technician to perform the procedures. The lack of training and the purchase and use of our products by non-physicians may result in product misuse and adverse treatment outcomes, which could harm our reputation and our business, and, in the event these result in product liability litigation, distract management and subject us to liability, including legal expenses.

In 2010 and 2011 we entered into strategic alliances to distribute third party products internationally. To successfully market and sell these products, we must address many issues that are unique to these businesses and could reduce our available cash reserves and negatively impact our profitability.

In 2010 and 2011, we entered into distribution arrangements pursuant to which we utilize our sales force and distributors to sell products manufactured by other companies. Commencing in the fourth quarter of 2011, we plan to distribute in Japan a Q-switched Laser Product manufactured by a third party OEM. In the first quarter of 2010, we entered into an agreement with Obagi to distribute certain of their proprietary cosmeceuticals, or skin care products, in Japan. This agreement requires us to purchase an annual minimum dollar amount of their product. The minimum purchase requirement for 2011 and 2012 is $1.75 million and $2.0 million respectively. If we do not make these minimum purchases, we could lose exclusivity for distributing Obagi products to physicians in Japan. Finally, we also have an agreement with Merz Aesthetics to distribute their Radiesse® dermal filler product in Japan.

Each of these distribution agreements presents its own unique risks and challenges. For example, to sell products in partnership with Obagi we need to invest in creating a sales structure that is experienced in the sale of cosmeceuticals and not in capital equipment. We need to commit resources to training this sales force, obtaining regulatory licenses in Japan and developing new marketing materials to promote the sale of Obagi products. For each of these distribution arrangements, until we can develop our own experienced sales force, we may need to pay third party distributors to sell the products which will result in higher fees and lower margins than if we sell direct to customers. In addition, the minimum commitments and other costs of distributing products manufactured by these companies may exceed the incremental revenue that we derive from the sale of their products thereby reducing our available cash reserves and negatively impacting our profitability.

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If PSS World Medical fails to perform to our expectations, we may fail to achieve anticipated operating results.

We have a distribution agreement with PSS World Medical. PSS sales professionals work in coordination with our sales force to locate new customers for our products throughout the United States. Revenue from PSS has significantly declined since 2008. Our revenue from PSS, as a percentage of worldwide revenue, was 2% during the nine months ended September 30, 2011, 5% in 2010 and 7% in 2009. Although we continue to work closely with, and focus our attention on, our PSS relationship, there is no assurance that this will translate into increased revenue for us. Further, if revenue from PSS does not improve, or if they terminate our relationship, it may have an adverse effect on our revenue, financial condition and results of operations.

Adverse conditions in the global banking industry and credit markets may adversely impact the value of our marketable investments or impair our liquidity.

We invest our excess cash primarily in money market funds and in highly liquid debt instruments of the U.S. government and its agencies and U.S. municipalities, in commercial paper and high grade corporate debt. As of September 30, 2011, our balance in marketable investments was $74.5 million. The longer the duration of a security, the more susceptible it is to changes in market interest rates and bond yields. As yields increase, those securities with a lower yield-at-cost show a mark-to-market unrealized loss. For example, assuming a hypothetical increase in interest rates of one percentage point, the fair value of our total investment portfolio as of September 30, 2011 would have potentially decreased by approximately $538,000, resulting in an unrealized loss that would subsequently adversely impact our earnings. As a result, changes in the market interest rates will affect our future net income (loss).

We may be required to record impairment charges in future quarters as a result of the decline in value of our long-term investments in auction rate securities (ARS).

Included under the caption of “Long-term investments” in the Consolidated Balance Sheet as of September 30, 2011 are $3.9 million (par value) of ARS. These ARS were designed to provide liquidity through an auction process that resets the applicable interest rate at predetermined calendar intervals, generally every 35 days. Though approximately $9.5 million (par value) of our original holdings of $13.4 million (par value) of ARS have been redeemed at full par value since 2008, auctions for the remaining ARS in our portfolio at September 30, 2011 continue to fail and they remain as illiquid. Upon an auction failure, the interest rates do not reset at a market rate but instead reset based on a formula contained in the prospectus of the individual security, which rate is generally higher than the prevailing market rate. The failure of the auctions impacts our ability to readily liquidate our ARS into cash until a future auction of these investments is successful, a buyer is found outside of the auction process, or the ARS is refinanced by the issuer into another type of debt instrument. If there is a decline in fair value in our ARS that is considered other-than-temporary then we would have to record an impairment charge in our Consolidated Statement of Operations for the loss in value associated with the worsening of the credit worthiness (credit losses) of the issuer, which would reduce future earnings, harm our business and may cause our stock price to decline.

We depend on skilled and experienced personnel to operate our business effectively. If we are unable to recruit, hire, train and retain these employees, our ability to manage and expand our business will be harmed, which would impair our future revenue and profitability.

Our success largely depends on the skills, experience and efforts of our officers and other key employees. Except for Change of Control and Severance Agreements for our executive officers, we do not have employment contracts with any of our officers or other key employees. Any of our officers and other key employees may terminate their employment at any time. We do not have a succession plan in place for each of our officers and key employees. In addition, we do not maintain “key person” life insurance policies covering any of our employees. The loss of any of our senior management team members could weaken our management expertise and harm our business.

Our ability to retain our skilled labor force and our success in attracting and hiring new skilled employees are critical factors in determining whether we will be successful in the future. We may not be able to meet our future hiring needs or retain existing personnel. We may face particularly significant challenges and risks in hiring, training, managing and retaining engineering and sales and marketing employees. Failure to attract, train and retain personnel, particularly technical and sales and marketing personnel, would materially harm our ability to compete effectively and grow our business.

The price of our common stock may fluctuate substantially due to several factors, some of which are discussed below. Further, we have a limited number of shares of common stock outstanding, a large portion of which is held by a small number of investors, which could result in the increase in volatility of our stock price.

As of June 30, 2011, approximately 44% of our outstanding shares of common stock were held by 10 institutional investors. As a result of our relatively small public float, our common stock may be less liquid than the stock of companies with broader public ownership. Among other things, trading of a relatively small volume of our common stock may have a greater impact on the trading price for our shares than would be the case if our public float were larger.

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The public market price of our common stock has in the past fluctuated substantially and, due to the current concentration of stockholders, it may continue to do so in the future. The market price for our common stock could also be affected by a number of other factors, including:

- Litigation surrounding executive compensation has increased with the passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act. If we are involved in a lawsuit related to compensation matters or any other matters not covered by our D&O insurance, there could be material expenses involved, fines, or remedial actions which could negatively affect our stock price;
- The general market conditions unrelated to our operating performance;
- Sales of large blocks of our common stock, including sales by our executive officers, directors and our large institutional investors;
- Quarterly variations in our, or our competitors', results of operations;
- Changes in analysts' estimates, investors' perceptions, recommendations by securities analysts or our failure to achieve analysts' estimates;
- The announcement of new products or service enhancements by us or our competitors;
- The announcement of the departure of a key employee or executive officer by us or our competitor;
- Regulatory developments or delays concerning our, or our competitors' products; and
- The initiation of litigation by us or against us.

Actual or perceived instability in our stock price could reduce demand from potential buyers of our stock, thereby causing our stock price to either remain depressed or to decline further.

We may be involved in future costly intellectual property litigation, which could impact our future business and financial performance.

Our competitors or other patent holders may assert that our present or future products and the methods we employ are covered by their patents. In addition, we do not know whether our competitors own or will obtain patents that they may claim prevent, limit or interfere with our ability to make, use, sell or import our products. Although we may seek to resolve any potential future claims or actions, we may not be able to do so on reasonable terms, or at all. If, following a successful third-party action for infringement, we cannot obtain a license or redesign our products, we may have to stop manufacturing and selling the applicable products and our business would suffer as a result. In addition, a court could require us to pay substantial damages, and prohibit us from using technologies essential to our products, any of which would have a material adverse effect on our business, results of operations and financial condition.

We may become involved in litigation not only as a result of alleged infringement of a third party's intellectual property rights but also to protect our own intellectual property. For example, we have been, and may hereafter become, involved in litigation to protect the trademark rights associated with our company name or the names of our products. Infringement and other intellectual property claims, with or without merit, can be expensive and time-consuming to litigate, and could divert management's attention from our core business.

Any acquisitions that we make could disrupt our business and harm our financial condition.

From time to time we evaluate potential strategic acquisitions of complementary businesses, products or technologies. We may also consider joint ventures and other collaborative projects. We may not be able to identify appropriate acquisition candidates or strategic partners, or successfully negotiate, finance or integrate any businesses, products or technologies that we acquire. Furthermore, the integration of any acquisition and management of any collaborative project may divert management's time and resources from our core business and disrupt our operations and we may incur significant legal, accounting and banking fees in connection with such a transaction. In addition, if we purchase

a company that is not profitable, our cash balances may be reduced or depleted. We do not have any experience as a team with acquiring companies or products. If we decide to expand our product offerings beyond laser and light-based products, we may spend time and money on projects that do not increase our revenue. Any cash acquisition we pursue would diminish our available cash balances to us for other uses, and any stock acquisition could be dilutive to our stockholders.

While we from time to time evaluate potential acquisitions of businesses, products and technologies, and anticipate continuing to make these evaluations, we have no present understandings, commitments or agreements with respect to any material acquisitions or collaborative projects.

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Our manufacturing operations are dependent upon third-party suppliers, making us vulnerable to supply shortages and price fluctuations, which could harm our business.

Many of the components and materials that comprise our products are currently manufactured by a limited number of suppliers. A supply interruption or an increase in demand beyond our current suppliers' capabilities could harm our ability to manufacture our products until a new source of supply is identified and qualified. Our reliance on these suppliers subjects us to a number of risks that could harm our business, including:

- Interruption of supply resulting from modifications to or discontinuation of a supplier's operations;
- Delays in product shipments resulting from uncorrected defects, reliability issues or a supplier's variation in a component;
- A lack of long term supply arrangements for key components with our suppliers;
- Inability to obtain adequate supply in a timely manner, or on reasonable terms;
- Inability to redesign one or more components in our systems in the event that a supplier discontinues manufacturing such components and we are unable to source it from other suppliers on reasonable terms;
- Difficulty locating and qualifying alternative suppliers for our components in a timely manner;
- Production delays related to the evaluation and testing of products from alternative suppliers and corresponding regulatory qualifications; and
- Delay in supplier deliveries.

Any interruption in the supply of components or materials, or our inability to obtain substitute components or materials from alternate sources at acceptable prices in a timely manner, could impair our ability to meet the demand of our customers, which would have an adverse effect on our business.

Intellectual property rights may not provide adequate protection for some or all of our products, which may permit third parties to compete against us more effectively.

We rely on patent, copyright, trade secret and trademark laws and confidentiality agreements to protect our technology and products. At September 30, 2011, we had 19 issued U.S. patents. Some of our components, such as our laser module, electronic control system and high-voltage electronics, are not, and in the future may not be, protected by patents. Additionally, our patent applications may not issue as patents or, if issued, may not issue in a form that will be advantageous to us. Any patents we obtain may be challenged, invalidated or legally circumvented by third parties. Consequently, competitors could market products and use manufacturing processes that are substantially similar to, or superior to, ours. We may not be able to prevent the unauthorized disclosure or use of our technical knowledge or other trade secrets by consultants, vendors, former employees or current employees, despite the existence generally of confidentiality agreements and other contractual restrictions. Monitoring unauthorized uses and disclosures of our intellectual property is difficult, and we do not know whether the steps we have taken to protect our intellectual property will be effective. Moreover, the laws of many foreign countries will not protect our intellectual property rights to the same extent as the laws of the United States.

The absence of complete intellectual property protection exposes us to a greater risk of direct competition. Competitors could purchase one of our products and attempt to replicate some or all of the competitive advantages we derive from our development efforts, design around our protected technology, or develop their own competitive technologies that fall outside of our intellectual property rights. If our intellectual property is not adequately protected against competitors' products and methods, our competitive position and our business could be adversely affected.

Healthcare reform legislation could adversely affect our future profitability and financial condition.

The President and members of Congress passed legislation relating to healthcare reform. Our products are not reimbursed by insurance companies or federal or state governments and some of this legislation will, therefore, not affect us. This legislation, however, does include several aspects that will apply to us, including a tax on our U.S. revenue which is applicable to us beginning in 2013. While we are presently evaluating the full scope of how this legislation will impact our operations, including how to administer this tax, we believe this will adversely affect our future profitability and financial condition.

We offer credit terms to some qualified customers and also to leasing companies to finance the purchase of our products. In the event that any of these customers default on the amounts payable to us, our earnings may be adversely affected.

While we qualify customers to whom we offer credit terms (generally net 30 to 60 days), we cannot provide any assurance that the financial position of these customers will not change adversely before we receive payment. Our general and administrative expenses and earnings are negatively impacted by customer defaults and cause an increase in the allowance for doubtful accounts. In the event that there is a default by any customers to whom we have provided credit terms in the future, we may recognize a bad debt charge in our general and administrative expenses and this could negatively affect our earnings and results of operations.

We are subject to fluctuations in the exchange rate of the U.S. dollar and foreign currencies.

As a result of recent fluctuations in currency markets and the strong dollar relative to many other major currencies, our products priced in U.S. dollars may be more expensive relative to products of our foreign competitors, which could result in lower revenue. We do not actively hedge our exposure to currency rate fluctuations. While we transact business primarily in U.S. Dollars, and a significant proportion of our revenue is denominated in U.S. Dollars, a portion of our costs and revenue is denominated in other currencies, such as the Euro, Japanese Yen, Australian Dollar, Canadian Dollar and British Pound Sterling. As a result, changes in the exchange rates of these currencies to the U.S. Dollar will affect our results from operations.

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The expense and potential unavailability of insurance coverage for our customers could adversely affect our ability to sell our products, and therefore our financial condition.

Some of our customers and prospective customers have had difficulty in procuring or maintaining liability insurance to cover their operation and use of our products. Medical malpractice carriers are withdrawing coverage in certain states or substantially increasing premiums. If this trend continues or worsens, our customers may discontinue using our products and potential customers may opt against purchasing laser and light based products due to the cost or inability to procure insurance coverage. The unavailability of insurance coverage for our customers and prospects could adversely affect our ability to sell our products, and that could harm our financial condition.

Anti-takeover provisions in our Amended and Restated Certificate of Incorporation and Bylaws, and Delaware law, contain provisions that could discourage a takeover.

Our Amended and Restated Certificate of Incorporation and Bylaws, and Delaware law, contain provisions that might enable our management to resist a takeover, and might make it more difficult for an investor to acquire a substantial block of our common stock. These provisions include:

- A classified board of directors;
- Advance notice requirements to stockholders for matters to be brought at stockholder meetings;
- Limitations on stockholder actions by written consent; and
- The right to issue preferred stock without stockholder approval, which could be used to dilute the stock ownership of a potential hostile acquirer.

These provisions, as well as Change of Control and Severance Agreements entered into with each of our executive officers, might discourage, delay or prevent a change in control of our company or a change in our management. The existence of these provisions could adversely affect the voting power of holders of common stock and limit the price that investors might be willing to pay in the future for shares of our common stock.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

We did not sell any equity securities during the period covered by this report.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. [REMOVED AND RESERVED]

ITEM 5. OTHER INFORMATION

None.

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ITEM 6. EXHIBITS

Exhibit No.	Description
3.2(1)	Amended and Restated Certificate of Incorporation of the Registrant (Delaware).
3.4(1)	Bylaws of the Registrant.
4.1(2)	Specimen Common Stock certificate of the Registrant.
10.14(3)	Cutera, Inc. 2004 Equity Incentive Plan, as amended by its Board of Directors on April 25, 2008.
31.1	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Certification of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.ins	Instance Document
101.sch	XBRL Taxonomy Extension Schema Document
101.cal	XBRL Taxonomy Extension Calculation Linkbase Document
101.lab	XBRL Taxonomy Extension Label Linkbase Document
101.pre	XBRL Taxonomy Extension Presentation Linkbase Document

(1) Incorporated by reference from our Registration Statement on Form S-1 (Registration No. 333-111928) which was declared effective on March 30, 2004.
(2) Incorporated by reference from our Annual Report on Form 10-K filed with the SEC on March 25, 2005.
(3) Incorporated by reference from our Definitive Proxy Statement on Form 14A filed with the SEC on April 28, 2008.

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SIGNATURE

Pursuant to the requirements of Section 13 or 15(d) of The Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Brisbane, State of California, on the 7th day of November, 2011.

CUTERA, INC.

/S/ RONALD J. SANTILLI
Ronald J. Santilli
Executive Vice President and Chief Financial Officer
(Principal Financial and Accounting Officer)