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

FORM 10-K

[X] ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(D) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended June 30, 2005

Commission file number: 001-15317

RESMED INC.
(Exact name of Registrant as specified in its Charter)

Delaware
(State or other jurisdiction of incorporation or organization)

98-0152841
(IRS Employer Identification No)

14040 Danielson Street
Poway, CA 92064-6857
United States Of America
(Address of principal executive offices)

(858) 746-2400
(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act
Title of each class
Common Stock, $.004 Par Value
Rights to Purchase Series A Junior
Participating Preferred Stock

Name of each exchange upon which registered
New York Stock Exchange

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

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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulations S-K (S 229.405 of this Chapter) is not contained herein and will not be contained to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K [ ]

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Exchange Act). Yes [x] No [ ]

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes [ ] No [x]

The aggregate market value of the voting stock held by non-affiliates of registrant as of December 31, 2004, computed by reference to the closing sale price of such stock on the New York Stock Exchange, was approximately $1,479,029,000. (All directors, executive officers, and 10% stockholders of Registrant are considered affiliates.)

At August 23, 2005, registrant had 35,186,782 shares of Common Stock, $.004 par value, issued and outstanding. This number excludes 1,127,459 shares held by the registrant as treasury shares.

Portions of registrant's definitive Proxy Statement for its November 18, 2005 meeting of stockholders are incorporated by reference into Part III of this report.

CONTENTS

As used in this 10-K, the terms "we", "us", "our" and "the Company" refer to ResMed Inc, a Delaware corporation, and its subsidiaries, on a consolidated basis, unless otherwise stated.

PART I

ITEM 1 BUSINESS

General

We are a leading developer, manufacturer and distributor of medical equipment for treating, diagnosing, and managing sleep-disordered breathing and other respiratory disorders. Sleep-disordered breathing or "SDB", includes obstructive sleep apnea, or "OSA", and other respiratory disorders that occur during sleep. When we were formed in 1989, our primary purpose was to commercialize a treatment for OSA developed by Professor Colin Sullivan. This treatment, nasal Continuous Positive Airway Pressure, or "CPAP", was the first successful noninvasive treatment for OSA. CPAP systems deliver pressurized air, typically through a nasal mask, to prevent collapse of the upper airway during sleep.

Since the development of CPAP, we have developed a number of innovative products for SDB and other respiratory disorders including airflow generators, diagnostic products, mask systems, headgear and other accessories. Our growth has been fuelled by geographic expansion, increased awareness of respiratory conditions as a significant health concern among physicians and patients, and our research and product development effort.

We employ 1,927 people and sell our products in over 60 countries through a combination of wholly owned subsidiaries and independent distributors.

Our web site address is www.resmed.com. We make our periodic reports, together with any amendments, available on our web site, free of charge, as soon as reasonably practicable after we electronically file or furnish the reports with the Securities and Exchange Commission.

Corporate History

ResMed Inc, a Delaware corporation, was formed in March 1994 as the ultimate holding company for our Americas, Asia-Pacific, and European operating subsidiaries. On June 1, 1995, we completed an initial public offering of common stock and on June 2, 1995 our common stock commenced trading on the NASDAQ National Market. On September 30, 1999 we transferred our principal public listing to the New York Stock Exchange (NYSE), or "NYSE", trading under the ticker symbol RMD. On November 25, 1999, we established a secondary listing of our common stock via Chess Depositary Instruments, or "CDI's", on the Australian Stock Exchange, or "ASX", also under the symbol RMD. Ten CDI's on the ASX represent one share of our common stock on the NYSE. On July 1, 2002, we converted our ASX listing status from a foreign exempt listing to a full listing.

Our Australian subsidiary, ResMed Holdings Limited, was originally organized in 1989 by Dr. Peter Farrell to acquire from Baxter Center for Medical Research Pty Limited, or "Baxter", the rights to certain technology relating to CPAP treatment as well as Baxter's existing CPAP device business. Baxter had sold CPAP devices in Australia since 1988, having acquired the rights to the technology in 1987.

Since formation we have acquired a number of operating businesses including:

	Date of Acquisition
Dieter W. Priess Medtechnik	February 7, 1996
Premium Medical SARL	June 12, 1996
Innovmedics Pte Ltd	November 1, 1997
EINAR Egnell AB	January 31, 2000
MAP Medizin Technologie GmbH	February 16, 2001
Labhardt AG	November 15, 2001
Servo Magnetics Inc.	May 14, 2002
John Stark and Associates	July 24, 2002
Respro Medical Company Limited	July 2, 2003
Resprecare BV	December 1, 2004
Hoefner Medizintechnik GmbH	February 14, 2005
Saime SA	May 19, 2005

The Market

Sleep is a complex neurological process that includes two distinct states: rapid eye movement, or REM, sleep and non-rapid eye movement, or non-REM, sleep. REM sleep, which is about 20-25% of total sleep experienced by adults, is characterized by a high level of brain activity, bursts of rapid eye movement, increased heart and respiration rates, and paralysis of many muscles. Non-REM sleep is subdivided into four stages that generally parallel sleep depth; stage 1 is the lightest and stage 4 is the deepest.

The upper airway has no rigid support and is held open by active contraction of upper airway muscles. Normally, during REM sleep and deeper levels of non-REM sleep, upper airway muscles relax and the airway narrows. Individuals with narrow upper airways or poor muscle tone are prone to temporary collapses of the upper airway during sleep, called apneas, and to near closures of the upper airway called hypopneas. These breathing irregularities result in a lowering of blood oxygen concentration, causing the central nervous system to react to the lack of oxygen or increased carbon dioxide and signaling the body to respond. Typically, the individual subconsciously arouses from sleep, causing the throat muscles to contract, opening the airway. After a few gasping breaths, blood oxygen levels increase and the individual can resume a deeper sleep until the cycle repeats itself. Sufferers of OSA typically experience ten or more such cycles per hour. While these awakenings greatly impair the quality of sleep, the individual is not normally aware of these disruptions. In addition, OSA has recently been recognized as a cause of hypertension and a significant co-morbidity for heart disease, stroke and diabetes.

Scientists estimate that one in five adults have some form of obstructive sleep apnea. In the U.S. alone, this represents approximately 43 million people. Despite the high prevalence of OSA, there is a general lack of awareness of OSA among both the medical community and the general public. It is estimated that less than 10% of those with OSA have been diagnosed or treated. Many health care professionals are often unable to diagnose OSA because they are unaware that such non-specific symptoms as excessive daytime sleepiness, snoring, hypertension and irritability are characteristic of OSA.

While OSA has been diagnosed in a broad cross-section of the population, it is predominant among middle-aged men and those who are obese, smoke, consume alcohol in excess or use muscle-relaxing and pain-killing drugs. A strong association has been discovered between OSA and a number of cardiovascular diseases. Recent studies have shown that SDB is present in approximately 80% of

patients with drug-resistant hypertension, approximately 60% of stroke patients and approximately 50% of patients with congestive heart failure. More recently, studies have shown a connection between SDB and diabetes: recent reports indicate that SDB is independently associated with glucose intolerance and insulin resistance.

Sleep-Disordered Breathing and Obstructive Sleep Apnea

Sleep-disordered breathing encompasses all physiological processes that cause detrimental breathing patterns during sleep. Manifestations include OSA, central sleep apnea, or CSA, and hypoventilation syndromes that occur during sleep. Hypoventilation syndromes are generally associated with obesity, chronic obstructive lung disease and neuromuscular disease. OSA is the most common form of SDB.

Sleep fragmentation and the loss of the deeper levels of sleep caused by OSA can lead to excessive daytime sleepiness, reduced cognitive function, including memory loss and lack of concentration, depression and irritability. OSA sufferers also experience an increase in heart rate and an elevation of blood pressure during the cycle of apneas. Several studies indicate that the oxygen desaturation, increased heart rate and elevated blood pressure caused by OSA may be associated with increased risk of cardiovascular morbidity and mortality due to angina, stroke and heart attack. Patients with OSA have been shown to have impaired daytime performance in a variety of cognitive functions including problem solving, response speed and visual motor coordination, and studies have linked OSA to increased occurrences of traffic and workplace accidents.

Generally, an individual seeking treatment for the symptoms of OSA is referred by a general practitioner to a specialist for further evaluation. The diagnosis of OSA typically requires monitoring the patient during sleep at either a sleep clinic or the patient's home. During overnight testing, respiratory parameters and sleep patterns maybe monitored, along with other vital signs such as heart rate and blood oxygen levels. Simpler tests, using devices such as our Apnealink, or our automatic positive airway pressure devices, monitor airflow during sleep, and use computer programs to analyze airflow patterns. These tests allow sleep clinicians to detect any sleep disturbances such as apneas, hypopneas or subconscious awakenings. We estimate that there are currently around 3,000 sleep clinics in the United States, a substantial portion of which are affiliated with hospitals. The number of sleep clinics has expanded significantly from approximately 100 such facilities in 1985.

Existing Therapies

Before 1981, the primary treatment for OSA was a tracheotomy, a surgical procedure to cut a hole in the patient's windpipe to create a channel for airflow. Most recently, alternative treatments have involved either uvulopalatopharyngoplasty, or UPPP, in which surgery is performed on the upper airway to remove excess tissue and to streamline the shape of the airway, implanting a device to add support to the soft palate, or mandibular advancement, in which the lower jaw is moved forward to widen the patient's airway. UPPP alone has a poor success rate; however, when performed in conjunction with multi-stage upper airway surgical procedures, a greater success rate has been claimed. These combined procedures, performed by highly specialized surgeons, are expensive and involve prolonged and often painful recovery periods.

CPAP, by contrast, is a non-invasive means of treating OSA. CPAP was first used as a treatment for OSA in 1980 by Dr. Colin Sullivan, the past Chairman of our Medical Advisory Board. CPAP systems were commercialized for treatment of OSA in the United States in the mid 1980's. Today, use of CPAP is generally acknowledged as the most effective and least invasive therapy for managing OSA.

During CPAP treatment, a patient sleeps with a nasal interface connected to a small portable airflow generator that delivers room air at a positive pressure. The patient breathes in air from the flow

generator and breathes out through an exhaust port in the interface. Continuous air pressure applied in this manner acts as a pneumatic splint to keep the upper airway open and unobstructed. Interfaces include nasal masks, and nasal pillows. Sometimes, when a patient leaks air through their mouth, a full-face mask may need to be used, rather than a nasal interface.

CPAP is not a cure and therefore, must be used on a nightly basis as long as treatment is required. Patient compliance has been a major factor in the efficacy of CPAP treatment. Early generations of CPAP units provided limited patient comfort and convenience. Patients experienced soreness from the repeated use of nasal masks and had difficulty falling asleep with the CPAP device operating at the prescribed pressure. In more recent years, product innovations to improve patient comfort and compliance have been developed. These include more comfortable patient interface systems; delay timers which gradually raise air pressure allowing the patient to fall asleep more easily; bilevel air flow generators, including VPAP systems, which provide different air pressures for inhalation and exhalation; heated humidification systems to make the airflow more comfortable; and auto titration devices which reduce the average pressure delivered during the night.

Business Strategy

We believe that the SDB market will continue to grow in the future due to a number of factors including increasing awareness of OSA, improved understanding of the role of SDB treatment in the management of cardiac, neurologic, metabolic and related disorders, and an increase in home-based diagnosis. Our strategy for expanding our business operations and capitalizing on the growth of the SDB market consists of the following key elements:

Continue Product Development and Innovation. We are committed to ongoing innovation in developing products for the diagnosis and treatment of SDB. We have been a leading innovator of products designed to more effectively treat SDB, increase patient comfort and encourage compliance with prescribed therapy. For example, in 1999 we introduced the Mirage Full Face Mask. This mask contains an inflatable air pocket, which conforms to the patient's facial contours, creating a more comfortable and better seal. In 2002 we introduced the AutoSet Spirit flow generator, our second-generation autotitrating device that adapts to the patient's breathing patterns to more effectively treat OSA. In 2003, we introduced the Mirage Activa nasal mask, with active cushion technology to automatically seal mask leaks. In 2004, we introduced the Mirage Swift nasal pillows system, a less obtrusive, lightweight, and flexible alternative to nasal masks. We believe that continued product development and innovation are key factors to our ongoing success. Approximately 13% of our employees are devoted to research and development activities. In fiscal year 2005, we invested $30.0 million, or 7% of our revenues, in research and development.

Expand Geographic Presence. We market our products in over 60 countries to sleep clinics, home health care dealers and third party payers. We intend to increase our sales and marketing efforts in our principal markets, as well as expand the depth of our presence in other geographic regions.

Increase Public and Clinical Awareness. We intend to continue to expand our existing promotional activities to increase awareness of SDB and our treatment alternatives. These promotional activities target the population with predisposition to SDB as well as primary care physicians and specialists, such as cardiologists, neurologists and pulmonologists. In addition, we also target special interest groups, including the National Stroke Association, the American Heart Association and the National Sleep Foundation.

During fiscal 2005, 2004, and 2003, we donated $0.5 million, $0.5 million and $nil respectively to the ResMed Foundation in the United States, and the ResMed Foundation Limited in Australia, to further enhance research and awareness of SDB. The contributions to the Foundations reflect ResMed's commitment to medical research into sleep-disordered breathing, particularly the treatment of obstructive sleep apnea.

Expand into New Clinical Applications. We continually seek to identify new applications of our technology for significant unmet medical needs. Recent studies have established a clinical association between OSA and both stroke and congestive heart failure, and have recognized SDB as a cause of hypertension or high blood pressure. Research also indicates that SDB is independently associated with glucose intolerance and insulin resistance. We have developed a device for the treatment of Cheyne-Stokes breathing in patients with congestive heart failure. In addition, we maintain close working relationships with a number of prominent physicians to explore new medical applications for our products and technology.

Leverage the Experience of our Management Team and Medical Advisory Board. Our senior management team has extensive experience in the medical device industry in general, and in the field of SDB in particular. Our Medical Advisory Board is comprised of experts in the field of SDB. We intend to continue to leverage the experience and expertise of these individuals to maintain our innovative approach to the development of products and increase awareness of the serious medical problems caused by SDB.

Products

Our portfolio of products for the treatment of OSA and other forms of SDB includes airflow generators, diagnostic products, mask systems, headgear and other accessories.

Air Flow Generators

We produce CPAP, VPAP and AutoSet systems for the titration and treatment of SDB. The flow generator systems deliver positive airway pressure through a patient interface, either a small nasal mask, nasal pillows system, or full-face mask.

Our VPAP units deliver ultra-quiet, comfortable bilevel therapy. There are two preset pressures: a higher pressure as the patient breathes in, and a lower pressure as the patient breathes out. Breathing out against a lower pressure makes treatment more comfortable, particularly for patients who need high pressure levels or for those with impaired breathing ability.

AutoSet systems are based on a proprietary technology to monitor breathing and can also be used in the diagnosis, treatment and management of OSA. CPAP and VPAP flow generators, accounted for approximately 49%, 50% and 53% of our net revenues in fiscal years 2005, 2004 and 2003, respectively.

With the recent acquisition of Saime, we have increased our presence in the European homecare ventilation market. The VS and Elisée range of products are sophisticated, yet easy to use for physicians, clinicians and patients. We believe these devices complement our VPAP III and Autoset CS2 for patients who need ventilatory assistance.

AIR FLOW GENERATORS	DESCRIPTION	DATE OF COMMERCIAL INTRODUCTION
VPAP Products		
VPAP II	Bilevel portable device providing different pressure levels for inhalation and exhalation, improved pressure switching and reduced noise output and spontaneous breath triggering.	March 1996
COMFORT	Bilevel device with limited features.	March 1996
VPAP II ST	Bilevel portable device with spontaneous and spontaneous/timed breath triggering modes of operation.	April 1996
VPAP II ST A	Bilevel device with alarms.	August 1998
VPAP MAX	Bilevel ventilatory support system for the treatment of adult patients with respiratory insufficiency or respiratory failure.	November 1998
Moritz S[#*]	Bilevel portable device providing different pressure levels for inhalation and exhalation with integrated humidifier.	October 2001
Moritz ST[#*]	Bilevel ST device with spontaneous and spontaneous/timed breath triggering modes of operation, and with power failure alarms, system with integrated humidifier.	October 2001
VPAP III	Updated Bilevel portable device encompassing improved pressure synchronization, spontaneous breath triggering and reduced noise.	April 2003
VPAP III ST	Updated Bilevel ST portable device encompassing improved pressure synchronization, spontaneous and spontaneous/timed breath triggering modes of operation and reduced noise.	April 2003
VPAP III STA	An upgraded Bi-level device with alarm features.	August 2004

AIR FLOW GENERATORS	DESCRIPTION	DATE OF COMMERCIAL INTRODUCTION
Saime Products		
Helia 2*#	Dual mode ventilator which combines volumetric and barometric ventilation modes.	August 1998
Eole 3 XLS*#	Ventilator device providing conventional volumetric ventilation through both controlled and assisted-controlled ventilation with etv functions.	December 1999
VS Serena*#	Bi-level ventilator providing all ventilation modes with two pressure levels.	June 2001
VS Ultra*#	Dual mode ventilator which combines volumetric and barometric ventilation from leakage to valve type with single or double limb circuit.	March 2002
VS Integra*#	Pressure support ventilator which combines pressure modes with leakage or valve ventilators.	March 2002
Elisée 350*#	Ventilator for use in Intensive Care Unit combining all conventional ventilation modes, diagnostic and monitoring functions.	December 2003
Elisée 150*#	Ventilator device which combines volumetric and barometric ventilation modes with single or double limb circuit.	June 2004
Elisée 370*#	Ventilator for use in Intensive Care Unit combining all conventional ventilation modes, diagnostic functions with external monitoring interface for ventilation loops.	September 2004
Elisée 250*#	Ventilator for use in Transport and Emergency Situations.	April 2005

* Not cleared for marketing in the United States
# Sold outside U.S. only

AIR FLOW GENERATORS	DESCRIPTION	DATE OF COMMERCIAL INTRODUCTION
Automatic Positive Airway Pressure Devices		
AutoSet CS*#	Automatic ventilatory assistance device specifically designed to normalize ventilation in congestive heart failure patients with Cheyne Stokes respiration.	December 1998
AutoSet T	Autotitrating device, which continually adjusts CPAP treatment pressure based on patient airway resistance.	March 1999
AutoSet Spirit	Modular, autotitrating device with advanced compliance monitoring and optional integrated humidifier.	September 2001
Magellan*#	Autotitrating device using airway resistance measurement.	March 2003
AutoSet Respond	Autotitrating device with basic compliance monitoring and optional integrated humidifier.	September 2003
AutoSet CS2*#	Modular, automatic device specifically designed to normalize ventilation in congestive heart failure patients with Cheyne Stokes respiration. The device has an optional integrated humidifier.	August 2004
CPAP		
Max II nCPAP*#	CPAP device with or without integrated humidifier. Features low noise and reduced pressure swings.	April 1997
Minni Max nCPAP*#	CPAP device with integrated and attachable humidifier and low noise levels.	March 2000
ResMed S6 series	Quiet, compact CPAP device with various comfort features.	June 2000
ResMed S7 series	Continuous Positive Pressure flow generator with optional integrated humidifier.	July 2002
ResMed S8 Series	A small CPAP flow generator system with optional integrated humidification.	June 2005

* Not cleared for marketing in the United States.
# Sold outside USA only

Mask Systems and Diagnostic Products

Mask systems are one of the most important elements of SDB treatment systems. Masks are a primary determinant of patient comfort and as such may drive or impede patient compliance with therapy. We have been a consistent innovator in masks, improving patient comfort while minimizing size and weight. Masks, accessories, motors and diagnostic products accounted for approximately 51%, 50% and 47% of our net revenues in fiscal years 2005, 2004 and 2003, respectively.

MASK PRODUCTS	DESCRIPTION	DATE OF COMMERCIAL INTRODUCTION
Mirage Mask	Proprietary mask design with a contoured nasal cushion that adjusts to patient's facial contours. Quiet, light and low profile.	August 1997
Ultra Mirage Mask	Advanced version of the Mirage system with reduced noise characteristics and improved forehead bridge.	June 2000
Mirage Full Face Mask Series 2	Mirage-based full-face mask system. Provides an effective method of applying ventilatory assist Noninvasive Positive Pressure Ventilation therapy. Can be used to address mouth- breathing problems in conventional bilevel or CPAP therapy.	October 2001
Papillon Mask*#	Nasal mask with only four major parts, allows simplified handling for patients and distributors.	April 2002
Mirage Vista Mask	Small nasal mask without forehead supports.	November 2002
Ultra Mirage Full Face Mask	Full-face mask incorporating our latest adjustable forehead support technology.	August 2003
Mirage Activa Mask	Nasal mask system utilizing Active Seal technology to mitigate leak and improve patient comfort.	October 2003
Mirage Swift	A light and unobtrusive nasal cannula mask system.	August 2004
Silent Papillon Mask*#	A low noise nasal mask with simplified assembly.	March 2005
Hospital Full Face Mask	Disposable full face mask specifically designed for hospital use.	April 2005
Hospital Nasal Mask	Disposable nasal mask specifically designed for hospital use.	April 2005

* Not cleared for marketing in the United States.
# Sold outside USA only

We market sleep recorders for the diagnosis and titration of SDB in sleep clinics and hospitals. These diagnostic systems record relevant respiratory and sleep data, which can be analyzed by a sleep specialist or physician who can then tailor an appropriate OSA treatment regimen for the patient.

DIAGNOSTIC PRODUCTS	DESCRIPTION	DATE OF COMMERCIAL INTRODUCTION
Poly-MESAM Portable Diagnostic System*[a#]	Configurable cardio-respiratory polygraphy system up to 8 channels, includes ECG, thorax and abdomen belts, PLMS sensor.	February 1995
MEPAL Diagnostic System *[a#]	Polysomnography system designed for use in the sleep laboratory.	February 1999
Embla[a]	Digital sleep recorder that provides comprehensive sleep diagnosis in a sleep laboratory.	October 1999
Embletta[a]	Pocket-size digital recorder that performs ambulatory sleep studies.	November 2000
MEPAL *mobil* *[a] Diagnostic System	Ambulatory polysomnography system.	March 2001
ApneaLink (MicroMesam)	A portable Sleep Apnea screening device for use by sleep professionals and primary care physicians.	April 2004

* Not cleared for marketing in the United States.
# Sold outside USA only
a Not manufactured by Resmed

Accessories and Other Products

To enhance patient comfort, convenience and compliance, we market a variety of other products and accessories. These products include humidifiers, such as the HumidAire, H2i, and H3i, which connect directly with the CPAP, VPAP and AutoSet flow generators to humidify and heat the air delivered to the patient. Their use helps prevent the drying of nasal passages that can cause discomfort. Other optional accessories include cold passover humidifiers, carry bags and breathing circuits. MAP also offers a range of accessories, including the Twister remote, an intelligent remote control for use in the sleep laboratory environment to set and monitor flow generators, the Aero-Click connection system, which allows a quick, simple connect/disconnect between the mask and CPAP air delivery source and the AeroFix headgear, for the comfortable adjustment of masks for CPAP therapy. Since the May 2002 acquisition of Servo Magnetics Inc., we have sold custom electric motors, primarily for use in data storage and aerospace applications. But we do not expect custom electric motor sales to contribute material revenues in the future.

Product Development and Clinical Trials

We have a strong track record in innovation in the sleep market. In 1989, we introduced our first CPAP device. Since then we have been committed to an ongoing program of product advancement and development. Currently, our product development efforts are focused on not only improving our current product offerings, but also expanding into new product applications. For example, in 1997, we introduced the Mirage Mask. This mask was based on the innovative Bubble Mask technology introduced in 1991, which used the principle of air inflation of the mask cushion to create a more comfortable and better seal by better conforming to patient facial contours.

In 1999, we introduced the AutoSet T flow generator, an autotitrating device that adapts to the patient's breathing patterns to effectively prevent apneas. In 2001, we introduced our next generation autotitrating device, the AutoSet Spirit. The AutoSet Spirit is an autotitrating modular device with optional integrated humidifier. In September 2003 we introduced the Activa nasal mask using our patented Active Cushion Technology, which automatically seals mask leaks. In August 2004, we launched an improved AutoSet CS 2 (outside the U.S. only) to treat congestive heart failure patients with significant central sleep apnea and also launched our Mirage Swift mask, a light and unobtrusive nasal cannula mask system.

We continually seek to identify new applications of our technology for significant unmet medical needs. SDB is associated with a number of symptoms beyond excessive daytime sleepiness and irritability. Recent studies have established a clinical association between SDB and hypertension, stroke, congestive heart failure, and diabetes. We support clinical trials in the United States, Germany, France, the United Kingdom, Italy, Swtizerland and Australia to develop new clinical applications for our technology.

We consult with physicians at major sleep centers throughout the world to identify technological trends in the treatment of SDB. Some of these physicians currently serve on our Medical Advisory Board. New product ideas are also identified by our marketing staff, direct sales force, network of distributors, manufacturers' representatives, customers, and patients. Typically, our internal development staff then develop these ideas, where appropriate, into new products.

In fiscal years 2005, 2004, and 2003 we invested $30.0 million, $26.2 million and $20.5 million, respectively, on research and development.

Sales and Marketing

We currently market our products in over 60 countries using a network of distributors, independent manufacturers' representatives and our direct sales force. We attempt to tailor our marketing approach

to each national market, based on regional awareness of SDB as a health problem, physician referral patterns, consumer preferences and local reimbursement policies.

North America and Latin America. Our products are typically purchased by a home health care dealer who then sells the products to the patient. The decision to purchase our products, as opposed those of our competitors, is made or influenced by one or more of the following individuals or organizations: the prescribing physician and his or her staff; the home health care dealer; the insurer and the patient. In the United States, our sales and marketing activities are conducted through a field sales organization made up of regional territory representatives, program development specialists, regional sales directors, and independent manufacturers' representatives. Our United States field sales organization markets and sells products to home health care dealer branch locations throughout the United States. Our direct sales force receives a base salary, plus commissions, while our independent sales representatives receive higher commissions, but no base salary.

We also promote and market our products directly to sleep clinics. Patients who are diagnosed with OSA and prescribed CPAP treatment are typically referred by the diagnosing sleep clinic to a home health care dealer to fill the prescription. The home health care dealer, in consultation with the referring physician, will assist the patient in selecting the equipment, fit the patient with the appropriate mask and set the flow generator pressure to the prescribed level.

In the United States, our sales employees and manufacturers' representatives are managed by the Chief Operating Officer Americas and Vice President of Marketing. Our Canadian and Latin American sales are conducted through independent distributors. Sales in North and Latin America accounted for 51%, 49% and 48% of our net revenues for fiscal years 2005, 2004, and 2003, respectively.

Europe. We market our products in most major European countries. We have wholly-owned subsidiaries in Austria, Finland, France, Germany, Spain, Sweden, Switzerland, and United Kingdom. We use independent distributors to sell our products in other areas of Europe. Distributors are selected in each country based on their knowledge of respiratory medicine and a commitment to SDB therapy. In each country in which we have a subsidiary, a local senior manager is responsible for direct national sales. In many countries in Europe, we sell our products to home health care dealers who then sell the products to the patients. In Germany, we also operate a home health care company, in which we provide products and services directly to patients, and receive reimbursement directly from third party payers.

Our European Chief Operating Officer is responsible for coordination of all European activities and, in conjunction with local management, the direct sales activity in Europe. Sales in Europe accounted for 41%, 43% and 42% of our total net revenues for fiscal years 2005, 2004, and 2003, respectively.

Asia Pacific. Marketing in Asia Pacific and the rest of the world is the responsibility of our Senior Vice President Sales & Marketing Asia Pacific. We have wholly–owned subsidiaries in Australia, Hong Kong, Japan, Malaysia, New Zealand and Singapore. We use a combination of direct sales force and independent distributors in Australia and New Zealand, and use independent distributors to sell our products elsewhere in Asia Pacific. Sales in Asia Pacific and the rest of the world accounted for 8%, 8% and 10% of our total net revenues for the fiscal years ended June 30, 2005, 2004, and 2003, respectively.

Other Marketing Efforts. In addition to our, and our distributors' sales efforts, we work with the following cardiovascular disease associations to raise awareness of the co-morbidity of SDB in

cardiovascular disease patients (cardiovascular disease includes coronary artery disease, congestive heart failure, hypertension and stroke):

(i) American College of Cardiology. We work with the American College of Cardiology and its more than 20,000 cardiologist members to increase education and awareness in the cardiology community regarding the morbidity associated with sleep apnea in their patients. We have co-sponsored educational symposia with Guidant Corp at ACC in 2003 and ACC 2004 on sleep apnea and cardiovascular disease. We have exhibited at ACC national conferences since 2001. Sleep apnea was included in the formal ACC scientific sessions in 2004.

(ii) American Heart Association. We have worked with the American Heart Association and we have attended the annual Scientific Sessions since 2001. Sleep apnea has been on the official program of the Scientific Sessions since 2002. We work with various regional and local AHA affiliates to increase awareness regarding sleep apnea and cardiovascular disease.

(iii) Heart Failure Society of America. We have attended the Heart Failure Society of America national conferences since 2002. We have co-sponsored CME-level educational symposia with Guidant at HFSA 2003 and HFSA 2004 on sleep apnea and heart failure. We continue to see a very high level of interest amongst heart failure physicians, due to the significant (approximately 50%) prevalence of sleep apnea in heart failure patients, and the outcome improvements in blood pressure and ejection fraction observed in peer-reviewed studies using CPAP treatment.

Strategic Alliances

Guidant Corporation. The Guidant Corporation is a world leader in the treatment of cardiac and vascular disease. Guidant and ResMed have entered into an agreement pursuant to which the companies will work together in the areas of sleep-disordered breathing and cardiac rhythm disorders, disease states with a significant patient population overlap. The companies plan to co-market to each other's physician partners and customers, and to collaborate on research and development projects, clinical studies, as well as physician and patient education.

MedCath Corporation. MedCath develops, owns, and operates hospitals in partnership with cardiologists and cardiovascular surgeons. Our alliance allows MedCath to offer SDB screening, diagnosis, and treatment in conjunction with services currently offered through the company's cardiovascular diagnostic centers.

We believe that our affiliations and continued work with these organizations raises the awareness of SDB as a significant health concern.

Manufacturing

Our principal manufacturing facility is located in Sydney, Australia and comprises a 215,000 square foot manufacturing facility. Our manufacturing operations consist primarily of assembly and testing of our flow generators, masks and accessories. Of the numerous raw materials, parts and components purchased for assembly of our therapeutic and diagnostic sleep disorder products, most are off-the-shelf items available from multiple vendors. We generally manufacture to our internal sales forecasts and fill orders as received. Over the last few years, the manufacturing processes have been transformed along lean manufacturing guidelines to flow lines staffed by dedicated teams. Each team is responsible for manufacture and quality of their product group and decisions are based on performance and quality measures including customer feedback.

Our quality management system is based upon the requirements of ISO 9001, EN46001 (European Medical Standards), FDA Quality System Regulations for Medical Devices (21 CFR part 820) and the

Medical Device Directive (93/42/EEC). Our Sydney, Australia facility is accredited to ISO 9001 and EN46001 and our San Diego, California facility is accredited to ISO 9002 and EN46002. These two sites have third party audits conducted by the ISO certification bodies at regular intervals.

Our German manufacturing operation based in Munich operates in a facility of approximately 24,000 square feet. This facility is accredited to ISO 9001 and EN46001 and primarily assembles and tests flow generators for sale by our German subsidiary. Appropriate quality controls monitor and measure product assembly and performance.

As part of the acquisition of Saime SA on May 19, 2005, we also acquired a new 7,000 square feet manufacturing facility. This facility is accredited to ISO 13485 and is primarily responsible for the assembly of the Saime brand of mechanical ventilators and associated accessories.

We also manufacture high quality electric motors for both our flow generator devices and external customers, primarily in the data storage and aerospace sectors, at our Servo Magnetics Inc., or "SMI" facility at Canoga Park, California. The SMI facility is approximately 35,500 square feet.

Third-Party Reimbursement

The cost of medical care in many of the countries in which we operate is funded in substantial part by government and private insurance programs. In Germany, we receive payments directly from these payers. Outside Germany, although we do not generally receive payments for our products directly from these payers, our success in major markets is dependent upon the ability of patients to obtain adequate reimbursement for our products.

In the United States, our products are purchased primarily by home health care dealers, hospitals or sleep clinics, which then invoice third-party payers directly. Domestic third-party payers include Medicare, Medicaid, and corporate health insurance plans. These payers may deny reimbursement if they determine that a device is not used in accordance with cost-effective treatment methods, or is experimental, unnecessary or inappropriate. The long-term trend towards managed health care, or legislative proposals to reform health care, could control or significantly influence the purchase of health care services and products and could result in lower prices for our products.

Even though we do not file claims or bill governmental programs and other third-party payers directly for reimbursement for our products sold in the United States, we are still subject to laws and regulations relating to governmental programs, and any violation of these laws and regulations could result in civil and criminal penalties, including fines. In particular, the federal Anti-Kickback Law prohibits persons from knowingly and willfully soliciting, receiving, offering or providing remuneration, directly or indirectly, to induce either the referral of an individual, or the furnishing, recommending or arranging for a good or service, for which payment may be made under a Federal health care program such as the Medicare and Medicaid programs. The government has interpreted this law broadly to apply to the marketing and sales activities of manufacturers and distributors like us. Many states have adopted laws similar to the federal Anti-Kickback Law. We are also subject to other federal and state fraud laws applicable to payment from any third-party payer. These laws prohibit persons from knowingly and willfully filing false claims or executing a scheme to defraud any health care benefit program, including private third-party payers. These laws may apply to manufacturers and distributors who provide information on coverage, coding and reimbursement of their products to persons who bill third-party payers. We continuously strive to comply with these laws and believe that our arrangements do not violate these laws. Liability may still arise from the intentions or actions of the parties with whom we do business or from a different governmental agency interpretation of the laws.

In some foreign markets, such as Spain, France and Germany, government reimbursement is currently available for purchase or rental of our products, however, subject to constraints such as price controls or unit sales limitations. In Australia and in some other foreign markets, there is currently limited or no reimbursement for devices that treat OSA.

Service and Warranty

We generally offer one-year and two-year limited warranties on our flow generator products. Warranties on mask systems are for 90 days. In most markets, we rely on our distributors to repair our products with parts supplied by us. In the United States, home health care dealers generally arrange shipment of products to our San Diego facility for repair.

We receive returns of our products from the field for various reasons. We believe that the level of returns experienced to date is consistent with levels typically experienced by manufacturers of similar devices. We provide for warranties and returns based on historical data.

Competition

The markets for our products are highly competitive. We believe that the principal competitive factors in all of our markets are product features, reliability and price. Customer support, reputation and efficient distribution are also important factors.

We compete on a market-by-market basis with various companies, some of which have greater financial, research, manufacturing and marketing resources than ourselves. In the United States, our principal market, Respironics, Inc., DeVilbiss, a division of Sunrise Medical Inc., and Nellcor Puritan Bennett, a subsidiary of Tyco Inc., and Fisher & Paykell Healthcare Corporation Limited are the primary competitors for our CPAP products. Our principal European competitors are also Respironics, DeVilbiss, and Nellcor Puritan Bennett, as well as regional European manufacturers. The disparity between our resources and those of our competitors may increase as a result of the trend towards consolidation in the health care industry. In addition, our products compete with surgical procedures and dental appliances designed to treat OSA and other SDB related respiratory conditions. The development of new or innovative procedures or devices by others could result in our products becoming obsolete or noncompetitive, which would harm our revenues and financial condition.

Any product developed by us that gains regulatory clearance will have to compete for market acceptance and market share. An important factor in such competition may be the timing of market introduction of competitive products. Accordingly, the relative speed with which we can develop products, complete clinical testing and regulatory clearance processes and supply commercial quantities of the product to the market are important competitive factors. In addition, our ability to compete will continue to be dependent on the extent to which we are successful in protecting our patents and other intellectual property.

Patents and Proprietary Rights and Related Litigation

Through our subsidiaries ResMed Limited, Medizintechnik fur Arzt und Patient GmbH, SMI and Saime SA, we own or have licensed rights to 192 issued United States patents (including 56 design patents) and 242 issued foreign patents. In addition, there are 182 pending United States patent applications (including 41 design patent applications), 369 pending foreign patent applications, 312 registered foreign designs and 107 pending foreign designs. Some of these patents, patent applications and designs relate to significant aspects and features of our products.

Of our patents, nine United States patents and four foreign patents are due to expire in the next five years, with one foreign patent due to expire in each of the years 2005, 2007, 2009 and 2010 and one United States patent in 2005, two United States patents in 2007, four United States patents in 2008 and two United States patents in 2010. We believe that the expiration of these patents will not have a material adverse impact on our competitive position.

We rely on a combination of patents, trade secrets, copyrights, trademarks and non-disclosure agreements to protect our proprietary technology and rights.

Litigation may be necessary to attempt to enforce patents issued to us, to protect our rights, or to defend third-party claims of infringement by us of the proprietary rights of others. Patent laws regarding the enforceability of patents vary from country to country. Therefore, there can be no assurance that patent issues will be uniformly resolved, or that local laws will provide us with consistent rights and benefits.

Government Regulations

Our products are subject to extensive regulation particularly as to safety, efficacy and adherence to FDA Quality System Regulation, and related manufacturing standards. Medical device products are subject to rigorous FDA and other governmental agency regulations in the United States and regulations of relevant foreign agencies abroad. The FDA regulates the introduction, manufacture, advertising, labeling, packaging, marketing, distribution, and record keeping for such products, in order to ensure that medical products distributed in the United States are safe and effective for their intended use. In addition, the FDA is authorized to establish special controls to provide reasonable assurance of the safety and effectiveness of most devices. Non-compliance with applicable requirements can result in import detentions, fines, civil penalties, injunctions, suspensions or losses of regulatory approvals, recall or seizure of products, operating restrictions, refusal of the government to approve product export applications or allow us to enter into supply contracts, and criminal prosecution.

The FDA requires that a manufacturer introducing a new medical device or a new indication for use of an existing medical device obtain either a Section 510(k) premarket notification clearance or a premarket approval, or PMA, before introducing it into the U.S. market. Our products currently marketed in the United States are marketed in reliance on 510(k) pre-marketing clearances as either Class I or Class II devices. The process of obtaining a Section 510(k) clearance generally requires the submission of performance data and often clinical data, which in some cases can be extensive, to demonstrate that the device is "substantially equivalent" to a device that was on the market before 1976 or to a device that has been found by the FDA to be "substantially equivalent" to such a pre-1976 device. As a result, FDA approval requirements may extend the development process for a considerable length of time. In addition, in some cases, the FDA may require additional review by an advisory panel, which can further lengthen the process. The PMA process, which is reserved for new devices that are not substantially equivalent to any predicate device and for high-risk devices or those that are used to support or sustain human life, may take several years and requires the submission of extensive performance and clinical information.

As a medical device manufacturer, all of our domestic and Australian manufacturing facilities are subject to inspection on a routine basis by the FDA. We believe that our design, manufacturing and quality control procedures are in substantial compliance with the FDA's regulatory requirements. MAP's and Saime's facilities are not subject to FDA regulation, because none of their products are currently marketed in the United States.

Sales of medical devices outside the United States are subject to regulatory requirements that vary widely from country to country. Approval for sale of our medical devices in Europe is through the CE mark process. Where appropriate, our products are CE marked to the European Union's Medical Device Directive. Under the CE marketing scheme, our products are classified as either Class I or Class II; our devices are listed in the United States with FDA; in Australia with the Therapeutic Goods Administration, or TGA; and in Canada with Health Canada.

On August 16, 2005, the US Food and Drug Administration authorized ResMed to market its VPAP Adapt SV device in the United States. The device is indicated for use to provide non-invasive ventilatory support to treat adult patients with OSA and respiratory insufficiency caused by central and/or mixed apneas and periodic breathing. ResMed does not expect to sell material quantities of the VPAP Adapt SV until the third quarter of fiscal year 2006, or later.

Employees

As of June 30, 2005, we had 1,927 employees or full time consultants, of which 728 persons were employed in warehousing and manufacturing, 255 in research and development, 944 in sales, marketing and administration. Of our employees and consultants, 952 were located in Australia, 429 in the United States, 530 in Europe and 16 in Asia.

We believe that the success of our business will depend, in part, on our ability to attract and retain qualified personnel. None of our employees is covered by a collective bargaining agreement. We believe that our relationship with our employees is good.

Medical Advisory Board

Our Medical Advisory Board, consists of physicians specializing in the field of sleep-disordered breathing and ventilation. Medical Advisory Board members meet as a group twice a year with members of our senior management and members of our research and marketing departments to advise us on technology trends in SDB and other developments in sleep disorders medicine. Medical Advisory Board members are also available to consult on an as-needed basis with our senior management. In alphabetical order, Medical Advisory Board members include:

Claudio Bassetti, M.D., is a neurologist with expertise in general neurology, stroke and sleep medicine. He is a leader in studying the implications of SDB on stroke and is Head of the Neurology Outpatient Clinics and Vice-Chairman of the Neurology Department at the University Hospital, Zurich. Dr. Bassetti is board member of the European Neurological Society, of the Swiss Societies of Neurology, Neuroscience and Sleep and sits on the editorial boards of the Journal of Sleep Research, Sleep Medicine, and Swiss Archives of Neurology and Psychiatry. Dr. Bassetti has produced over 100 publications.

Michael Coppola, M.D., is a leading pulmonary, critical care, and sleep disorders physician and is President of Springfield Medical Associates, a multi-specialty medical group in Springfield, Massachusetts. He is an attending physician at Baystate Medical Center and Mercy Hospital, and a Fellow of the American College of Chest Physicians. Dr. Coppola is also the Medical Director of Sleep Ave LLC, a sleep-disordered breathing specialty company with sites in Massachusetts, Louisiana and Texas, and Associate Clinical Professor of Medicine at Tufts University School of Medicine.

Terence M. Davidson, M.D., F.A.C.S., is Professor of Surgery in the Division of Otolaryngology- Head and Neck Surgery at the University of California, San Diego School of Medicine. He is Section Chief of Head and Neck Surgery at the Veterans Administration, San Diego Healthcare System, and Associate Dean for Continuing Medical Education at the University of California, San Diego. He is also Director of the UCSD Head and Neck Surgery Sleep Clinic in La Jolla, CA.

Anthony N. DeMaria, M.D., is Professor of Medicine and Chief, Division of Cardiology at the University of California, San Diego, specializing in cardiac imaging techniques, particularly echocardiography. He is a Diplomat on the American Board of Internal Medicine and is board certified by the Subspecialty Board in cardiovascular disease. He is a past President of both the

American College of Cardiology and the American Society of Echocardiography. Dr. DeMaria is currently Editor-in-Chief of the Journal of the American College of Cardiology and has authored or co-authored over 400 articles for medical journals.

Neil J. Douglas, M.D., D.Sc., F.R.C.P., is Chairman of the MAB and Professor of Respiratory and Sleep Medicine, University of Edinburgh, an Honorary Consultant Physician, Royal Infirmary of Edinburgh, and Director of the Scottish National Sleep Laboratory. He is President of the Royal College of Physicians of Edinburgh, past Chairman of the British Sleep Society, and past Secretary of the British Thoracic Society. Dr. Douglas has published over 200 papers on breathing during sleep.

Nicholas Hill, M.D., is Professor of Medicine at Tufts University School of Medicine and Chief, Pulmonary, Critical Care and Sleep Division, Tufts-New England Medical Center in Boston. He is a Fellow and Chair of the Home Care Network as well as a member of the Network Steering Committee for the American College of Chest Physicians. For the American Thoracic Society, Dr. Hill is chair of the Program Committee for the Critical Care Assembly as well as a member of the Planning Committee. Dr. Hill's main research interests are in the acute and chronic applications of noninvasive positive pressure ventilation (NPPV) for treating lung disease as well as the pathogenesis and therapy of pulmonary hypertension.

Barry J. Make, M.D., is Director, Emphysema Center and Pulmonary Rehabilitation National Jewish Medical and Research Center, and Professor of Pulmonary Sciences and Critical Care Medicine of the University of Colorado School of Medicine. He has served on numerous national and international committees for respiratory diseases. Dr. Make's research and clinical investigations have resulted in a large number of publications on mechanisms, treatment, and rehabilitation of chronic respiratory disorders. His areas of focus are long-term noninvasive ventilation and chronic obstructive pulmonary diseases including emphysema.

Ralph Pascualy, M.D., is Director of the Swedish Sleep Medicine Institute in Seattle, one of the largest sleep diagnostic and treatment facilities in the United States. He has twenty years of experience in the clinical practice of sleep medicine and clinical research. He has developed innovative programs in the clinical screening for sleep apnea, CPAP compliance programs and others to bring sleep medicine services to other medical subspecialties.

Barbara Phillips, M.D., MSPH, FCCP, is Professor of Pulmonary, Critical Care, and Sleep Medicine at the University of Kentucky College of Medicine. She directs the Sleep Center, Sleep Clinics, and Sleep Fellowship at the Samaritan Sleep Center in Lexington, KY. Dr. Phillips serves as a board member of the National Sleep Foundation, on the Health and Science Policy Committee of the American College of Chest Physicians, and on the Clinical Practice Committee of the American Thoracic Society. She has been a recipient of a Sleep Academic Award from the National Institutes of Health, president of the American Board of Sleep Medicine, and a member of the Advisory Board to the National Center of Sleep Disorders Research. Her research interests are the epidemiology of sleep-disordered breathing and sleep disorders in the aged.

Bruce Robinson, M.D., is Head of the Cancer Genetics Laboratory in the Kolling Institute. He is also Head of the Division of Medicine at the Royal North Shore Hospital. Professor Robinson is also Associate Dean (International), Faculty of Medicine, at the University of Sydney and also serves on the Council of the Endocrine Society of Australia.

Jonathan R. L. Schwartz, M.D., is Clinical Professor of Medicine at the University of Oklahoma Health Sciences Center. He also is the medical director of the Integris Sleep Disorders Centers of Oklahoma. He is board certified in sleep disorders medicine, internal medicine, pulmonary disease,

and critical care medicine. He is a Fellow of the American Academy of Sleep Medicine, the American College of Physicians, and the American College of Chest Physicians.

Helmut Teschler, M.D., is Professor of Medicine and Head of the Department of Respiratory Medicine, High Dependency Unit, and Centre of Sleep Medicine at the Ruhrlandklinik, Medical Faculty, University of Essen, Germany. He is a Fellow of each of the following Associations: German Pneumology Society, American Thoracic Society, European Respiratory Society and American Sleep Disorders Association.

J. Woodrow Weiss, M.D., is Associate Professor of Medicine and Co-Chairman of the Division of Sleep Medicine at Harvard Medical School as well as Chief, Pulmonary, Critical Care, and Sleep Medicine, Beth Israel Deaconess Medical Center, Boston, MA. He is an internationally recognized researcher in sleep-disorders medicine.

B. Tucker Woodson, M.D., F.A.C.S., is Professor of Otolaryngology and Communication Sciences at the Medical College of Wisconsin, a Diplomat of the American Academy of Sleep Medicine, and a Fellow of the American Academy of Otolaryngology—Head and Neck Surgery and the American College of Surgeons. He is the Director of the Medical College of Wisconsin/Froedert Memorial Lutheran Hospital Center for Sleep. Dr. Woodson also sits on multiple committees for the American Academy of Sleep Medicine and American Academy of Otolaryngology.

ITEM 2 PROPERTIES

Our principal executive offices and U.S. distribution facilities, consisting of approximately 144,000 square feet, are located in Poway (North San Diego County), California in a building we own. We lease facilities for our Research & Development operations at North Ryde, in Sydney, Australia in a 120,000 square feet facility. We own our principal manufacturing facility consisting of a 215,000 square feet complex at Norwest, also in Sydney, Australia and lease in Canoga Park, California a 35,500 square feet facility for manufacture of electronic motors.

Sales and warehousing facilities are either leased or owned in Abingdon, England; Munich, Germany; Moenchengladbach, Germany; Bremen, Germany; Hochstadt, Germany; Lyon, France; Paris, France; Basel, Switzerland; Trollhaettan, Sweden; Villach, Austria; Helsinki, Finland; Den Haag, Netherlands and Singapore. Before moving our executive offices and distribution facilities to Poway, California, we leased space for this purpose in San Diego, California. Our lease on those premises expires in 2005. In August 2000, we began subleasing those premises to another company.

ITEM 3 LEGAL PROCEEDINGS

The Company was engaged in litigation relating to the enforcement and defense of certain of its patents during the fiscal year ended June 30, 2005.

2005 Litigation. On December 23, 2002 three former contractors of our subsidiary MAP Medizin-Technologie GmbH initiated proceedings in Munich 1 Regional Court (Proceedings No. 7 O 23286/02), petitioning the Court for a declaration of inventorship with respect to MAP German Patent Applications identified as No. 100 31 079 and 101 92 802.5 and European Patent Application No. EP 01 967 819.7. On March 10, 2005 the Court entered judgment in favor of the plaintiffs, finding that they should be identified as co-inventors in place of certain individual defendants. In April 2005, MAP filed an appeal of that decision. We do not expect the outcome of this litigation to have an adverse material effect on us.

Other Litigation. In addition to the matters described above, in the normal course of business, we are subject to routine litigation incidental to our business. While the results of this litigation cannot be predicted with certainty, we believe that their final outcome will not have a material adverse effect on our consolidated financial statements taken as a whole.

ITEM 4 SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

None.

PART II

ITEM 5 MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

Our common stock is traded on the New York Stock Exchange (NYSE) under the symbol "RMD". The following table sets forth for the fiscal periods indicated the high and low closing prices for the common stock as reported by the New York Stock Exchange.

	2005		2004	
	High	Low	High	Low
Quarter One, ended September 30	$ 51.50	$ 43.90	$ 43.98	$ 38.58
Quarter Two, ended December 31	51.10	43.46	46.49	38.05
Quarter Three, ended March 31	60.50	49.81	47.95	40.69
Quarter Four, ended June 30	66.28	56.30	51.56	44.84

As of August 23, 2005, there were 54 holders of record of our common stock. We have not paid any cash dividends on our common stock since our initial public offering of our common stock and we do not currently intend to pay cash dividends in the foreseeable future. We anticipate that all of our earnings and other cash resources, if any, will be retained for the operation and expansion of our business and for general corporate purposes.

Sale of Unregistered Securities

None.

ITEM 5 MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

Purchases of Equity Securities

The following table summarizes purchases by us of our common stock during the year ended June 30, 2005:

Period	Total Number of Shares	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs [1]	Maximum Number of Shares that May yet be Purchased Under the Plans or Programs [1]
Opening Balance at July 1, 2004	886,369	$ 34.34	886,369	3,113,631
July 2004	Nil			
August 2004	241,090	$ 45.48	241,090	(241,090)
September 2004	Nil			
October 2004	Nil			
November 2004	Nil			
December 2004	Nil			
January 2005	Nil			
February 2005	Nil			
March 2005	Nil			
April 2005	Nil			
May 2005	Nil			
June 2005	Nil			
Total to June 30, 2005	1,127,459	$ 36.72	1,127,459	2,872,541

[1] On June 6, 2002, the Board of Directors authorized us to repurchase up to 4.0 million shares of our outstanding common stock. There is no expiration date for the repurchase of these shares. For the years ended June 30, 2005 and 2004, we repurchased 241,000 and 471,000 shares at a cost of $11.0 million and $19.0 million respectively. As at June 30, 2005, we have repurchased a total of 1,127,459 shares at a cost of $41.4 million. We may continue to repurchase shares of our common stock for cash in the open market, or in negotiated or block transactions, from time to time as market and business conditions warrant.

ITEM 6 SELECTED FINANCIAL DATA

The following table summarizes certain selected consolidated financial data for, and as of the end of, each of the fiscal years in the five-year period ended June 30, 2005. The data set forth below should be read in conjunction with the Consolidated Financial Statements and related Notes included elsewhere in this Report.

Consolidated Statement of Income Data: (In thousands, except per share data)	Years Ended June 30 2005	2004	2003	2002	2001
Net revenues	$ 425,505	$ 339,338	$ 273,570	$ 204,076	$ 155,156
Cost of sales	150,645	122,602	100,483	70,827	50,377
Gross profit	274,860	216,736	173,087	133,249	104,779
Selling, general and administrative expenses	135,703	104,706	85,313	64,481	49,364
Research and development expenses	30,014	26,169	20,534	14,910	11,146
Donations to Research Foundations	500	500	-	2,349	-
In-process research and development charge	5,268	-	-	350	17,677
Amortization of acquired intangible assets	870	-	-	-	-
Restructuring expenses	5,152	-	-	-	550
Total operating expenses	177,507	131,375	105,847	82,090	78,737
Income from operations	97,353	85,361	67,240	51,159	26,042
Other income (expenses):					
Interest income (expense), net	(808)	(1,683)	(2,549)	(3,224)	(762)
Government grants	-	-	-	-	72
Other, net	81	990	1,907	108	1,962
Gain on extinguishment of debt	-	-	529	6,549	-
Total other income (expenses)	(727)	(693)	(113)	3,433	1,272
Income before income taxes	96,626	84,668	67,127	54,592	27,314
Income taxes	(31,841)	(27,384)	(21,398)	(17,086)	(15,684)
Net income	$ 64,785	$ 57,284	$ 45,729	$ 37,506	$ 11,630
Basic earnings per share	$ 1.89	$ 1.70	$ 1.38	$ 1.17	$ 0.37
Diluted earnings per share	$ 1.82	$ 1.63	$ 1.33	$ 1.10	$ 0.35
Basic shares outstanding	34,322	33,694	33,054	32,174	31,129
Diluted shares outstanding	37,471	35,125	34,439	34,080	33,484

Consolidated Balance Sheet Data: (In thousands)	As of June 30 2005	2004	2003	2002	2001
Working capital	$ 141,659	$ 222,230	$ 191,322	$ 142,809	$ 144,272
Total assets	774,146	549,151	459,595	376,191	288,090
Long-term debt, less current maturities	58,934	113,250	113,250	123,250	150,000
Total stockholders' equity	474,065	361,499	286,433	192,930	100,366

ITEM 7 MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Overview

Management's discussion and analysis of financial condition and results of operations should be read in conjunction with selected financial data and consolidated financial statements and notes, included herein.

We design, manufacture and market equipment for the diagnosis and treatment of sleep-disordered breathing conditions, including obstructive sleep apnea. Our net revenues are generated from the sale and rental of our various flow generator devices, nasal mask systems, accessories and other products, and, to a lesser extent from royalties and sales of custom motors.

We have invested significant resources in research and development and product enhancement. Since 1989, we have developed several innovations to the original CPAP device to increase patient comfort and to improve ease of product use. We have been developing products for automated treatment, titration and monitoring of OSA, such as the AutoSet T and AutoSet Spirit flow generators. We have also developed numerous innovations associated with our mask product offerings and they now form a significant part of our product portfolio.

Business Acquisitions

Fiscal year ended June 30, 2005

Saime SA ("Saime"). On May 19, 2005 we acquired 100% of the outstanding stock of Financiere ACE SAS, the holding company for Saime SA and its affiliates, for net cash consideration of $40.5 million. This was comprised of $51.0 million in consideration, including acquisition costs, less $10.5 million of cash acquired. Additionally, as part of the acquisition we assumed (and immediately repaid) debt of $65.8 million. The acquisition and the immediate repayment of the assumed debt was funded with cash on hand and a five-year secured loan of 50 million Euro, equivalent to $62.7 million, from HSBC Bank Australia Limited.

Saime is a leading developer of ventilation products and distributes its products directly in France and Germany and through a network of distributors in Europe and Asia-Pacific.

The acquisition has been accounted for using purchase accounting and has been included in the company's operations since the date of acquisition. The company has not yet completed the purchase price allocation as the appraisals associated with the valuation of certain tangible assets are not yet complete. The company does not believe that the appraisals will materially modify the preliminary purchase price allocation. We expect to complete our purchase price allocation in the six months ended December 31, 2005.

The following table summarizes the estimated fair value of the assets acquired and liabilities assumed from Saime at the date of acquisition based on an independent appraisal and internal studies (in thousands):

	At May 19, 2005
Cash	$ 10,532
Accounts receivable	7,829
Inventory	7,031
Other assets	874
Property, plant & equipment	2,112
Developed / core product technology (useful life of 7 years)	30,733
In-Process research and development (expensed immediately)	5,268
Customer relationships (useful life of 9 years)	10,035
Tradenames (useful life of 7 years)	1,631
Goodwill (non-amortizing, non-tax deductible)	66,338
Total assets acquired	$ 142,383
Current liabilities, primarily consisting of accounts payable, accrued expenses, taxes payable and deferred tax liabilities	(12,329)
Non current liabilities, primarily consisting of capital leases and deferred tax liabilities	(13,271)
Assumed debt repaid upon acquisition	(65,764)
Net assets acquired	$ 51,019

Since its formation in 1987, Saime has developed a complete range of ventilators for use in the home and hospital markets. Saime distributes its products directly in France and Germany and through a network of distributors in Europe and Asia Pacific. Saime develops, manufactures and markets products from its headquarters near Paris, with a staff of approximately 100.

The company believes that the Saime acquisition resulted in the recognition of goodwill primarily because of its industry position and management strength. In addition, Saime's products complete our line of homecare ventilation products and will immediately expand our market presence and distribution network in Europe and other regions. The Saime devices will complement our VPAPIII and Autoset CS devices and will allow us to provide the full range of options for patients who need ventilatory assistance.

Hoefner Medizintechnick GmbH ("Hoefner"). On February 14, 2005 we acquired 100% of the outstanding stock of Hoefner Medizintechnick GmbH ("Hoefner"), for net cash consideration of $8.2 million. This was comprised of the $10.7 million in total consideration, including acquisition costs, less $2.5 million of cash acquired. Under the purchase agreement, we may also be required to make additional future payments of up to $0.9 million based on the achievement of certain performance milestones following the acquisition through December 31, 2006. Hoefner is a German-based company that distributes medical equipment and associated services for the treatment of sleep and respiratory patients. Hoefner was our Bavarian distributor before the acquisition, and the acquisition is consistent with our strategy for ongoing expansion of our international operations. We have been particularly successful in selling directly in Europe. We believe selling directly improves our understanding of local markets as well as our relationships with physicians and payers. The acquisition also brings us into closer contact with patients and allows us to more directly respond to their needs.

The acquisition has been accounted for using purchase accounting and has been included within our consolidated financial statements from February 14, 2005. An amount of $8.2 million, representing the excess of the purchase price over the fair value of identifiable net assets acquired of $2.5 million, has been recorded as goodwill.

The cost of the acquisition was allocated to the assets acquired and liabilities assumed based on estimates of their respective fair values at the date of acquisition. The fair values were determined by an independent appraisal and internal studies. The following table summarizes the final purchase price allocation of the assets acquired and liabilities assumed from Hoefner at the date of acquisition (in thousands):

	At February 14, 2005
Cash	$ 2,450
Accounts receivable	1,576
Inventory	3,526
Other assets	235
Property, plant & equipment	747
Customer relationships (useful life of 7 years)	1,828
Goodwill (non-amortizing, non-tax deductible)	8,202
Total assets acquired	$ 18,564
Current liabilities, primarily consisting of accounts payable, accrued expenses, taxes payable and deferred revenue	(4,333)
Non-current liabilities, primarily consisting of deferred revenue and deferred tax liabilities	(3,573)
Net assets acquired	$ 10,658

Resprecare BV. On December 1, 2004 we acquired substantially all the assets of Resprecare BV, our Dutch distributor, for initial consideration of $5.9 million in cash, including acquisition costs. The acquisition of the exclusive Dutch distributor is consistent with our strategy for ongoing expansion of our international operations. Under the purchase agreement, we potentially were also required to make up to $1.4 million of additional future payments based on the achievement of certain milestones. Of these potential additional payments, $0.6 million was paid in January 2005 as a result of the successful achievement of a performance milestone and a further $0.7 million was accrued at June 30, 2005 as a result of the integration of the Dutch subsidiary of our subsidiary MAP with the newly-acquired Resprecare business. The decision to integrate these operations determined the amount of the final future payment, which will be paid in January 2006.

The acquisition has been accounted for using purchase accounting and accordingly, the results of operations of Resprecare have been included within our consolidated financial statements from December 1, 2004. An amount of $4.4 million, representing the excess of the purchase price over the fair value of identifiable net assets acquired of $2.8 million, has been recorded as goodwill, which will be tax deductible. An independent third party has completed a valuation of identifiable intangible assets associated with the Resprecare acquisition. As a result of this valuation, $1.7 million that was preliminarily allocated to goodwill has been recorded as a customer relationship intangible asset and is being amortized over its estimated useful life of seven years.

We expect that the acquisitions of Resprecare, Hoefner and Saime will not have a significant impact on the historical relationship of our gross profit, selling, general and administrative expense and research and development expense, expressed as a percentage of our net revenue.

Fiscal year ended June 30, 2004

Respro Medical Company Limited ("Respro"). On July 2, 2003 we acquired the assets of Respro Medical Company Limited ("Respro"), our Hong Kong distributor for total consideration of $184,000 in cash. The acquisition has been accounted for using purchase accounting and accordingly, the results of operations of Respro have been included within our consolidated financial statements from July 2, 2003. An amount of $89,000, representing the excess of the purchase price over the fair value of net identifiable assets acquired of $95,000, has been recorded as goodwill.

Fiscal year ended June 30, 2003

John Stark and Associates. On July 24, 2002 we acquired the business of John Stark and Associates, our Texas representative, for total consideration of $300,000 in cash. The acquisition has been accounted for using purchase accounting and accordingly, the results of operations of John Stark and Associates were included within our consolidated financial statements from July 24, 2002. An amount of $300,000, representing the excess of the purchase price over the fair value of net identifiable assets acquired of $nil, has been recorded as goodwill.

In-Process Research and Development Charge (IPR&D)

On acquisition of Saime in May 2005, we recognized as an expense a charge of $5.3 million with respect to IPR&D programs under active development by Saime that, at date of acquisition, had not reached technological feasibility and had no alternative future use. The estimated fair value assigned to IPR&D was based on an independent appraisal and was comprised of the following projects (in thousands):

Project	Value of IPR&D
Upgrade of the Elisee Series of ventilators	$ 1,379
Next generation of portable ventilators	$ 3,889
Total	$ 5,268

The value of IPR&D was calculated by identifying research projects in areas for which technological feasibility had not been established, estimating the costs to develop the purchased in-process technology into commercially viable products, estimating the resulting net cash flows from such products, discounting the net cash flows to present value, and applying the reduced percentage completion of the projects thereto. The discount rate used in the analysis was 25%, which was based on the risk profile of the acquired assets.

As of the date of acquisition, these projects have estimated costs to complete totaling approximately $1.1 million. The projects were in various stages of development but are expected to reach completion at various dates ranging from 1 to 3 years.

We believe that the assumptions used to value the acquired intangible assets were reasonable at the time of acquisition. No assurance can be given, however, that the underlying assumptions used to estimate expected project revenues, development costs or profitability, or events associated with such projects, will transpire as estimated. For these reasons, among others, actual results may vary from the projected results.

Tax Expense

Our income tax rate is governed by the laws of the regions in which our income is recognized. To date, a substantial portion of our income has been subject to income tax in Australia where the statutory rate was 30% in fiscal 2005, 2004 and 2003. During fiscal 2005, 2004 and 2003, our effective tax rate has fluctuated between approximately 31% and approximately 33%. These fluctuations have resulted from, and future effective tax rates will depend upon, numerous factors, including the amount of research and development expenditures for which a 125% Australian tax deduction is available, the level of non-deductible expenses, and other tax credits or benefits available to us under applicable tax laws.

We account for income taxes under the asset and liability method. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date.

Fiscal Year Ended June 30, 2005 Compared to Fiscal Year Ended June 30, 2004

Net Revenues. Net revenue increased for the year ended June 30, 2005 to $425.5 million from $339.3 million for the year ended June 30, 2004, an increase of $86.2 million or 25%. The increase in net revenue was attributable to an increase in unit sales of our flow generators, masks and accessories. Sales also benefited from an appreciation of international currencies against the U.S. dollar (increasing sales by approximately $10.4 million). Net revenue in North and Latin America increased for the year ended June 30, 2005 to $218.1 million from $166.1 million for the year ended June 30, 2004, an increase of $52.0 million or 31%. This growth has been generated by increased public and physician awareness of sleep-disordered breathing together with our continued investment in our sales force and marketing initiatives. Product releases during the year, in particular our Mirage Swift mask, have also contributed strongly to our sales growth.

Net revenue in markets outside the Americas increased for the year ended June 30, 2005 to $207.4 million from $173.2 million for the years ended June 30, 2005 and 2004 respectively, an increase of 20%. International sales growth for the year ended June 30, 2005 reflects organic growth in the overall sleep-disordered breathing market, appreciation of international currencies against the U.S. dollar and the acquisition during the year of Resprecare, Hoefner and Saime. These acquisitions contributed incremental revenue of $11.5 million for the year ended June 30, 2005. Excluding the impact of acquisitions, international sales grew by 13%.

Sales of flow generators for the year ended June 30, 2005 totaled $209.8 million, an increase of 24% compared to the year ended June 30, 2004, including increases of 22% in North and Latin America and 25% elsewhere. Sales of mask systems, motors and other accessories totaled $215.7 million, an increase of 27%, including increases of 38% in North and Latin America and 12% elsewhere, for the year ended June 30, 2005, compared to the year ended June 30, 2004. These increases primarily reflect growth in the overall sleep-disordered breathing market, acquisitions during the year, appreciation of international currencies against the U.S. dollar and new product releases.

Gross Profit. Gross profit increased for the year ended June 30, 2005 to $274.9 million from $216.7 million for the year ended June 30, 2004, an increase of $58.2 million or 27%. Gross profit as a percentage of net revenue increased for the year ended June 30, 2005 to 65% from 64% for the year ended June 30, 2004. The improvement in gross margin reflects a more favorable product mix due to increased sales of higher margin mask products and new product introductions.

Selling, General and Administrative Expenses. Selling, general and administrative expenses increased for the year ended June 30, 2005 to $135.7 million from $104.7 million for the year ended June 30, 2004, an increase of $31.0 million or 30%. As a percentage of net revenue, selling, general and administrative expenses for the year ended June 30, 2005 was 32%, marginally higher than 31% in the year ended June 30, 2004. The increase in selling, general and administrative expenses was primarily due to an increase in the number of sales and administrative personnel to support our growth, the acquisitions of Resprecare, Hoefner and Saime, continued infrastructure investment, particularly in our European businesses, and other expenses related to the increase in our sales. The increase in selling, general and administrative expenses was also attributable to appreciation of international currencies against the U.S. dollar, which added approximately $4.0 million to our expenses as reported in U.S. dollars. As a percentage of net revenue, we expect our future selling, general and administrative expense to continue in the historical range of 31% to 33%.

Donations to Foundations. In the years ended June 30, 2005 and 2004 we donated $0.5 million and $0.5 million, respectively, to the ResMed Foundation in the U.S., and the Resmed Foundation Limited in Australia. The Foundation's overall mission includes the education of both the public and physicians about the inherent dangers of untreated SDB/OSA, particularly as it relates to cerebrovascular and cardiovascular disease.

Research and Development Expenses. Research and development expenses increased for the year ended June 30, 2005 to $30.0 million from $26.2 million for the year ended June 30, 2004, an increase of $3.8 million or 15%. As a percentage of net revenue, research and development expenses were 7% for the year ended June 30, 2005 compared to 8% for the year ended June 30, 2004. The increase in research and development expenses was primarily due to higher employee compensation and increased charges for consulting fees and technical assessments incurred to facilitate development of new products. The increase also reflects an appreciation of the Australian dollar against the U.S. dollar, as the majority of research and development costs are incurred in Australian dollars. The appreciation of international currencies against the U.S. dollar added approximately $1.3 million to our research and development expenses as reported in U.S. dollars. As a percentage of net revenue, we expect our future research and development expense to continue in the range of 5% to 7%.

In-process Research and Development Charge. Purchased in-process research and development of $5.3 million was expensed upon acquisition of Saime as technological feasibility of the products under development had not been established and no further alternative uses existed. The nature of this charge is explained more fully in note 20 to the consolidated financial statements.

Amortization of Acquired Intangible Assets. Amortization of acquired intangible assets for the year ended June 30, 2005 totaled $0.9 million ($nil for the year ended June 30, 2004) and related to acquired intangible assets totaling $46.0 million associated with the acquisitions of Saime, Hoefner and Resprecare.

Restructure. Restructuring expenses incurred for the year ended June 30, 2005 were $5.2 million and consisted of restructure charges associated with our integration of the separate operations of ResMed Germany and MAP into a single operating unit. We have completed the relocation of our ResMed Germany operation, previously located in Moenchengladbach, to Munich and associated integration of the back office functions including customer service, logistics and administration. We will continue to monitor the progress of this restructure and adjust our business strategies and personnel accordingly to achieve maximum efficiencies and cost savings.

Other Income (Expense), Net. Other expense, net for the year ended June 30, 2005 was $0.7 million, consistent with the year ended June 30, 2004. In fiscal year 2005, other expense, net reflected lower net foreign currency exchange gains, partially offset by lower interest expense due to the reduction in our convertible note debt that occurred in the 2004 fiscal year.

Income Taxes. Our effective income tax rate increased to approximately 33% for the year ended June 30, 2005 from approximately 32% for the year ended June 30, 2004. However, adding back the impact of the non-deductible in-process research and development charge of $5.3 million taken in the year ended June 30, 2005 would result in an adjusted effective tax rate of approximately 31%. The lower adjusted effective tax rate was primarily due to our geographical mix of taxable income. In particular, we continue to benefit from the Australian corporate tax rate of 30% and certain Australian R&D tax benefits because we generate a majority of our taxable income in Australia.

Net Income. As a result of the factors above, our net income for the year ended June 30, 2005 was $64.8 million or $1.82 per diluted share compared to net income of $57.3 million or $1.63 per diluted share for the year ended June 30, 2004. The restructuring expenses, in-process research and development charge and amortization of acquired intangible assets described above constituted a reduction of $0.24 and $0.00 per diluted share on an after-tax basis, respectively, for the years ended June 30, 2005 and 2004.

Fiscal Year Ended June 30, 2004 Compared to Fiscal Year Ended June 30, 2003

Net Revenues. Net revenue increased for the year ended June 30, 2004 to $339.3 million from $273.6 million for the year ended June 30, 2003, an increase of $65.7 million or 24%.

The increase in net revenue was attributable to an increase in unit sales of our flow generators, masks and accessories. Sales also benefited from an appreciation of international currencies against the U.S. dollar (increasing sales by approximately $18.6 million). Net revenue in North and Latin America increased to $166.1 million from $130.7 million for the years ended June 30, 2004 and 2003 respectively. This growth primarily reflects increased public and physician awareness of sleep-disordered breathing. Net revenue in international markets increased to $173.2 million from $142.8 million for the years ended June 30, 2004 and 2003 respectively. International sales growth for the year ended June 30, 2004 reflects organic growth in the overall sleep-disordered breathing market and appreciation of international currencies against the U.S. dollar.

Sales for the previous year ended June 30, 2003 included non-recurring SARS-related sales to China of approximately $5.0 million. Excluding the impact of these sales, international sales grew by 26%. Excluding both the impacts of the appreciation of international currencies against the U.S. dollar and SARS-related sales, international sales grew by 12%.

Sales of flow generators for the year ended June 30, 2004 increased by 18% compared to the year ended June 30, 2003, including increases of 20% in North and Latin America and 16% elsewhere. Sales of mask systems, motors and other accessories increased by 31%, including increases of 33% in North and Latin America and 29% elsewhere, for the year ended June 30, 2004 compared to the year ended June 30, 2003. These increases primarily reflect growth in the overall sleep-disordered breathing market and appreciation of international currencies against the U.S. dollar.

Gross Profit. Gross profit increased for the year ended June 30, 2004 to $216.7 million from $173.1 million for the year ended June 30, 2003, an increase of $43.6 million or 25%. Gross profit as a percentage of net revenue increased for the year ended June 30, 2004 to 64% from 63% for the year ended June 30, 2003. The small improvement in gross margin reflects a more favorable product mix due to increased sales of higher margin products, partially offset by the impact of higher manufacturing costs resulting from a stronger Australian dollar against the U.S. dollar, as the majority of manufacturing labor and overhead costs are incurred in Australia.

Selling, General and Administrative Expenses. Selling, general and administrative expenses increased for the year ended June 30, 2004 to $104.7 million from $85.3 million for the year ended June 30, 2003, an increase of $19.4 million or 23%. As a percentage of net revenue, selling, general and administrative expenses for the year ended June 30, 2004 was 31%, consistent with the year

ended June 30, 2003. The increase in selling, general and administrative expenses was primarily due to an increase in the number of sales and administrative personnel and other expenses related to the increase in our sales. The increase in selling, general and administrative expenses was also attributable to appreciation of international currencies against the U.S. dollar which added approximately $8.1 million to our expenses as reported in U.S. dollars.

Donations to Foundation. In the year ended June 30, 2004 we donated $0.5 million to the ResMed Foundation in the U.S., and the Resmed Foundation Limited in Australia. The Foundation's overall mission includes the education of both the public and physicians about the inherent dangers of untreated SDB/OSA, particularly as it relates to cerebrovascular and cardiovascular disease.

Research and Development Expenses. Research and development expenses increased for the year ended June 30, 2004 to $26.2 million from $20.5 million for the year ended June 30, 2003, an increase of $5.7 million or 28%. As a percentage of net revenue, research and development expenses were 7.7% for the year ended June 30, 2004 compared to 7.5% for the year ended June 30, 2003. The increase in research and development expenses was due to increased salaries associated with an increase in personnel and increased charges for consulting fees, clinical trials and technical assessments incurred to facilitate development of new products. The increase also reflects an appreciation of the Australian dollar against the U.S. dollar, as the majority of research and development costs are incurred in Australian dollars.

The appreciation of international currencies against the U.S. dollar added approximately $3.8 million to our research and development expenses as reported in U.S. dollars.

Other Income (Expense), Net. Other expense, net increased for the year ended June 30, 2004 to net expense of $0.7 million from net expense of $0.1 million for the year ended June 30, 2003. The increase in other expense was attributable to no gains on extinguishment of debt this year compared to $0.5 million for the year ended June 30, 2003, and lower net foreign currency exchange gains, partially offset by lower interest expense due to the reduction in convertible note debt.

Income Taxes. Our effective income tax rate increased to 32.3% for the year ended June 30, 2004 from 31.9% for the year ended June 30, 2003. The marginally higher tax rate was primarily due to the geographical mix of taxable income. We continue to benefit from the Australian corporate tax rate of 30%, because we generate a majority of our taxable income in Australia.

Liquidity and Capital Resources

As of June 30, 2005 and June 30, 2004, we had cash and cash equivalents and marketable securities available-for-sale of $142.2 million and $140.9 million, respectively. Working capital was $141.7 million and $222.2 million at June 30, 2005 and June 30, 2004 respectively. The reduction in working capital predominantly reflects the classification of our outstanding convertible subordinated notes due June 20, 2006 from a non- current liability as at June 30, 2004, to a current liability as at June 30, 2005.

Inventories at June 30, 2005 increased by $33.3 million or 60% to $89.1 million compared to June 30, 2004 inventories of $55.8 million. Excluding the incremental inventories from acquisitions, our inventories increased by $22.0 million or 39%. This percentage increase in inventories was higher than the increase of 25% in revenues in the year ended June 30, 2005 compared to the year ended June 30, 2004. The higher inventory growth reflects management's decision to increase inventory levels, particularly in raw materials, to accommodate our increasing production volumes. In addition to this, raw material inventories have increased to support production of our recently launched S8 flow generator. Accounts receivable at June 30, 2005 were $104.0 million, an increase of $36.8

million or 55% over the June 30, 2004 accounts receivable balance of $67.2 million. Excluding the incremental increase from acquisitions, our accounts receivables have increased by $27.3 million or 41%. This increase was higher than the 25% incremental increase in revenues for the year ended June 30, 2005 compared to the year ended June 30, 2004. The deterioration in ageing largely reflects higher than normal receivable balances relative to sales in Germany as delays in processing of invoices have also resulted in timing of collections being delayed. Accounts receivable days outstanding increased to 71 days for the year ended June 30, 2005, compared to 64 days for the year ended June 30, 2004. Our allowance for doubtful accounts as a percentage of total accounts receivable at June 30, 2005 and 2004 was 3.0% and 4.5%, respectively. The credit quality of our customers remains consistent with our past experience.

During the year ended June 30, 2005, we generated cash of $71.1 million from operations. This was lower than the cash generated from operations for the year ended June 30, 2004 of $76.5 million and primarily reflects the increase in inventory and receivables attributable to the factors described above.

Capital expenditures for the years ended June 30, 2005 and 2004 aggregated $39.7 million and $57.2 million respectively. For the year ended June 30, 2005, $23.5 million of the expenditure related to the construction of our new manufacturing facility. The capital expenditures in the year ended June 30, 2005 primarily reflected the construction of our new manufacturing, research and development building, office facilities, computer hardware and software, rental and loan equipment and purchase of production tooling equipment and machinery. As a result of these capital expenditures, our balance sheet reflects net property, plant and equipment of approximately $174.2 million at June 30, 2005 compared to $147.3 million at June 30, 2004.

We are currently building our new research and development and office facilities at our existing site in Sydney, Australia and expect this to be completed by the second half of calendar 2006. We estimate that the additional building costs for the new research and development and office facilities will be approximately $49.0 million. We expect to fund the project through a combination of cash on hand and cash generated from operations.

On May 16, 2005 we obtained a five-year loan of 50 million Euro, equivalent to $62.7 million, from HSBC Bank Australia Limited, to fund the acquisition of Saime SA.

On July 7, 2005, we purchased a 9.78-acre parcel of land in San Diego for $21.0 million. The new location at Kearney Mesa, San Diego will allow us to develop a new corporate headquarters. We expect to commence building during calendar year 2006 and begin moving into the facility in calendar 2007. As part of the funding of the purchase we drew down $10.0 million from our existing $15.0 million revolving line of credit with Union Bank of California.

Details of contractual obligations at June 30, 2005 are as follows:

		Payments Due by Period					
In $000's	**Total**	**2006**	**2007**	**2008**	**2009**	**2010**	**Thereafter**
Long-Term Debt	$ 173,694	$ 115,366	$ 4,534	$ 8,161	$ 12,392	$ 33,241	$ -
Operating Leases	15,021	5,563	3,323	2,135	1,650	1,005	1,345
Capital Leases	675	69	69	69	69	69	330
Unconditional Purchase Obligations	49,047	45,674	3,373	-	-	-	-
Total Contractual Cash Obligations	$ 238,437	$ 166,672	$ 11,299	$ 10,365	$ 14,111	$ 34,315	$ 1,675

Details of other commercial commitments at June 30, 2005 are as follows:

In $000's	Total Amounts Committed	Amount of Commitment Expiration Per Period 2006	2007	2008	2009	2010	Thereafter
Standby Letters of Credit	32	32	-	-	-	-	-
Guarantees*	1,190	-	439	-	211	-	540
Total Commercial Commitments	$ 1,222	$32	$439	$ -	$211	$ -	$ 540

*The above guarantees relate to guarantees required by statutory authorities as a pre-requisite to developing our site at Norwest and requirements under contractual obligations with insurance companies transacting with our German subsidiaries.

We expect to satisfy all of our short-term liquidity requirements through a combination of cash on hand, cash generated from operations and a $5.0 million undrawn revolving line of credit with Union Bank of California. Beyond this, we are currently reviewing our funding needs and existing facilities to provide flexibility for future business needs and facilitate the refinancing of our convertible notes should they not convert to common stock before maturity on June 20, 2006.

During the year ended June 30, 2005, we did not repurchase any convertible subordinated notes. Our convertible subordinated notes are due to mature on June 20, 2006.

We may from time to time seek to retire our convertible subordinated notes through cash purchases and/or exchanges for equity securities in open market purchases, privately negotiated transactions, or otherwise. Such repurchases or exchanges, if any, will depend on prevailing market conditions, our liquidity requirements, and our current or future contractual obligations, if any, that may directly or indirectly apply to such transactions.

The results of our international operations are affected by changes in exchange rates between currencies. Changes in exchange rates may negatively affect our consolidated net revenue and gross profit margins from international operations. We are exposed to the risk that the dollar value equivalent of anticipated cash flows would be adversely affected by changes in foreign currency exchange rates. We manage this risk through foreign currency option contracts.

Critical Accounting Principles and Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires us to make estimates and judgments that affect our reported amounts of assets and liabilities, revenues and expenses and related disclosures of contingent assets and liabilities. On an ongoing basis we evaluate our estimates, including those related to allowance for doubtful accounts, inventory reserves, warranty obligations, goodwill, impaired assets, intangible assets, income taxes, deferred tax valuation allowances and contingencies.

We state these accounting policies in the notes to the financial statements and at relevant sections in this discussion and analysis. The estimates are based on the information that is currently available to us and on various other assumptions that we believe to be reasonable under the circumstances. Actual results could vary from those estimates under different assumptions or conditions.

We believe that the following critical accounting policies affect the more significant judgments and estimates used in the preparation of our financial statements:

(1) Allowance for Doubtful Accounts. We maintain an allowance for doubtful accounts for estimated losses resulting from the inability of our customers to make required payments, which

results in bad debt expense. We determine the adequacy of this allowance by continually evaluating individual customer receivables, considering a customer's financial condition, credit history and current economic conditions. If the financial condition of our customers were to deteriorate, resulting in an impairment of their ability to make payments, additional allowances may be required.

(2) Inventory Adjustments. Inventories are stated at lower of cost or market and are determined by the first-in, first-out method. We review the components of inventory on a regular basis for excess, obsolete and impaired inventory based on estimated future usage and sales. The likelihood of any material inventory write-downs is dependent on changes in competitive conditions, new product introductions by us or our competitors, or rapid changes in customer demand.

(3) Valuation of Goodwill, Intangible and Other Long-Lived Assets. We use assumptions in establishing the carrying value, fair value and estimated lives of our goodwill, intangibles and other long-lived assets. The criteria used for these evaluations include management's estimate of the asset's continuing ability to generate positive income from operations and positive cash flow in future periods compared to the carrying value of the asset, as well as the strategic significance of any identifiable intangible asset in our business objectives. If assets are considered to be impaired, the impairment recognized is the amount by which the carrying value of the assets exceeds the fair value of the assets. Useful lives and related amortization or depreciation expense are based on our estimate of the period that the assets will generate revenues or otherwise be used by us. Factors that would influence the likelihood of a material change in our reported results include significant changes in the asset's ability to generate positive cash flow, loss of legal ownership or title to the asset, a significant decline in the economic and competitive environment on which the asset depends, significant changes in our strategic business objectives, utilization of the asset, and a significant change in the economic and/or political conditions in certain countries.

(4) Valuation of Deferred Income Taxes. Valuation allowances are established, when necessary, to reduce deferred tax assets to the amount expected to be realized. The likelihood of a material change in our expected realization of these assets is dependent on future taxable income, our ability to deduct tax loss carryforwards against future taxable income, the effectiveness of our tax planning and strategies among the various tax jurisdictions that we operate in, and any significant changes in the tax treatment received on our business combinations.

(5) Provision for Warranty. We provide for the estimated cost of product warranties at the time the related revenue is recognized. The amount of this provision is determined by using a financial model, which takes into consideration actual, historical expenses and potential risks associated with our different products. This financial model is then used to calculate the future probable expenses related to warranty and the required level of the warranty provision. Although we engage in product improvement programs and processes, our warranty obligation is affected by product failure rates and costs incurred to correct those product failures. Should actual product failure rates or estimated costs to repair those product failures differ from our estimates, revisions to our estimated warranty provision would be required.

(6) Revenue Recognition. Revenue on product sales is recorded at the time of shipment, at which time title transfers to the customer. Revenue on product sales which require customer acceptance is not recorded until acceptance is received. Royalty revenue from license agreements is recorded when earned. Service revenue received in advance from service contracts is initially deferred and recognized ratably over the life of the service contract. Revenue received in advance from rental unit contracts is initially deferred and recognized ratably over the life of the rental contract. Revenue from sale of marketing and distribution rights is initially deferred and recognized ratably as revenue over the life of the contract. Freight charges billed to customers are included in revenue. All freight-related expenses are charged to cost of sales.

We do not offer a right of return or other recourse with respect to the sale of our products or similarly offer variable sale prices for subsequent events or activities. However, as part of our sales processes

we may provide upfront discounts for large orders, one time special pricing to support new product introductions, sales rebates for centralized purchasing entities or price-breaks for regular order volumes. The costs of all such programs are recorded as an adjustment to revenue. In our domestic sales activities we use a number of Manufacturer Representatives to sell our products. These representatives are paid a direct commission on sales and act as an integral component of our domestic sales force. We do not sell our products to these representatives, and do not recognize revenue on such shipments. Our products are predominantly therapy-based equipment and require no installation. As such, we have no significant installation obligations.

Recently Issued Accounting Pronouncements

In December 2004, the Financial Accounting Standards Board, ("FASB"), issued SFAS 123(R), "Share-Based Payment", which is a revision of SFAS 123. Generally, the approach in SFAS 123(R) is similar to the approach described in SFAS 123. However, SFAS 123(R) requires all share-based payments to employees, including grants of employee stock options, to be recognized in the income statement based on their fair values. Pro forma disclosure will no longer be an alternative. This statement also eliminates the ability to account for share-based compensation transactions using APB Opinion No. 25. The statement, which was delayed, is effective at the beginning of the fiscal year beginning after June 15, 2005. Early adoption will be permitted in periods in which financial statements have not yet been issued. The accounting provision SFAS 123(R) is effective beginning in our interim period ending September 30, 2005.

SFAS 123(R) permits public companies to adopt its requirements using one of two methods: (1) A "modified prospective" method in which compensation cost is recognized beginning with the effective date (a) based on the requirements of SFAS 123(R) for all share-based payments granted after the effective date and (b) based on the requirements of SFAS 123 for all awards granted to employees before the effective date of SFAS 123(R) that remain unvested on the effective date; or (2) A "modified retrospective" method which includes the requirements of the modified prospective method described above, but also permits entities to restate based on the amounts previously recognized under SFAS 123 for purposes of pro forma disclosures either (a) all prior periods presented or (b) prior interim periods of the year of adoption. We expect to adopt the modified prospective method.

As permitted by SFAS 123, we currently account for share-based payments to employees using Opinion 25's intrinsic value method and, as such, generally recognize no compensation cost for employee stock options, which are granted with exercise prices equal to the fair market value of our common stock on the date of grant. We are currently reviewing the impact of the adoption of SFAS 123(R) however we expect the adoption of SFAS 123(R) will have a significant impact on our results of operations.

In December 2004, the Financial Accounting Standards Board, ("FASB"), issued SFAS 153, "Exchanges of Non-monetary Assets, an Amendment of APB Opinion No. 29,' Accounting for Non-monetary Transactions'." The amendments are based on the principle that exchanges of non-monetary assets should be measured based on the fair value of the assets exchanged. SFAS 153 is effective for fiscal periods beginning after June 15, 2005, however earlier application is permitted for non-monetary asset exchanges occurring in fiscal periods beginning after the date of issuance. The provisions of this statement will be applied prospectively. We do not believe the adoption of this statement will have a material impact on our financial condition or results of operations.

In November 2004, the Financial Accounting Standards Board ("FASB"), issued SFAS 151, "Inventory Costs", which sought to clarify the accounting for abnormal amounts of idle facility expense, freight, handling costs and spoilage. SFAS 151 also requires that the allocation of fixed

production overheads to the costs of conversion be based on the normal operating capacity of the production facilities. SFAS 151 is effective for fiscal years beginning after June 15, 2005. We do not believe the adoption of this statement will have a material impact on our financial condition or results of operations.

ITEM 7A QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET AND BUSINESS RISKS

Foreign Currency Market Risk

Our functional currency is the U.S. dollar, although the financial statements of our non-U.S. subsidiaries are maintained in their respective local currencies. We transact business in various foreign currencies, including a number of major European currencies as well as the Australian dollar. We have significant foreign currency exposure through both our Australian manufacturing activities and international sales operations.

We have established a foreign currency hedging program using purchased currency options to hedge foreign-currency-denominated financial assets, liabilities and manufacturing expenditure. The goal of this hedging program is to economically guarantee or lock-in the exchange rates on our foreign currency exposures denominated in Euro's and the Australian dollar. Under this program, increases or decreases in our foreign-currency-denominated financial assets, liabilities, and firm commitments are partially offset by gains and losses on the hedging instruments. We have determined our hedge program to be a non-effective hedge as defined under SFAS 133. The foreign currency derivatives portfolio is recorded in the consolidated balance sheets at fair value and included in other assets or other liabilities. All movements in the fair value of the foreign currency derivatives are recorded within other income, net on our consolidated statements of income.

The table below provides information (in U.S. dollars) on our foreign-currency-denominated financial assets by legal entity functional currency as of June 30, 2005 (in thousands):

	Foreign Currency Financial Assets								
	Australian Dollar (AUD)	**US Dollar (USD)**	**Euro (EUR)**	**Great Britain Pound (GBP)**	**Singapore Dollar (SGD)**	**New Zealand Dollar (NZD)**	**Swedish Krona (SEK)**	**Swiss Franc (CHF)**	**Japanese Yen (JPY)**
AUD Functional Currency Entities:									
Assets	$ -	$ 86,592	$ 86,799	$ 2,925	$ 975	$ 1,600	$ 730	$ 705	$ -
Liability	-	(19,738)	(61,160)	(6,132)	(52)	(22)	-	-	(497)
Net Total	-	66,854	25,639	(3,207)	923	1,578	730	705	(497)
USD Functional Currency Entities:									
Assets	23,846	-	4,676	-	-	-	-	-	-
Liability	$ -	-	-	-	-	-	-	-	-
Net Total	23,846	-	4,676	-	-	-	-	-	-
EURO Functional Currency Entities:									
Assets	4,675	3,950	-	-	-	-	-	266	-
Liability	(59)	(295)	-	-	-	-	-	(511)	-
Net Total	4,616	3,655	-	-	-	-	-	(245)	-
GBP Functional Currency Entities:									
Assets	-	2,775	1,694	-	-	-	-	-	-
Liability	-	-	-	-	-	-	-	-	-
Net Total	-	2,775	1,694	-	-	-	-	-	-
CHF Functional Currency Entities:									
Assets	763	4	69	9	-	-	-	-	-
Liability	-	(4)	(16)	(19)	-	-	-	-	-
Net Total	$ 763	$ -	$ 53	$ (10)	$ -	$ -	$ -	$ -	$ -

The table below provides information about our foreign currency derivative financial instruments and presents the information in U.S. dollar equivalents. The table summarizes information on instruments and transactions that are sensitive to foreign currency exchange rates, including foreign currency call options held at June 30, 2005. The table presents the notional amounts and weighted average exchange rates by contractual maturity dates for our foreign currency derivative financial instruments. These notional amounts generally are used to calculate payments to be exchanged under the options contracts.

(In thousands except exchange rates)	FY 2006	FY 2007	Total	Fair Value Assets / (Liabilities) As of June 30 2005	2004
Foreign Exchange Call Options					
(Receive AUD$/Pay U.S.$)					
Option amount	$66,000	$36,000	$102,000	$2,240	$1,816
Average contractual exchange rate	AUD $1 = USD 0.747	AUD $1 = USD 0.788	AUD $1 = USD 0.761		
(Receive AUD$/Pay Euro)					
Option amount	$21,762	$21,762	$43,524	$758	$180
Average contractual exchange rate	AUD $1 = Euro 0. 62	AUD $1 = Euro 0.66	AUD $1 = Euro 0.64		

Interest Rate Risk

We are exposed to risk associated with changes in interest rates affecting the return on our cash and cash equivalents and debt. At June 30, 2005 we had total long-term debt, including the current portion of those obligations, of $174.4 million. Of this debt, $113.9 million is at fixed interest rates and $60.5 million is subject to variable interest rates.

A hypothetical 10% change in interest rates during the twelve months ended June 30, 2005, would not have a material impact on pretax income. We have no interest rate hedging agreements.

Forward-Looking Statements

This report on Form 10-K contains or may contain certain forward-looking statements and information that are based on our management's beliefs, as well as on estimates and assumptions made by, and information currently available to our management. The words "believe," "expect," "anticipate," "estimate," "plan," "future" and other similar expressions generally identify forward-looking statements, including, in particular, statements regarding the development and approval of new products and product applications, market expansion, pending litigation and the development of new markets for our products, such as the cardiovascular and stroke markets. These forward-looking statements are made under the safe harbor provisions of the U.S. Private Securities Litigation Reform Act of 1995. You should not unduly rely on these forward-looking statements. Forward-looking statements reflect the views of our management at the time the statements are made and are subject to a number of risks, uncertainties, estimates and assumptions, including, without limitation, and in addition to those identified in the text surrounding such statements, those identified under the caption "Risk Factors" below and elsewhere in this report. In addition, important factors to consider in evaluating such forward-looking statements include changes or developments in social, economic, market, legal or regulatory circumstances, changes in our business or growth strategy or an inability to execute our strategy due to changes in our industry or the economy generally, the emergence of

new or growing competitors, the actions or omissions of third parties, including suppliers, customers, competitors and governmental authorities, and various other factors. Should any one or more of these risks or uncertainties materialize, or the underlying estimates or assumptions prove incorrect, actual results may vary significantly from those expressed in such forward-looking statements, and there can be no assurance that the forward-looking statements contained in this report will in fact occur.

Risk Factors

The risks and uncertainties that may affect our business, financial condition or results of operations include the following:

Our inability to compete successfully in our markets may harm our business. The markets for our sleep-disordered breathing products are highly competitive and are characterized by frequent product improvements and evolving technology. Our ability to compete successfully depends, in part, on our ability to develop, manufacture and market innovative new products. The development of innovative new products by our competitors or the discovery of alternative treatments or potential cures for the conditions that our products treat could make our products noncompetitive or obsolete.

Additionally, some of our competitors have greater financial, research and development, manufacturing and marketing resources than we do. The past several years have seen a trend towards consolidation in the health care industry and in the markets for our products. Industry consolidation could result in greater competition if our competitors combine their resources or if our competitors are acquired by other companies with greater resources than ours. This competition could increase pressure on us to reduce the selling prices of our products or could cause us to increase our spending on research and development and sales and marketing. If we are unable to develop innovative new products, maintain competitive pricing, and offer products that consumers perceive to be as reliable as those of our competitors, our sales or gross margins could decrease which would harm our business.

Our business depends on our ability to market effectively to dealers of home health care products and sleep clinics. We market our products primarily to home health care dealers and to sleep clinics that diagnose obstructive sleep apnea and other sleep disorders. We believe that home health care dealers and sleep clinics play a significant role in determining which brand of product a patient will use. The success of our business depends on our ability to market effectively to home health care dealers and sleep clinics to ensure that our products are properly marketed and sold by these third parties.

We have limited resources to market to approximately 3,000 U.S. sleep clinics and the more than 6,000 home health care dealer branch locations, most of which use, sell or recommend several brands of products. In addition, home health care dealers have experienced price pressures as government and third-party reimbursement have declined for home care products, and home health care dealers are requiring price discounts and longer periods of time to pay for products purchased from us. We cannot assure you that sleep clinic physicians will continue to prescribe our products, or that home health care dealers or patients will not substitute competing products when a prescription specifying our products has been written.

We have expanded our marketing activities to target the population with a predisposition to sleep- disordered breathing as well as primary care physicians and various medical specialists. We cannot assure you that these marketing efforts will be successful in increasing awareness or sales of our products.

Any inability to effectively market our products outside the U.S. could impact our profitability. Approximately half our revenues are generated outside the U.S., in approximately 60 different countries. Many of these countries have unique regulatory, medical, and business environments. If we are unable to effectively market our products outside the U.S., our overall financial performance could decline.

If we are unable to support our continued growth, our business could suffer. We have experienced rapid and substantial growth. As we continue to grow, the complexity of our operations increases, placing greater demands on our management. Our ability to manage our growth effectively depends on our ability to implement and improve our financial and management information systems on a timely basis and to effect other changes in our business. Unexpected difficulties during expansion, the failure to attract and retain qualified employees, the failure to successfully replace or upgrade our management information systems, the failure to manage costs or our inability to respond effectively to growth or plan for future expansion could cause our growth to stop. If we fail to manage our growth, our business could suffer.

If we fail to integrate our recent acquisitions with our operations, our business could suffer. During the fiscal year ended June 30, 2005 we acquired Saime SA, Hoefner and Resprecare. We are currently in the process of integrating our operations with these recent acquisitions. The integration will require significant efforts from each company. We may find it difficult to integrate the operations as personnel may leave, licensees, distributors or suppliers may terminate their arrangements, or demand amended terms to these arrangements. Additionally, our management may have their attention diverted while trying to integrate these companies. This diversion or these difficulties in integration could have an adverse impact on us. If we are not able to successfully integrate the operations, we may not realize the anticipated benefits of these acquisitions

If we fail to properly implement restructure plans, our business could suffer. We recently merged the operations of ResMed Germany and MAP into a single operating unit as part of our German restructure plan. We have relocated our ResMed Germany operations to Munich, and are integrating the back office functions, including customer service, logistics and administration. We will continue to monitor the progress of this restructure and adjust our business strategies and personnel accordingly to achieve maximum efficiencies, cost savings and success. If we are not able to successfully integrate the operations we may not fully realize the anticipated benefits of the restructure.

Changes in assumptions used in the purchase accounting of our recent acquisitions may impact our future operating results. The acquisitions have been accounted for using purchase accounting and accordingly have been included in the company's operations since the date of acquisition. We allocate the purchase price according to the fair value of assets and liabilities assumed, intangible assets and in process research and development as at the date of acquisition. The excess of the purchase price over the fair values of acquired net assets is recorded as goodwill. We utilize independent appraisals with our own internal studies and management assumptions to estimate the fair values. If our estimates change due to inaccurate assumptions or other circumstances our future financial results maybe impacted. This may result in goodwill becoming impaired and changes to the amount of amortization charges of certain identifiable intangible assets.

We manufacture substantially all of our products outside the U.S. and sell a significant portion of our products in non-U.S. markets, subjecting us to various risks relating to international activities that could adversely affect our overall profitability. Sales outside North and Latin America accounted for approximately 49%, 51%, and 52% of our net revenues in fiscal years 2005, 2004 and 2003, respectively. We expect that sales within these areas will account for approximately 50% of our net revenues in the foreseeable future. Our sales outside of North America and our operations in Europe, Australia and Asia are subject to several difficulties and risks that are separate and distinct from those we face in our U.S. operations, including:

- fluctuations in currency exchange rates;
- tariffs and other trade barriers;

- compliance with foreign medical device manufacturing regulations;
- reduction in third party payer reimbursement for our products;
- inability to obtain import licenses;
- changes in trade policies and in U.S. and foreign tax policies;
- possible changes in export or import restrictions; and
- the modification or introduction of other governmental policies with potentially adverse effects.

Fluctuations in foreign currency exchange rates could result in declines in our reported sales and earnings. Since our international sales and a significant portion of our manufacturing costs are denominated in local currencies and not in U.S. dollars, our reported sales and earnings are subject to fluctuations in foreign exchange rates. We had foreign currency transaction losses in recent periods and may have further losses in the future. We expect that international sales will continue to be a significant portion of our business and that a significant portion of our manufacturing costs will continue to be denominated in Australian dollars.

Government and private insurance plans may not reimburse patients for our products, which could result in reductions in sales or selling prices for our products. Our ability to sell our products depends in large part on the extent to which reimbursement for the cost of our products will be available from government health administration authorities, private health insurers and other organizations. These third party payers are increasingly challenging the prices charged for medical products and services. Therefore, even if a product is approved for marketing, we cannot assure you that reimbursement will be allowed for the product, that the reimbursement amount will be adequate or, that the reimbursement amount even if initially adequate, will not subsequently be reduced. For example, in some markets, such as Spain, France and Germany, government reimbursement is currently available for purchase or rental of our products but is subject to constraints such as price controls or unit sales limitations. In other markets, such as Australia and the United Kingdom, there is currently limited or no reimbursement for devices that treat sleep-disordered breathing conditions. Additionally, future legislation or regulation concerning the health care industry or third party or governmental coverage and reimbursement, particularly legislation or regulation limiting consumers' reimbursement rights, may harm our business.

As we continue to develop new products, those products will generally not qualify for reimbursement, if at all, until they are approved for marketing. In the United States, we sell our products primarily to home health care dealers and to sleep clinics. We do not file claims and bill governmental programs and other third party payers directly for reimbursement for our products. However, we are still subject to laws and regulations relating to governmental reimbursement programs, particularly Medicaid and Medicare.

In particular, the federal Anti-Kickback Law prohibits persons from knowingly and willfully soliciting, receiving, offering or providing remuneration, directly or indirectly, to induce either the referral of an individual, or the furnishing, recommending or arranging for a good or service, for which payment may be made under a federal health care program such as the Medicare and Medicaid programs. The government has interpreted this law broadly to apply to the marketing and sales activities of manufacturers and distributors like us. Many states and other governments have adopted laws similar to the federal Anti-Kickback Law. We are also subject to other federal and state fraud laws applicable to payment from any third party payer. These laws prohibit persons from knowingly and willfully filing false claims or executing a scheme to defraud any health care benefit program, including private third party payers. These laws may apply to manufacturers and distributors who provide information on coverage, coding, and reimbursement of their products to persons who do bill third party payers. Any violation of these laws and regulations could result in civil and criminal penalties, including fines.

In addition to reimbursement for our products, our customers depend in part on reimbursement by government and private health insurers for other products. During fiscal year 2004, the US Government proposed reductions in reimbursement rates for some of these other products. Such proposed reductions, if they occur, may have a material impact on our customers. Any material impact on our customers may indirectly affect our sales to those customers, or the collectibility of receivables we have from those customers.

Complying with Food and Drug Administration and other regulations is an expensive and time-consuming process, and any failure to comply could result in substantial penalties. We are subject to various federal, state, local and international regulations regarding our business activities. Failure to comply with these regulations could result in, among other things, recalls of our products, substantial fines and criminal charges against us or against our employees. A recall or other regulatory action could increase our costs, damage our reputation, and materially affect operating results.

Product sales, introductions or modifications may be delayed or canceled as a result of the FDA or similar foreign regulations, which could cause our sales and profits to decline. Before we can market or sell a new medical device in the United States, we must obtain FDA clearance, which can be a lengthy and time-consuming process. We generally receive clearance from the FDA to market our products in the United States under Section 510(k) of the Federal Food, Drug, and Cosmetic Act or our products are exempt from the 510(k) clearance process. We have modified some of our 510(k) approved products without submitting new 510(k) notices, which we do not believe were required. However, if the FDA disagrees with us and requires us to submit new 510(k) notifications for modifications to our existing products, we may be required to stop marketing the products while the FDA reviews the 510(k) notification.

Any new product introduction or existing product modification could be subjected to a lengthier, more rigorous FDA examination process. For example, in certain cases we may need to conduct clinical trials of a new product before submitting a 510(k) notice. Additionally, we may be required to obtain premarket approvals for our products. The requirements of these more rigorous processes could delay product introductions and increase the costs associated with FDA compliance. Marketing and sale of our products outside the United States are also subject to regulatory clearances and approvals, and if we fail to obtain these regulatory approvals, our sales could suffer.

We cannot assure you that any new products we develop will receive required regulatory approvals from U.S. or foreign regulatory agencies.

Off-label marketing of our products could result in substantial penalties. Clearance under Section 510(k) only permits us to market our products for the uses indicated on the labeling cleared by the FDA. We may request additional label indications for our current products, and the FDA may deny those requests outright, require additional expensive clinical data to support any additional indications or impose limitations on the intended use of any cleared products as a condition of clearance. If the FDA determines that we have marketed our products for off-label use, we could be subject to fines, injunctions or other penalties.

Disruptions in the supply of components from our single source suppliers could result in a significant reduction in sales and profitability. We purchase uniquely configured components for our devices from various suppliers, including some who are single-source suppliers for us. We cannot assure you that a replacement supplier would be able to configure its components for our devices on a timely basis or, in the alternative, that we would be able to reconfigure our devices to integrate the replacement part.

A reduction or halt in supply while a replacement supplier reconfigures its components, or while we reconfigure our devices for the replacement part, would limit our ability to manufacture our devices, which could result in a significant reduction in sales and profitability. We cannot assure you that our inventories would be adequate to meet our production needs during any prolonged interruption of supply.

Our intellectual property may not protect our products, and our products may infringe on the intellectual property rights of third parties. We rely on a combination of patents, trade secrets and non-disclosure agreements to protect our intellectual property. Our success depends, in part, on our ability to obtain and maintain United States and foreign patent protection for our products, their uses and our processes to preserve our trade secrets and to operate without infringing on the proprietary rights of third parties. We have a number of pending patent applications, and we do not know whether any patents will issue from any of these applications. We do not know whether any of the claims in our issued patents or pending applications will provide us with any significant protection against competitive products or otherwise be commercially valuable. Legal standards regarding the validity of patents and the proper scope of their claims are still evolving, and there is no consistent law or policy regarding the valid breadth of claims. Additionally, there may be third party patents, patent applications and other intellectual property relevant to our products and technology which are not known to us and that block or compete with our products.

We face the risks that:

- third parties will infringe our intellectual property rights;
- our non-disclosure agreements will be breached;
- we will not have adequate remedies for infringement;
- our trade secrets will become known to or independently developed by our competitors; or
- third parties will be issued patents that may prevent the sale of our products or require us to license and pay fees or royalties in order for us to be able to market some of our products.

Litigation may be necessary to enforce patents issued to us, to protect our proprietary rights, or to defend third party claims that we have infringed upon proprietary rights of others. The defense and prosecution of patent claims, including these pending claims, as well as participation in other inter-party proceedings, can be expensive and time consuming, even in those instances in which the outcome is favorable to us. If the outcome of any litigation or proceeding brought against us were adverse, we could be subject to significant liabilities to third parties, could be required to obtain licenses from third parties or could be required to cease sales of the affected products. Additionally, the laws regarding the enforceability of patents vary from country to country, and we cannot assure you that any patent issues we face will be uniformly resolved, or that local laws will provide us with consistent rights and benefits.

We are subject to potential product liability claims that may exceed the scope and amount of our insurance coverage, which would expose us to liability for uninsured claims. We are subject to potential product liability claims as a result of the design, manufacture and marketing of medical devices. Any product liability claim brought against us, with or without merit, could result in the increase of our product liability insurance rates. In addition, we would have to pay any amount awarded by a court in excess of our policy limits. Our insurance policies have various exclusions, and thus we may be subject to a product liability claim for which we have no insurance coverage, in which case, we may have to pay the entire amount of any award. We cannot assure you that our insurance coverage will be adequate or that all claims brought against us will be covered by our insurance. Insurance varies in cost and can be difficult to obtain, and we cannot assure you that we will be able to obtain insurance in the future on terms acceptable to us or at all. A successful product liability

claim brought against us in excess of our insurance coverage, if any, may require us to pay substantial amounts, which could harm our business.

We are subject to tax audits by various tax authorities in many jurisdictions. From time to time we may be audited by the tax authorities and are still subject to an ongoing German tax audit. Any final assessment resulting from this audit could result in material changes to our past or future taxable income, tax payable or deferred tax assets, and could require us to pay penalties and interest that could materially adversely affect our financial results.

Our quarterly operating results are subject to fluctuation for a variety of reasons. Our operating results have, from time to time, fluctuated on a quarterly basis and may be subject to similar fluctuations in the future. These fluctuations may result from a number of factors, including:

- the introduction of new products by us or our competitors;
- the geographic mix of product sales;
- the success of our marketing efforts in new regions;
- changes in third party reimbursement;
- timing of regulatory clearances and approvals;
- timing of orders by distributors;
- expenditures incurred for research and development;
- competitive pricing in different regions;
- seasonality;
- the cost and effect of promotional and marketing programs;
- the effect of foreign currency transaction gains or losses; and
- other activities of our competitors.

If a natural or man-made disaster strikes our manufacturing facilities, we will be unable to manufacture our products for a substantial amount of time and our sales and profitability will decline. Our facilities and the manufacturing equipment we use to produce our products would be costly to replace and could require substantial lead-time to repair or replace. The facilities may be affected by natural or man-made disasters and in the event it was affected by a disaster, we would be forced to rely on third party manufacturers. Although we believe we possess adequate insurance for damage to our property and the disruption of our business from casualties, such insurance may not be sufficient to cover all of our potential losses and may not continue to be available to us on acceptable terms, or at all.

Delaware law, provisions in our charter and our shareholder rights plan could make it difficult for another company to acquire us. Provisions of our certificate of incorporation may have the effect of delaying or preventing changes in control or management which might be beneficial to us or our security holders. In particular, our board of directors is divided into three classes, serving for staggered three-year terms. Because of this classification it will require at least two annual meetings to elect directors constituting a majority of our board of directors.

Additionally, our board of directors has the authority to issue up to 2,000,000 shares of preferred stock and to determine the price, rights, preferences, privileges and restrictions, including voting rights, of those shares without further vote or action by the stockholders. Under our stockholder rights plan, we have also issued purchase rights to the holders of our common stock that entitle those holders to purchase our Series A Junior Participating Preferred Stock at a discount, under certain circumstances. The rights of the holders of our common stock will be subject to, and may be

adversely affected by, the rights of the holders of any preferred stock that may be issued in the future. The issuance of preferred stock may have the effect of delaying, deferring or preventing a change in control, may discourage bids for our common stock at a premium over the market price of our common stock and may adversely affect the market price of our common stock and the voting and other rights of the holders of our common stock.

You may not be able to enforce the judgments of U.S. courts against some of our assets or officers and directors. A substantial portion of our assets are located outside the United States. Additionally, two of our eight directors and two of our six executive officers reside outside the United States, along with all or a substantial portion of the assets of these persons. As a result, it may not be possible for investors to enforce judgments of U.S. courts relating to any liabilities under U.S. securities laws against our assets, those persons or their assets. In addition, we have been advised by our Australian counsel that some doubt exists as to the ability of investors to pursue claims based on U.S. securities laws against these assets or these persons in Australian courts.

ITEM 8 CONSOLIDATED FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

a) Index to Consolidated Financial Statements

b) Supplementary Data

Quarterly Financial Information (unaudited)—The quarterly results for the years ended June 30, 2005 and 2004 are summarized below (in thousands, except per share amounts):

2005	First Quarter	Second Quarter	Third Quarter	Fourth Quarter	Fiscal Year
Net revenues	$ 87,733	$ 103,893	$ 108,454	$ 125,425	$ 425,505
Gross profit	56,411	68,378	70,295	79,776	274,860
Net income	13,926	17,404	17,877	15,578	64,785
Basic earnings per share	$ 0.41	$ 0.51	$ 0.52	$ 0.45	$ 1.89
Diluted earnings per share	$ 0.39	$ 0.49	$ 0.50	$ 0.43	$ 1.82

2004	First Quarter	Second Quarter	Third Quarter	Fourth Quarter	Fiscal Year
Net revenues	$ 72,878	$ 82,292	$ 91,277	$ 92,891	$ 339,338
Gross profit	47,158	52,424	57,550	59,604	216,736
Net income	12,249	14,151	15,029	15,855	57,284
Basic earnings per share	$ 0.36	$ 0.42	$ 0.45	$ 0.47	$ 1.70
Diluted earnings per share	$ 0.35	$ 0.40	$ 0.43	$ 0.45	$ 1.63

NB. Per share amounts for each quarter are computed independently, and, due to the computation formula, the sum of the four quarters may not equal the year.

ITEM 9 CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

ITEM 9A CONTROLS AND PROCEDURES

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in our Exchange Act reports is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow for timely decisions regarding required disclosure. In designing and evaluating the disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and management is required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

As required by SEC Rule 13a-15(b), we carried out an evaluation, under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures as of June 30, 2005. Based on the foregoing, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective at the reasonable assurance level.

There has been no change in our internal controls over financial reporting during our most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, our internal controls over financial reporting.

MANAGEMENT'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING

The management of the Company is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rules 13a-15(f) and 15d-15(f) under the Securities Exchange Act of 1934. The Company's internal control over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles in the United States of America. The Company's internal control over financial reporting includes those policies and procedures that:

(i) Pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the Company;

(ii) Provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the Company are being made only in accordance with authorizations of management and directors of the Company; and

(iii) Provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the Company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Management assessed the effectiveness of the Company's internal control over financial reporting as of June 30, 2005. Management based this assessment on criteria for effective internal control over financial reporting described in "Internal Control – Integrated Framework" issued by the Committee of Sponsoring Organizations of the Treadway Commission. Management's assessment included an evaluation of the design of ResMed, Inc.'s internal control over financial reporting and testing of the operational effectiveness of its internal control over financial reporting. Management reviewed the results of its assessment with the Audit Committee of our Board of Directors.

Based on our assessment and those criteria, management has concluded that the Company did maintain effective internal control over financial reporting as of June 30, 2005.

KPMG LLP, independent registered public accounting firm, who audited and reported on the consolidated financial statements of ResMed, Inc. included in this report, has issued an attestation report on management's assessment of internal control over financial reporting.

Scope of Management's Report

Management's assessment of the effectiveness of internal control over financial reporting excludes the evaluation of the internal controls over financial reporting of Saime, Hoefner and Resprecare, which were acquired purchase business combinations on May 19, 2005, February 8, 2005 and December 14, 2004, respectively. Purchase combinations excluded from fiscal 2005 scope represents approximately 20% of the total assets and approximately 3% of the net sales, respectively, of our consolidated financial statements as of June 30, 2005 and the year ended June 30, 2005.

RESMED INC. AND SUBSIDIARIES

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders
ResMed Inc.:

We have audited management's assessment, included in the accompanying Management's Report on Internal Control Over Financial Reporting, that ResMed Inc. maintained effective internal control over financial reporting as of June 30, 2005, based on criteria established in Internal Control – Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). ResMed Inc.'s management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting. Our responsibility is to express an opinion on management's assessment and an opinion on the effectiveness of the Company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, evaluating management's assessment, testing and evaluating the design and operating effectiveness of internal control, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

RESMED INC AND SUBSIDIARIES

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

In our opinion, management's assessment that ResMed Inc. maintained effective internal control over financial reporting as of June 30, 2005, is fairly stated, in all material respects, based on criteria established in Internal Control – Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). Also, in our opinion, ResMed Inc. maintained, in all material respects, effective internal control over financial reporting as of June 30, 2005, based on criteria established in Internal Control – Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

ResMed Inc. acquired Saime, Hoefner and Resprecare during 2005, and management excluded from its assessment of the effectiveness of ResMed Inc.'s internal control over financial reporting as of June 30, 2005, Saime, Hoefner and Resprecare's internal control over financial reporting associated with total assets of 20% and total revenues of 3% included in the consolidated financial statements of ResMed Inc. and subsidiaries as of and for the year ended June 30, 2005. Our audit of internal control over financial reporting of ResMed Inc. also excluded an evaluation of the internal control over financial reporting of Saime, Hoefner and Resprecare.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of ResMed Inc. and subsidiaries as of June 30, 2005 and 2004, and the related consolidated statements of income, stockholders' equity and comprehensive income, and cash flows for each of the years in the three-year period ended June 30, 2005, and our report dated September 10, 2005 expressed an unqualified opinion on those consolidated financial statements.

/s/ KPMG LLP

San Diego, California
September 10, 2005

ITEM 9B OTHER INFORMATION

None.

PART III

ITEM 10 DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT

Incorporated by reference to our definitive Proxy Statement for our November 18, 2005, meeting of stockholders, which will be filed with the Securities and Exchange Commission within 120 days after June 30, 2005.

ITEM 11 EXECUTIVE COMPENSATION

Incorporated by reference to our definitive Proxy Statement for our November 18, 2005, meeting of stockholders, which will be filed with the Securities and Exchange Commission within 120 days after June 30, 2005.

ITEM 12 SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

Incorporated by reference to our definitive Proxy Statement for our November 18, 2005, meeting of stockholders, which will be filed with the Securities and Exchange Commission within 120 days after June 30, 2005.

ITEM 13 CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

No material transactions.

ITEM 14 PRINCIPAL ACCOUNTANT FEES AND SERVICES

Incorporated by reference to our definitive Proxy Statement for our November 18, 2005, meeting of stockholders, which will be filed with the Securities and Exchange Commission within 120 days after June 30, 2005.

PART IV

ITEM 15 EXHIBITS AND CONSOLIDATED FINANCIAL STATEMENT SCHEDULES

The following documents are filed as part of this report:

1. Consolidated Financial Statements and Schedule – The consolidated financial statements and schedule of the Company and its consolidated subsidiaries are set forth in the "Index to Consolidated Financial Statements" under Item 8 of this report.
2. Exhibits

3.1 Certificate of Incorporation of Registrant, as amended[1]

3.2 By-laws of Registrant[1]

4.1 Form of certificate evidencing shares of Common Stock[1]

4.2 Rights agreement dated as of April 23, 1997[2]

4.3	Indenture dated as of June 20, 2001, between ResMed Inc and American Stock Transfer & Trust Company[5]
4.4	Registration Rights Agreement dated as of June 20, 2001, by and between ResMed Inc, Merrill Lynch & Co., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Deutsche Banc Alex Brown Inc., William Blair & Company, L.L.C., Macquarie Bank Limited and UBS Warburg LLC[5]
4.5	Registration Rights Agreement dated as of May 14, 2002 between ResMed Inc, and Mr Leslie Hoffman[6]
10.1	1995 Stock Option Plan[1]
10.2	1997 Equity Participation Plan[3]
10.3	Licensing Agreement between the University of Sydney and ResMed Limited dated May 17, 1991, as amended[1]
10.5	Loan Agreement between the Australian Trade Commission and ResMed Limited dated May 3, 1994[1]
10.6	Lease for 10121 Carroll Canyon Road, San Diego CA 92131-1109, USA[4]
10.7	Sale and Leaseback Agreements for 97 Waterloo Rd, North Ryde, Australia[5]
10.8	Employment Agreement dated as of May 14, 2002, between Servo Magnetics Acquisition Inc., and Mr Leslie Hoffman[6]
10.9	Agreement for the purchase of Lot 6001, Norwest Boulevarde, Norwest Business Park, Baulkham Hills, Australia[6]
10.10	2003 Employee Stock Purchase Plan[7]
10.11	Loan Agreement between ResMed Limited and HSBC Bank Australia Limited
10.12	Saime Purchase Agreement
21.1	Subsidiaries of the Registrant
23.1	Independent Registered Public Accounting Firm's Consent and Report on Schedule
31.1	Certification of Chief Executive Officer Pursuant to Section 302 of Sarbanes-Oxley Act of 2002
31.2	Certification of Chief Financial Officer Pursuant to Section 302 of Sarbanes-Oxley Act of 2002
32.1	Certification of Chief Executive Officer and Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

[1] Incorporated by reference to the Registrant's Registration Statement on Form S-1 (No. 33-91094) declared effective on June 1, 1995.

[2] Incorporated by reference to the Registrant's Registration Statement on Form 8-A12G filed on April 25, 1997.

[3] Incorporated by reference to the Registrant's 1997 Proxy Statement.

[4] Incorporated by reference to the Registrant's Report on Form 10-K dated June 30, 1998.

[5] Incorporated by reference to the Registrant's Report on Form 10-K for the year ended June 30, 2001.

[6] Incorporated by reference to the Registrant's Report on Form 10-K for the year ended June 30, 2002.

[7] Incorporated by reference to the Registrant's 2003 Proxy Statement.

RESMED INC. AND SUBSIDIARIES

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders
ResMed Inc:

We have audited the accompanying consolidated balance sheets of ResMed Inc. and subsidiaries as of June 30, 2005, and 2004, and the related consolidated statements of income, stockholders' equity, and cash flows for each of the years in the three-year period ended June 30, 2005. In connection with our audits of the consolidated financial statements, we also have audited financial statement schedule II. These consolidated financial statements and financial statement schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements and financial statement schedule based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of ResMed Inc. and subsidiaries as of June 30, 2005 and 2004, and the results of their operations and their cash flows for each of the years in the three-year period ended June 30, 2005, in conformity with U.S. generally accepted accounting principles. Also, in our opinion, the related financial statement schedule, when considered in relation to the basic consolidated financial statements, taken as a whole, presents fairly, in all material respects, the information set forth therein.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the effectiveness of ResMed Inc.'s internal control over financial reporting as of June 30, 2005, based on criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO), and our report dated September 10, 2005, expressed an unqualified opinion on management's assessment of, and the effective operation of, internal control over financial reporting.

/s/ KPMG LLP

San Diego, California
September 10, 2005

RESMED INC AND SUBSIDIARIES
Consolidated Balance Sheets
June 30, 2005 and 2004
(In thousands, except share and per share data)

	June 30, 2005	June 30, 2004
Assets		
Current assets:		
Cash and cash equivalents	$ 142,185	$ 128,907
Marketable securities available for sale (note 4)	-	12,021
Accounts receivable, net of allowance for doubtful accounts of $3,199 and $3,197 at June 30, 2005 and 2004, respectively	103,951	67,242
Inventories, net (note 5)	89,107	55,797
Deferred income taxes (note 14)	15,230	12,033
Prepaid expenses and other current assets	9,737	6,821
Total current assets	360,210	282,821
Property, plant and equipment, net of accumulated depreciation of $88,970 and $60,330 at June 30, 2005 and 2004, respectively (note 7)	174,168	147,268
Goodwill (note 8)	181,106	106,075
Other intangibles (note 8)	49,371	4,814
Other assets	9,291	8,173
Total non-current assets	413,936	266,330
Total assets	$ 774,146	$ 549,151
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable	$ 34,416	$ 18,574
Accrued expenses (note 9)	34,414	22,591
Deferred Revenue	12,327	8,759
Income taxes payable	21,959	8,470
Current portion of deferred profit on sale-leaseback	-	2,197
Current portion of long-term debt (note 10)	115,435	-
Total current liabilities	218,551	60,591
Non-current liabilities:		
Deferred income taxes (note 14)	11,695	4,992
Deferred revenue	10,901	8,819
Long-term debt (note 10)	58,934	113,250
Total non-current liabilities	81,530	127,061
Total liabilities	300,081	187,652
Commitments and contingencies (notes 17, 18 and 19)	-	-
Stockholders' equity: (note 12)		
Preferred stock, $.01 par value, 2,000,000 shares authorized; none issued	-	-
Series A Junior Participating preferred stock, $0.01 par value, 250,000 shares authorized; none issued	-	-
Common stock, $.004 par value, 100,000,000 shares authorized;		
Issued and outstanding 35,000,540 at June 30, 2005 and 33,858,272 at June 30, 2004	140	135
(excluding 1,127,459 and 886,369 shares held as Treasury Stock respectively)		
Additional paid-in capital	180,005	132,875
Retained earnings	282,441	217,656
Treasury stock, at cost	(41,405)	(30,440)
Accumulated other comprehensive income (note 6)	52,884	41,273
Total stockholders' equity	474,065	361,499
Total liabilities and stockholders' equity	$ 774,146	$ 549,151

See accompanying notes to consolidated financial statements.

RESMED INC AND SUBSIDIARIES
Consolidated Statements of Income
Years Ended June 30, 2005, 2004 and 2003
(In thousands, except per share data)

	June 30, 2005	June 30, 2004	June 30, 2003
Net revenues	$ 425,505	$ 339,338	$ 273,570
Cost of sales	150,645	122,602	100,483
Gross profit	274,860	216,736	173,087
Operating expenses:			
Selling, general and administrative	135,703	104,706	85,313
Research and development	30,014	26,169	20,534
Donations to Research Foundations	500	500	-
In-process research and development charge (note 20)	5,268	-	-
Amortization of acquired intangible assets	870	-	-
Restructuring expenses (note 11)	5,152	-	-
Total operating expenses	177,507	131,375	105,847
Income from operations	97,353	85,361	67,240
Other income (expenses):			
Gain on extinguishment of debt	-	-	529
Interest income (expense), net	(808)	(1,683)	(2,549)
Other, net (note 13)	81	990	1,907
Total other income (expenses), net	(727)	(693)	(113)
Income before income taxes	96,626	84,668	67,127
Income taxes (note 14)	31,841	27,384	21,398
Net income	$ 64,785	$ 57,284	$ 45,729
Basic earnings per share	$ 1.89	$ 1.70	$ 1.38
Diluted earnings per share (note 2-j)	$ 1.82	$ 1.63	$ 1.33
Basic shares outstanding	34,322	33,694	33,054
Diluted shares outstanding	37,471	35,125	34,439

See accompanying notes to consolidated financial statements.

RESMED INC AND SUBSIDIARIES
Consolidated Statements of Stockholders' Equity
Years ended June 30, 2005, 2004 and 2003
(In thousands)

	Common Stock			Treasury Stock					
	Shares	Amount	Additional Paid-in Capital	Shares	Amount	Retained Earnings	Accumulated Other Comprehensive Income (loss)	Total	Comprehensive Income
Balance, June 30, 2002	33,108	132	94,153	(290)	(7,873)	114,643	(8,125)	192,930	
Common stock issued on exercise of options (note 12)	678	2	9,029					9,031	
Treasury stock purchases				(125)	(3,542)			(3,542)	
Tax benefit from exercise of options			4,250					4,250	
Comprehensive income:									
Net income						45,729		45,729	45,729
Other comprehensive income									
Foreign currency translation adjustments							38,131	38,131	38,131
Unrealized losses on marketable securities							(96)	(96)	(96)
Comprehensive income/(loss)									$ 83,764
Balance, June 30, 2003	33,786	134	107,432	(415)	(11,415)	160,372	29,910	286,433	
Common stock issued on exercise of options (note 12)	958	3	20,338					20,341	
Treasury stock purchases		(2)		(471)	(19,025)			(19,027)	
Tax benefit from exercise of options			5,105					5,105	
Comprehensive income (note 6):									
Net income						57,284		57,284	57,284
Other comprehensive income									
Foreign currency translation adjustments							11,366	11,366	11,366
Unrealized losses on marketable securities							(3)	(3)	(3)
Comprehensive income/(loss)									$ 68,647
Balance, June 30, 2004	34,744	$ 135	$ 132,875	(886)	($ 30,440)	$ 217,656	$ 41,273	$ 361,499	
Common stock issued on exercise of options (note 12)	1,317	5	36,770					36,775	
Common stock issued on employee share purchase plan (note 12)	67	1	2,650					2,651	
Treasury stock purchases		(1)		(241)	(10,965)			(10,966)	
Tax benefit from exercise of options			7,710					7,710	
Comprehensive income (note 6):									
Net income						64,785		64,785	64,785
Other comprehensive income									
Foreign currency translation adjustments							11,617	11,617	11,617
Unrealized losses on marketable securities							(6)	(6)	(6)
Comprehensive income/(loss)									$ 76,396
Balance, June 30, 2005	36,128	$ 140	$ 180,005	(1,127)	($ 41,405)	$ 282,441	$ 52,884	$ 474,065	

See accompanying notes to consolidated financial statements.

RESMED INC AND SUBSIDIARIES
Consolidated Statements of Cash Flows
Years ended June 30, 2005, 2004 and 2003
(In thousands)

	June 30, 2005	June 30, 2004	June 30, 2003
Cash flows from operating activities:			
Net income	$ 64,785	$ 57,284	$ 45,729
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation and amortization	28,292	17,867	12,583
Provision for service warranties	501	213	332
Deferred income taxes	(7,997)	1,259	2,002
Foreign currency options revaluation	293	982	(2,117)
Amortization of deferred borrowing costs	834	804	834
Tax benefit from stock options exercised	7,710	5,105	4,250
Gain on extinguishment of debt	-	-	(529)
Release of profit on sale of building	(2,371)	(2,440)	(2,012)
Purchased in-process research and development write off	5,268	-	-
Changes in operating assets and liabilities, net of effect of acquisitions:			
Accounts receivable, net	(27,996)	(13,129)	(6,102)
Inventories, net	(22,562)	(6,722)	(2,988)
Prepaid expenses and other current assets	558	15	(2,333)
Accounts payable, accrued expenses and other liabilities	23,764	15,303	9,635
Net cash provided by operating activities	71,079	76,541	59,284
Cash flows from investing activities:			
Purchases of property, plant and equipment	(39,691)	(57,246)	(25,635)
Purchases of marketable securities - available for sale	(401,546)	(78,890)	(13,544)
Proceeds from sale of marketable securities - available for sale	413,576	73,376	26,845
Patent registration costs	(2,819)	(2,358)	(1,560)
Business acquisitions, net of cash acquired of $12,982 ($Nil in 2004 and 2003)	(54,425)	(184)	(300)
Purchases of non-trading investments	(1,873)	(1,535)	(1,625)
Proceeds from sale of non-trading investments	-	-	3,936
Net cash used in investing activities	(86,778)	(66,837)	(11,883)
Cash flows from financing activities:			
Proceeds from issuance of common stock, net	39,426	20,341	9,031
Repayment of assumed borrowings from acquisitions	(65,764)	-	-
Proceeds from borrowings, net of borrowing costs	62,500	-	-
Redemption of borrowings, convertible note	-	-	(9,217)
Purchases of treasury stock	(10,966)	(19,027)	(3,542)
Installment payment for property purchase	-	-	(12,609)
Net cash provided by (used in) financing activities	25,196	1,314	(16,337)
Effect of exchange rate changes on cash	3,781	3,398	10,567
Net increase in cash and cash equivalents	13,278	14,416	41,631
Cash and cash equivalents at beginning of the year	128,907	114,491	72,860
Cash and cash equivalents at end of the year	$ 142,185	$ 128,907	$ 114,491
Supplemental disclosure of cash flow information:			
Income taxes paid, net of refunds	$ 24,747	$ 15,141	$ 21,308
Interest paid	4,530	4,530	4,530
Fair value of assets acquired in acquisitions	89,188	95	-
Liabilities assumed	(99,270)	-	-
Goodwill on acquisition	78,949	89	300
Acquisition costs accrued	(1,460)	-	-
Cash paid for acquisition, including acquisition costs	$ 67,407	$ 184	$ 300

See accompanying notes to consolidated financial statements.

(1) Organization and Basis of Presentation

ResMed Inc (the "Company") is a Delaware Corporation formed in March 1994 as a holding company for the ResMed Group. Through our subsidiaries, we design, manufacture and market devices for the evaluation and treatment of sleep-disordered breathing, primarily obstructive sleep apnea. Our manufacturing operations are located in Australia, Germany, France, and the United States of America. Major distribution and sales sites are located in the United States of America, Germany, France, United Kingdom, Switzerland, Australia and Sweden.

(2) Summary of Significant Accounting Policies

(a) Basis of Consolidation

The consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries. All significant inter-company transactions and balances have been eliminated in consolidation.

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management estimates and assumptions that affect amounts reported in the financial statements and accompanying notes. Actual results could differ from management's estimates.

(b) Revenue Recognition

Revenue on product sales is generally recorded upon shipment, at which time title transfers to the customer. Revenue on product sales which require customer acceptance is not recorded until acceptance is received. Royalty revenue from license agreements is recorded when earned. Service revenue received in advance from service contracts is initially deferred and recognized ratably over the life of the service contract. Revenue received in advance from rental unit contracts is initially deferred and recognized ratably over the life of the rental contract. Revenue from sale of marketing or distribution rights is initially deferred and recognized ratably as revenue over the life of the contract. Freight charges billed to customers are included in revenue. All freight-related expenses are charged to cost of sales.

We do not offer a right of return or other recourse with respect to the sale of our products, other than returns for product defects or other warranty claims, nor do we offer variable sale prices for subsequent events or activities. However, as part of our sales processes we may provide upfront discounts for large orders, one time special pricing to support new product introductions, sales rebates for centralized purchasing entities or price-breaks for regular order volumes. The costs of all such programs are recorded as an adjustment to revenue. In our U.S. sales activities we use a number of manufacturer representatives to sell our products. These representatives are paid a direct commission on sales and act as an integral component of our U.S. sales force. We do not sell our products to these representatives and do not recognize revenue on such shipments. Our products are predominantly therapy-based equipment and require no installation. As such, we have no significant installation obligations.

(c) Cash and Cash Equivalents

Cash equivalents include certificates of deposit, commercial paper, and other highly liquid investments and are stated at cost, which approximates market. Investments with original maturities of 90 days or less are considered to be cash equivalents for purposes of the consolidated statements of cash flows.

(d) Inventories

Inventories are stated at the lower of cost, determined principally by the first-in, first-out method, or net realizable value. We review and provide for any product obsolescence in our manufacturing and distribution operations with assessments of individual products and components (based on estimated future usage and sales) being performed throughout the year.

(2) Summary of Significant Accounting Policies, Continued

(e) Property, Plant and Equipment

Property, plant and equipment, including rental equipment, is recorded at cost. Depreciation expense is computed using the straight–line method over the estimated useful lives of the assets, generally two to ten years except for buildings, which are depreciated over an estimated useful life of 40 years. Straight–line and accelerated methods of depreciation are used for tax purposes. Maintenance and repairs are charged to expense as incurred.

(f) Intangible Assets

The registration costs for new patents are capitalized and amortized over the estimated useful life of the patent, generally five years. In the event of a patent being superseded, the unamortized costs are written off immediately.

Other intangible assets are amortized on a straight-line basis over their estimated useful lives, which range from seven to nine years. We evaluate the recoverability of intangible assets periodically and take into account events or circumstances that warrant revised estimates of useful lives or that indicate that impairment exists. All of our intangible assets are subject to amortization. No impairment of intangible assets have been identified during any of the periods presented.

(g) Goodwill

We conducted our annual review for goodwill impairment as at June 30, 2005. In conducting our review of goodwill impairment, we identified reporting units, being components of our operating segment, as each of the entities acquired and giving rise to the goodwill. The fair value for each reporting unit was determined based on estimated discounted cash flows. Our goodwill impairment review involved a two-step process as follows:

Step 1- Compare the fair value for each reporting unit to its carrying value, including goodwill. For each reporting unit where the carrying value, including goodwill, exceeds the reporting unit's fair value, move on to step 2. If a reporting unit's fair value exceeds the carrying value, no further work is performed and no impairment charge is necessary.

Step 2- Allocate the fair value of the reporting unit to its identifiable tangible and non-goodwill intangible assets and liabilities. This will derive an implied fair value for the goodwill. Then, compare the implied fair value of the reporting unit's goodwill with the carrying amount of the reporting unit's goodwill. If the carrying amount of the reporting unit's goodwill is greater than the implied fair value of its goodwill, an impairment loss must be recognized for the excess.

The results of the review indicated that no impaired goodwill exists.

(h) Foreign Currency

The consolidated financial statements of our non-U.S. subsidiaries, whose functional currencies are other than U.S. dollars, are translated into U.S. dollars for financial reporting purposes. Assets and liabilities of non-U.S. subsidiaries whose functional currencies are other than the U.S. dollar are translated at period end exchange rates, and revenue and expense transactions are translated at average exchange rates for the period. Cumulative translation adjustments are recognized as part of comprehensive income, as described in Note 6, and are included in accumulated other comprehensive income in the consolidated balance sheet until such time as the subsidiary is sold or substantially or completely liquidated. Gains and losses on transactions denominated in other than the functional currency of the entity are reflected in operations.

(2) Summary of Significant Accounting Policies, Continued

(i) Research and Development

Research and development costs are expensed in the period incurred.

(j) Earnings Per Share

Basic earnings per share is computed by dividing the net income available to common shareholders by the weighted average number of shares of common stock outstanding. For purposes of calculating diluted earnings per share, net income is adjusted for the after-tax amount of interest associated with convertible debt, and the denominator includes both the weighted average number of shares of common stock outstanding and the number of dilutive common stock equivalents such as stock options and convertible notes.

The weighted average shares used to calculate basic earnings per share were 34,322,000, 33,694,000, and 33,054,000 for the years ended June 30, 2005, 2004 and 2003, respectively. The difference between basic earnings per share and diluted earnings per share is attributable to the impact of outstanding stock options during the periods presented and the assumed conversion of our convertible notes. Stock options had the effect of increasing the number of shares used in the calculation (by application of the treasury stock method) by 1,280,000, 1,431,000 and 1,385,000 for the years ended June 30, 2005, 2004 and 2003, respectively. The conversion of our convertible notes had the effect of increasing the number of shares used in the calculation by 1,869,000, NIL and NIL for the years ended June 30, 2005, 2004 and 2003, respectively.

Stock options of 284,000, 751,000 and 1,408,000 for the years ended June 30, 2005, 2004 and 2003 respectively, were not included in the computation of diluted earnings per share as the effect of exercising these options would have been anti-dilutive.

Basic and diluted earnings per share for the periods ended 30 June 2005, 2004 and 2003 are calculated as follows (in thousands except per share data):

	2005	2004	2003
Numerator:			
Net income	$ 64,785	$ 57,284	$ 45,729
Adjustment for interest and deferred borrowing costs, net of income tax effect [1]	3,285	-	-
Net income, used in calculating diluted earnings per share	$ 68,070	$ 57,284	$ 45,729
Denominator:			
Basic weighted-average common shares outstanding	34,322	33,694	33,054
Effect of dilutive securities:			
Stock options	1,280	1,431	1,385
Convertible subordinated notes	1,869	-	-
Diluted potential common shares	3,149	1,431	1,385
Diluted weighted average shares	37,471	35,125	34,439
Basic earnings per share	$ 1.89	$ 1.70	$ 1.38
Diluted earnings per share[1]	$ 1.82	$ 1.63	$ 1.33

[1] Diluted earnings per share has been calculated after adjusting the numerator (net income) by $3,285,000, $NIL and $NIL for the years ended June 30, 2005, 2004 and 2003, respectively for the effect of assumed conversion of our convertible notes, and the related reduction in interest expense, net of tax.

(2) Summary of Significant Accounting Policies, Continued

(k) Financial Instruments

The carrying value of financial instruments, such as cash and cash equivalents, marketable securities available-for-sale, accounts receivable and accounts payable approximate their fair value because of their short-term nature. The estimated fair value of the Company's convertible subordinated notes, which are included within long-term debt, at June 30, 2005 approximates $129.2 million compared with the carrying value of $113.3 million. Foreign currency option contracts are marked to market and therefore reflect their fair value. We do not hold or issue financial instruments for trading purposes.

The fair value of financial instruments is defined as the amount at which the instrument could be exchanged in a current transaction between willing parties.

(l) Foreign Exchange Risk Management

We enter into various types of foreign exchange contracts in managing our foreign exchange risk, including derivative financial instruments encompassing forward exchange contracts and foreign currency options.

The purpose of our foreign currency hedging activities is to protect us from adverse exchange rate fluctuations with respect to net cash movements resulting from the sales of products to foreign customers and Australian manufacturing activities. We enter into foreign currency option contracts to hedge anticipated sales and manufacturing costs, principally denominated in Australian dollars and Euros. The terms of such foreign currency option contracts generally do not exceed three years.

Our foreign currency derivatives portfolio represents a cash flow hedge program against the net cash flow of our international manufacturing operations. We have determined our hedge program to be a non-effective hedge as defined under SFAS 133. The foreign currency derivatives portfolio is recorded in the consolidated balance sheets at fair value and included in other assets or other liabilities.

All movements in the fair value of the foreign currency derivatives are recorded within other income, net on our consolidated statements of income.

We are exposed to credit-related losses in the event of non-performance by counter parties to financial instruments. The credit exposure of foreign exchange options at June 30, 2005 and June 30, 2004 was $3.0 million and $2.0 million, respectively, which represents the positive fair value of options held by us.

We held foreign currency option contracts with notional amounts totaling $145.5 million and $140.6 million at June 30, 2005 and 2004, respectively, to hedge foreign currency items. These contracts mature at various dates before July 2007.

(m) Income Taxes

We account for income taxes under the asset and liability method. We recognize deferred tax assets and liabilities for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date.

(2) Summary of Significant Accounting Policies, Continued

(n) Marketable Securities

Management determines the appropriate classification of our investments in debt and equity securities at the time of purchase and re-evaluates such determination at each balance sheet date. Debt securities for which we do not have the intent or ability to hold to maturity are classified as available-for-sale. Securities available-for-sale are carried at fair value, with the unrealized gains and losses, net of tax, reported in accumulated other comprehensive income.

At June 30, 2005 and 2004, the investments in debt securities were classified on the accompanying consolidated balance sheet as marketable securities-available-for-sale. These investments are diversified among high credit quality securities in accordance with our investment policy.

(o) Warranty

Estimated future warranty costs related to certain products are charged to operations in the period in which the related revenue is recognized. The liability for warranty costs are included in accrued expenses in our condensed consolidated balance sheet.

Changes in the liability for product warranty for the year ended June 30, 2005 are as follows (in thousands):

Balance as at June 30, 2004	$ 1,557
Warranty accruals for the year ended June 30, 2005	1,656
Warranty costs incurred for the year ended June 30, 2005	(1,155)
Warranty accrual from acquisition	745
Foreign currency translation adjustments	109
Balance as at June 30, 2005	$ 2,912

(p) Impairment of Long-Lived Assets

We periodically evaluate the carrying value of long-lived assets to be held and used, including certain identifiable intangible assets, when events and circumstances indicate that the carrying amount of an asset may not be recovered. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to future net cash flows expected to be generated by the asset. If such assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the assets exceed the fair value of the assets. Assets to be disposed of are reported at the lower of the carrying amount or fair value less costs to sell.

(q) Cost-Method Investments

The aggregate carrying amount of our cost-method investments at June 30, 2005 and June 30, 2004 was $5.3 million and $5.3 million respectively. At June 30 2005 we reviewed the carrying value of these investments. In fiscal 2005 and 2004, we recognized $0.1 million and $Nil respectively of impairment losses related to our cost method investments, which include investments in privately held service companies, research companies and publicly traded companies. After recognition of the impaired loss we have determined that the fair value of the investments exceeded the carrying values and no unrealized losses existed.

(2) Summary of Significant Accounting Policies, Continued

(r) Stock-based Employee Compensation

We have granted stock options to personnel, including officers and directors, under both our 1995 Option Plan and our 1997 Equity Participation Plan. These options have expiration dates of ten years from the date of grant and vest over three or four years. We granted these options with the exercise price equal to the market value as determined at the date of grant.

We apply APB Opinion No. 25 in accounting for our equity plans and as all stock options are issued at market price on the date of issue, no compensation cost has been recognized for the grant of stock options. The following table illustrates the effect on net income and earnings per share if we had applied the fair value recognition provisions of SFAS 123, Accounting for Stock-Based Compensation, to stock-based employee compensation:

	Years Ended June 30		
In thousands, except per share data	**2005**	**2004**	**2003**
Net income, as reported	$ 64,785	$ 57,284	$ 45,729
Deduct: Total stock-based employee compensation expense determined under fair value based method for all awards, net of related tax effects	10,323	9,394	14,102
Pro forma net income	$ 54,462	$ 47,890	$ 31,627
Earnings per share:			
Basic - as reported	$ 1.89	$ 1.70	$ 1.38
Basic - pro forma	$ 1.59	$ 1.42	$ 0.96
Diluted - as reported	$ 1.82	$ 1.63	$ 1.33
Diluted - pro forma	$ 1.53	$ 1.36	$ 0.92

Compensation costs for the options granted for years ended June 30, 2005, 2004 and 2003 was $13,340,000 (net of tax $9,792,000), $12,695,000 (net of tax $9,394,000), and $21,696,000 (net of tax $14,102,000), respectively.

Compensation costs for the ESPP purchase rights for June 30, 2005, 2004 and 2003 was $763,000 (net of tax $531,000), $nil and $nil, respectively.

(2) Summary of Significant Accounting Policies, Continued

(r) Stock-based Employee Compensation, Continued

The fair value of stock options granted under our stock option plans and purchase rights granted under our ESPP is estimated on the date of the grant using the Black-Scholes option-pricing model with the following weighted average assumptions:

	Years ended June 30		
	2005	2004	2003
Stock Options:			
Weighted average risk-free interest rate	4.0%	2.9%	2.8%
Dividend yield	-		-
Expected option life in years	3.5-4.6	3.3-4.2	2.8-4.0
Volatility	31%	43%	63%
ESPP Purchase rights:			
Weighted average risk-free interest rate	2.3%	-	-
Dividend yield	-	-	-
Expected option life in years	6 months	-	-
Volatility	31%	-	-

The weighted average fair value of options granted in 2005, 2004 and 2003 was $16.98, $14.89 and $12.22, respectively.

(3) New Accounting Pronouncements

In December 2004, the Financial Accounting Standards Board, ("FASB"), issued SFAS 123(R), "Share-Based Payment", which is a revision of SFAS 123. Generally, the approach in SFAS 123(R) is similar to the approach described in SFAS 123. However, SFAS 123(R) requires all share-based payments to employees, including grants of employee stock options, to be recognized in the income statement based on their fair values. Pro forma disclosure will no longer be an alternative. This statement also eliminates the ability to account for share-based compensation transactions using APB Opinion No. 25. The statement, which was delayed, is effective at the beginning of the fiscal year beginning after June 15, 2005. Early adoption will be permitted in periods in which financial statements have not yet been issued. The accounting provision SFAS 123(R) is effective beginning in our interim period ending September 30, 2005.

SFAS 123(R) permits public companies to adopt its requirements using one of two methods: (1) A "modified prospective" method in which compensation cost is recognized beginning with the effective date (a) based on the requirements of SFAS 123(R) for all share-based payments granted after the effective date and (b) based on the requirements of SFAS 123 for all awards granted to employees before the effective date of SFAS 123(R) that remain unvested on the effective date; or (2) A "modified retrospective" method which includes the requirements of the modified prospective method described above, but also permits entities to restate based on the amounts previously recognized under SFAS 123 for purposes of pro forma disclosures either (a) all prior periods presented or (b) prior interim periods of the year of adoption. We expect to adopt the modified prospective method.

As permitted by SFAS 123, we currently account for share-based payments to employees using Opinion 25's intrinsic value method and, as such, generally recognize no compensation cost for employee stock options, which are granted with exercise prices equal to the fair market value of our common stock on the date of grant. We are currently reviewing the impact of the adoption of SFAS 123(R) however we expect the adoption of SFAS 123(R) will have a significant impact on our results of operations.

(3) New Accounting Pronouncements, Continued

In December 2004, the Financial Accounting Standards Board, ("FASB"), issued SFAS 153, " Exchanges of Non-monetary Assets, an Amendment of APB Opinion No. 29, 'Accounting for Non-monetary Transactions'." The amendments are based on the principle that exchanges of non-monetary assets should be measured based on the fair value of the assets exchanged. SFAS 153 is effective for fiscal periods beginning after June 15, 2005, however earlier application is permitted for non-monetary asset exchanges occurring in fiscal periods beginning after the date of issuance. The provisions of this statement will be applied prospectively. We do not believe the adoption of this statement will have a material impact on our financial condition or results of operations.

In November 2004, the Financial Accounting Standards Board ("FASB"), issued SFAS 151, "Inventory Costs", which sought to clarify the accounting for abnormal amounts of idle facility expense, freight, handling costs and spoilage. SFAS 151 also requires that the allocation of fixed production overheads to the costs of conversion be based on the normal operating capacity of the production facilities. SFAS 151 is effective for fiscal years beginning after June 15, 2005. We do not believe the adoption of this statement will have a material impact on our financial condition or results of operations.

(4) Marketable Securities

The estimated fair value of marketable securities available for sale as of June 30, 2005 and 2004, was $NIL and $12.0 million respectively.

As at June 30, 2005 and 2004, contractual maturities of marketable securities-available-for-sale were (in thousands):

	2005	2004
Due less than one year	$ -	$11,025
Due one to less than three years	-	-
Due more than three years	-	996
Total	$ -	$12,021

Expected maturities may differ from contractual maturities because the issuers of the securities may have the right to prepay obligations without prepayment penalties.

(5) Inventories

Inventories, net were comprised of the following as of June 30, 2005 and 2004 (in thousands):

	2005	2004
Raw materials	$ 29,857	$ 15,277
Work in progress	1,820	2,254
Finished goods	57,430	38,266
	$ 89,107	$ 55,797

(6) Comprehensive Income

The components of comprehensive income, net of tax, were as follows (in thousands):

	2005	2004
Net income	$64,785	$57,284
Foreign currency translation gains/(losses)	11,617	11,366
Unrealized gains/(losses) on marketable securities	(6)	(3)
Comprehensive income	$76,396	$68,647

The Company does not provide for U.S. income taxes on foreign currency translation adjustments since it does not provide for such taxes on undistributed earnings of foreign subsidiaries.

(7) Property, Plant and Equipment

Property, plant and equipment is comprised of the following as of June 30, 2005 and 2004 (in thousands):

	2005	2004
Machinery and equipment	$ 42,623	$ 33,605
Computer equipment	44,011	33,542
Furniture and fixtures	18,174	13,613
Vehicles	2,266	2,015
Clinical, demonstration and rental equipment	29,211	21,763
Leasehold improvements	4,940	1,346
Land	35,492	32,990
Buildings	77,101	68,249
Construction in Progress	9,320	475
	263,138	207,598
Accumulated depreciation and amortization	(88,970)	(60,330)
	$174,168	$147,268

(8) Goodwill and Other Intangible Assets

Changes in the carrying amount of goodwill for the year ended June 30, 2005, were as follows:

(In thousands)	2005
Balance at June 30, 2004	$106,075
Foreign currency translation adjustments	(3,918)
Goodwill on acquisition of Hoefner	8,202
Goodwill on acquisition of the assets of Resprecare	4,409
Goodwill on acquisition of Saime	66,338
Balance at June 30, 2005	$181,106

(8) Goodwill and Other Intangible Assets, Continued

Patents and other intangibles is comprised of the following as of June 30, 2005 and June 30, 2004:

(In thousands)	June 30, 2005	June 30, 2004
Developed/Core Product Technology	$ 29,620	$ -
Accumulated amortization	(487)	-
Developed/Core Product Technology, net of accumulated amortization	29,133	-
Trade names	1,572	-
Accumulated amortization	(26)	-
Trade names, net of accumulated amortization	1,546	-
Customer relationships	12,936	-
Accumulated amortization	(345)	-
Customer relationships, net of accumulated amortization	12,591	-
Patents	13,200	9,775
Accumulated amortization	(7,099)	(4,961)
Patents, net of accumulated amortization	6,101	4,814
Patents and other intangibles, net of accumulated amortization	$ 49,371	$ 4,814

Intangible assets consist of patents, customer relationships, trade names, developed/core product technology and are amortized over the estimated useful life of the assets, generally between five and nine years. There are no expected residual values related to these intangible assets.

Amortization expense related to identifiable intangible assets was $2.7 million. Estimated annual amortization expense for the years ending June 30, 2006 through June 30, 2010, including the effect of the Resprecare, Hoefner and Saime acquisitions is shown below (in thousands):

Fiscal Year	Amortization expense
2006	$ 8,021
2007	7,760
2008	7,354
2009	6,924
2010	6,359

(9) Accrued expenses

Accrued expenses at June 30, 2005 and 2004 consist of the following (in thousands):

	2005	2004
Service warranties	$ 2,912	$ 1,557
Consulting and professional fees	3,207	1,275
Value added taxes and other taxes due	4,139	1,877
Employee related costs	16,793	14,349
Accrued interest	358	126
Marketing and promotional programs	1,887	1,157
Restructuring	474	-
Customer advance	1,042	-
Other	3,602	2,250
	$ 34,414	$ 22,591

(10) Long-term debt

Long-term debt at June 30, 2005 and 2004 consists of the following (in thousands):

	June 30, 2005	June 30, 2004
Convertible subordinated notes	$ 113,250	$ -
Long-term loan	2,116	-
Capital lease	69	-
Current portion of long-term debt	$ 115,435	$ -
Convertible subordinated notes	$ -	$ 113,250
Long-term loan	58,328	-
Capital lease	606	-
Non-current portion of long-term debt	$ 58,934	$ 113,250

Convertible Subordinated notes

On June 20, 2001 we issued $150.0 million of 4% convertible subordinated notes that are due to mature on June 20, 2006. On July 3, 2001, we received an additional $30.0 million in over allotments. This increased the total amount of convertible subordinated notes issued to $180.0 million.

During the years ended June 30, 2005 and 2004, we did not repurchase any of our convertible subordinated notes.

During the year ended June 30, 2003, we repurchased $10.0 million face value of our convertible subordinated notes. The total purchase price of the notes was $9.4 million, including $0.2 million in accrued interest. We recognized a gain of $0.3 million, net of tax of $0.2 million, on these transactions.

During the year ended June 30, 2002, we repurchased $56.8 million face value of our convertible subordinated notes. The total purchase price of the notes was $49.1 million, including $0.6 million in accrued interest. We recognized a gain of $4.0 million, net of tax of $2.5 million on these transactions.

(10) Long-term debt, Continued

As at June 30, 2005, we had convertible subordinated notes outstanding of $113.3 million.

The notes are convertible, at the option of the holder, at any time on or before maturity, into shares of common stock of ResMed Inc. The notes are currently convertible at a conversion price of $60.60 per share, which is equal to a conversion rate of 16.5017 shares per $1,000 principal amount of the notes, subject to adjustment.

We may redeem some or all of the notes at any time on or after June 22, 2005, at a redemption price of 100.8% of the principal amount of the notes, plus accrued and unpaid interest, if any, to the redemption date, if the closing price of our common stock has exceeded 130% of the conversion price then in effect for at least 20 trading days within a period of 30 consecutive trading days ending on the trading day before the date of mailing of the optional redemption notice.

The notes are general unsecured obligations and are subordinated to all of our existing and future senior indebtedness and will be effectively subordinated to all of the indebtedness and liabilities of our subsidiaries. The indenture governing the notes does not limit us or our subsidiaries from incurring senior indebtedness or other indebtedness.

Interest is to be paid on the notes on June 20 and December 20 of each year.

Syndicated Facility

On May 16, 2005, our wholly-owned Australian subsidiary, ResMed Ltd. entered into a Syndicated Facility Agreement (the “Syndicated Facility Agreement”) with HSBC Bank Australia Limited, as Initial Lender, Facility Agent and Security Trustee, which provides for a 5 year term loan of EUR 50,000,000 (the “Loan”), the proceeds of which are required to be used solely to fund the obligations of our wholly-owned French subsidiary ResMed SA under its agreement to acquire Saime SA.

The Loan bears interest at a rate equal to LIBOR for deposits denominated in Euro plus a margin of 0.90% or 1.00%, depending on the ratio of the total debt to EBITDA, as defined in the Syndicated Facility Agreement, of ResMed Ltd. and its subsidiaries for the most recently completed fiscal year for the applicable interest period, and is payable quarterly. The effective interest rate is currently 3.03%. Payments of principal must be made to reduce the total outstanding principal amount of the Loan to EUR 48,250,000 on June 30, 2006, EUR 44,500,000 on June 30, 2007, EUR 37,750,000 on June 30, 2008, EUR 27,500,000 on June 30, 2009, EUR 15,000,000 on December 31, 2009, and the entire outstanding principal amount must be repaid in full on May 15, 2010. As at June 30, 2005, the facility loan with HSBC had an amount outstanding of $60.4 million.

The Loan is secured by a pledge of one hundred percent of the shares of Saime SA, and a Guarantee by ResMed SA and Take Air Medical Handels GmbH. The Syndicated Facility Agreement also contains customary covenants, including certain financial covenants and an obligation that ResMed Ltd. maintain certain financial ratios, including a minimum debt service cover ratio, a maximum ratio of total debt to EBITDA and a minimum tangible net worth. The entire principal amount of the Loan and any accrued but unpaid interest may be declared immediately due and payable in the event of the occurrence of an event of default as defined in the Syndicated Facility Agreement, which include, among other items, failure to make payments when due, breaches of representations, warranties or covenants, the occurrence of certain insolvency events, the occurrence of an event or change which could have a material adverse effect on ResMed Ltd. and its subsidiaries, and if ResMed Inc. ceases to control ResMed Ltd, ResMed SA, Saime SA or any of Saime SA’s subsidiaries

(10) Long-term debt, Continued

Capital Lease

As part of the acquisition of Saime we assumed a capital lease over land and buildings. This lease contains an option to purchase the property, for nominal consideration, at the end of the lease term in September 2014.

Details of contractual debt maturities at June 30, 2005 are as follows (in thousands):

		Payments Due by Period					
	Total	2006	2007	2008	2009	2010	Thereafter
Long-Term Debt	$ 173,694	$ 115,366	$ 4,534	$ 8,161	$ 12,392	$ 33,241	$ -
Capital Leases	675	69	69	69	69	69	330
Total	$ 174,369	$ 115,435	$ 4,603	$ 8,230	$ 12,461	$ 33,310	$ 330

(11) Restructuring Expenses

Restructuring expenses incurred during the year ended June 30, 2005 were $5.3 million ($3.2 million net of tax). Restructuring expenses (predominantly one-time employee termination benefits) are associated with the integration of the separate operations of ResMed Germany and MAP into a single operating unit. We have substantially completed the relocation of our ResMed Germany operation (previously located in Moenchengladbach) to Munich and integration of the back office functions including customer service, logistics and administration. We will continue to monitor the progress of this restructure and adjust our business strategies and personnel accordingly to achieve maximum efficiencies and cost savings.

Following is a summary of the restructuring liabilities related to the restructure and integration of the separate operations of ResMed Germany and MAP into a single operating unit, that were recorded during the year ended June 30, 2005 (in thousands):

	Accrued employee costs	Other accrued costs	Total accrued costs
Balance at June 30, 2004	$ -	$ -	$ -
Restructuring expenses	4,673	479	5,152
Cash payments	(4,451)	(227)	(4,678)
Balance at June 30, 2005	$ 222	$ 252	$ 474

Restructuring expenses incurred are recorded in the consolidated statement of income as restructure expenses.

(12) Stockholders' Equity

Stock Options. The Company has granted stock options to personnel, including officers and directors in accordance with both the 1995 Option Plan and the 1997 Equity Participation Plan (collectively the "Plans"). These options have expiration dates of ten years from the date of grant and vest over three or four years. The Company granted these options with the exercise price equal to the market value as determined at the date of grant.

(12) Stockholders' Equity, Continued

The following table summarizes option activity:

	2005	Weighted Average Exercise Price	2004	Weighted Average Exercise Price	2003	Weighted Average Exercise Price
Outstanding at beginning of year	4,416,356	$ 32.53	4,745,178	$ 29.04	4,200,998	$ 27.94
Granted	1,168,325	50.60	910,237	41.32	1,470,675	26.54
Exercised	(1,316,623)	27.93	(958,391)	21.23	(678,400)	13.31
Forfeited	(117,354)	36.67	(280,668)	40.56	(248,095)	38.85
Outstanding at end of year	4,150,704	$ 38.77	4,416,356	$ 32.53	4,745,178	$ 29.04
Exercise price range of granted options	$ 43.90–62.47		$ 39.19–51.56		$ 25.42–37.40	
Options exercisable at end of year	1,993,877	$ 33.72	2,406,581	$ 28.70	2,192,309	$ 23.32

The total number of shares of Common Stock authorized for issuance upon exercise of options and other awards, or upon vesting of restricted or deferred stock awards, under the 1997 Plan was initially established at 1,000,000 and increases at the beginning of each fiscal year, commencing on July 1, 1998, by an amount equal to 4% of the outstanding Common Stock on the last day of the preceding fiscal year. The maximum number of shares of Common Stock issuable upon exercise of incentive stock options granted under the 1997 Plan, however, cannot exceed 8,000,000. Furthermore, the maximum number of shares which may be subject to options, rights or other awards granted under the 1997 Plan to any individual in any calendar year cannot exceed 300,000.

The following table summarizes information about stock options outstanding at June 30, 2005.

Exercise Prices	Number Outstanding at June 30, 2005	Weighted Average Remaining Contractual Life In Years	Number Exercisable at June 30, 2005
$ 0 - $10	74,413	2.04	74,413
$11 - $20	284,897	3.72	284,897
$21 - $30	945,656	6.48	600,321
$31 - $40	323,526	7.11	194,861
$41 - $50	2,309,179	8.32	770,385
$51 - $60	149,833	7.91	69,000
$61 - $70	63,200	7.57	-
	4,150,704	6.16	1,993,877

(12) Stockholders' Equity, Continued

Employee Stock Purchase Plan (the "ESPP"). The ESPP was approved by our shareholders at the Annual General Meeting in November 2003. Under the ESPP, participants are offered the right to purchase shares of our common stock at a discount during successive offering periods. Each offering period under the ESPP will be for a period of time determined by the Board of Directors' Compensation Committee of no less than 3 months and no more than 27 months. The purchase price for our common stock under the ESPP will be the lower of 85% of the fair market value of our common stock on the date of grant or 85% of the fair market value of our common stock on the date of purchase. An individual participant cannot subscribe for more than $25,000 in common stock during any calendar year. There is a maximum of 3,250,000 shares of our common stock authorized for sale under the ESPP.

During fiscal year 2005, the company issued 66,735 shares in two offerings at an average share price of $39.70 to our employees.

Preferred Stock. In April 1997, the board of directors authorized 2,000,000 shares of $0.01 par value preferred stock. No such shares were issued or outstanding at June 30, 2005.

Stock Purchase Rights. In April 1997, the Company implemented a plan to protect stockholders' rights in the event of a proposed takeover of the Company. Under the plan, each share of the Company's outstanding common stock carries one right to purchase Series A Junior Participating Preferred Stock (the "Right"). The Right enables the holder, under certain circumstances, to purchase common stock of the Company or of the acquiring person at a substantially discounted price ten days after a person or group publicly announces it has acquired or has tendered an offer for 20% or more of the Company's outstanding common stock. The Rights are redeemable at $0.01 per Right and expire in 2007.

Common Stock. On June 6, 2002, the Board of Directors authorized the Company to repurchase up to 4.0 million shares of outstanding common stock. During fiscal year 2005 and 2004, the Company repurchased 241,000 and 471,000 shares at a cost of $11.0 million and $19.0 million respectively. As of June 30, 2005, we have repurchased a total of 1,127,459 shares at a cost of $41.4 million. Shares that are repurchased are classified as treasury stock pending future use and reduce the number of shares outstanding used in calculating earnings per share.

Stock Split. On August 10, 2005, our Board of Directors declared a two-for-one split of our Common Stock to be payable in the form of a 100% stock dividend. Shareholders will receive one additional share of Common Stock for every share held on September 15, 2005. No amounts in these financial statements have been adjusted for this stock split.

(13) Other, net

Other, net in the statement of operations is comprised of the following at June 30, 2005, 2004 and 2003 (in thousands):

	2005	2004	2003
Gain/(loss) on foreign currency transactions and hedging	$ 36	$655	$1,555
Realized gain (loss) on sale of marketable securities	(34)	(11)	115
Other	79	346	237
	$ 81	$990	$1,907

(14) Income Taxes

Income before income taxes for the years ended June 30, 2005, 2004, and 2003, was taxed under the following jurisdictions (in thousands):

	2005	2004	2003
U.S.	($ 54)	$ 1,290	$ 3,061
Non-U.S.	96,680	83,378	64,066
	$ 96,626	$ 84,668	$ 67,127

The provision for income taxes is presented below (in thousands):

	2005	2004	2003
Current:			
Federal	$ 799	$ 3,567	$ 1,303
State	246	372	14
Non-U.S.	38,793	22,186	18,079
	39,838	26,125	19,396
Deferred:			
Federal	618	1,293	892
State	(29)	(84)	325
Non-U.S.	(8,586)	50	785
	(7,997)	1,259	2,002
Provision for income taxes	$31,841	$27,384	$21,398

The provision for income taxes differs from the amount of income tax determined by applying the applicable U.S. federal income tax rate of 34% (35% for 2003) to pretax income as a result of the following (in thousands):

	2005	2004	2003
Taxes computed at statutory U.S. rate	$32,853	$28,787	$23,495
Increase (decrease) in income taxes resulting from:			
State income taxes, net of U.S. tax benefit	165	254	274
Non-deductible expenses	580	312	243
Research and development credit	(2,743)	(2,582)	(1,690)
Tax effect of intercompany dividends	590	129	-
Change in valuation allowance	637	5,074	457
Effect of non-U.S. tax rates	(3,419)	(2,930)	(2,498)
In-process research and development write-off	1,791	-	-
Foreign tax credits	-	(772)	-
Other	1,387	(888)	1,117
	$31,841	$27,384	$21,398

(14) Income Taxes, Continued

Deferred tax assets and liabilities are classified as current or non-current according to the classification of the related asset or liability. The components of the Company's deferred tax assets and liabilities at June 30, 2005 and 2004 are as follows (in thousands):

	2005	2004
Deferred tax assets:		
Employee benefit obligations	$ 2,306	$ 1,732
Inventory	301	735
Provision for service warranties	596	419
Provision for doubtful debts	692	867
Net operating loss carryforwards	4,505	723
Foreign tax credits	8,422	8,836
AMT tax credit	399	634
Intercompany profit in inventories	14,376	8,958
Capitalized internal use software	741	308
Deferred gain on sale-leaseback	-	659
Other	1,290	1,885
	33,628	25,756
Less valuation allowance	(9,096)	(8,459)
Deferred tax assets	24,532	17,297
Deferred tax liabilities:		
Patents	(65)	(91)
Unrealized gain on foreign currency options	(905)	(599)
Unrealized foreign exchange gains	(1,905)	(1,472)
Property, plant and equipment	(2,366)	(2,885)
Goodwill and Other Intangibles	(14,997)	(4,780)
Other	(759)	(429)
Deferred tax liabilities	(20,997)	(10,256)
Net deferred tax asset	$ 3,535	$ 7,041

The net deferred tax assets and liabilities have been reported in the consolidated balance sheet at June 30, 2005 and 2004 as follows (in thousands):

	2005	2004
Current deferred tax asset	$ 15,230	$12,033
Non-current deferred tax liability	(11,695)	(4,992)
Net deferred tax asset	$ 3,535	$ 7,041

As of June 30, 2005, the Company had $8,315,000, $7,763,000 and $9,825,000 of U.S. federal, state and non-U.S. net operating loss carryforwards, respectively, which expire in various years through 2025 or carry forward indefinitely. The Company also had foreign tax credit carryforwards of $8,422,000 and alternative minimum tax credit carryforwards of $399,000. The foreign tax credit carryforwards have expiration dates through 2014.

(14) Income Taxes, Continued

The valuation allowance at June 30, 2005, relates primarily to a provision for uncertainty as to the utilization of foreign tax credits of $8,422,000 and net operating loss carryforwards of $482,000 for certain non-US countries. We believe that it is more likely than not that the benefits of deferred tax assets, net of any valuation allowance, will be realized.

The Company has not provided U.S. income taxes on undistributed earnings of certain of its non-U.S. subsidiaries. The total amount of these undistributed earnings at June 30, 2005 amounted to approximately $251,030,000. Should the Company repatriate foreign earnings, the Company would have to adjust the income tax provision in the period management determined that the Company would repatriate earnings. Under the American Jobs Creation Act of 2004 enacted on October 22, 2004, a one-time favorable foreign dividend provision would be available to the Company for certain earnings repatriated during its fiscal year ending June 30, 2006. The Company may decide to repatriate earnings under this provision and will complete an evaluation of this opportunity before June 30, 2006. The effects of any decision cannot be reasonably estimated at this time.

(15) Employee Retirement Plans

The Company contributes to a number of employee retirement plans for the benefit of its employees. These plans are detailed as follows:

(1) Australia - The Company contributes to defined contribution pension plans for each employee resident in Australia. All Australian employees after serving a qualifying period, are entitled to benefits on retirement, disability or death. Employees may contribute additional funds to the plans. The Company contributes to the plans at the rate of 9% of the salaries of all Australian employees. Total Company contributions to the plans for the years ended June 30, 2005, 2004, and 2003 were $2,612,000, $2,410,000 and $1,663,391, respectively.

(2) United Kingdom - The Company contributes to a defined contribution plan for each permanent United Kingdom employee. All employees, after serving a three-month qualifying period, are entitled to benefit on retirement, disability or death. Employees may contribute additional funds to the plan. The Company contributes to the plans at the rate of 5% of the salaries of all United Kingdom employees. Total Company contributions to the plan were $67,000, $33,000 and $23,000 in fiscal 2005, 2004, and 2003 respectively.

(3) United States - The Company sponsors a defined contribution pension plan available to substantially all domestic employees. Company contributions to this plan are based on a percentage of employee contributions to a maximum of 3% of the employee's salary. Total Company contributions to the plan were $514,000, $362,000 and $326,000 in fiscal 2005, 2004 and 2003 respectively.

(4) Switzerland - The Company sponsors a fixed return defined contribution fund for each permanent Swiss employee. As part of the Company's contribution to the fund the company guarantees a fixed 3% net return on accumulated contributions per annum. The Company contributes to the plans at variable rates that have averaged 10% of salaries over the last three years. Total Company contributions to the plan were $85,000, $139,000 and $133,000 in fiscal 2005, 2004 and 2003 respectively.

(16) Segment Information

The Company operates solely in the sleep-disordered breathing sector of the respiratory medicine industry. The Company therefore believes that, given the single market focus of its operations and the inter-dependence of its products, the Company operates as a single operating segment. The Company assesses performance and allocates resources on the basis of a single operating entity.

(16) Segment Information, Continued

Financial information by geographic area for the years ended June 30, 2005, 2004 and 2003, is summarized below (in thousands):

	U.S.A	Germany	Australia	France	Rest of World	Total
2005						
Revenue from external customers	$ 210,495	72,824	14,160	47,537	80,489	425,505
Long lived assets	$ 32,090	11,615	130,310	2,544	6,900	183,459
2004						
Revenue from external customers	$ 159,283	67,253	10,293	34,629	67,880	$ 339,338
Long lived assets	$ 33,010	6,842	108,683	1,075	5,831	$ 155,441
2003						
Revenue from external customers	$ 124,375	51,992	6,972	27,745	62,486	$ 273,570
Long lived assets	$ 34,340	5,765	68,300	1,030	2,350	$ 111,785

Net revenues from external customers are based on the location of the customer. Long-lived assets of geographic areas are those assets used in the Company's operations in each geographical area and excludes intangibles, deferred tax assets and goodwill.

(17) Commitments

The Company leases buildings, motor vehicles and office equipment under operating leases. As part of the acquisition of Saime the Company assumed a capital lease for land and buildings. This lease contains an option to purchase the property at the end of the lease term. Rental charges for operating leases are expensed as incurred. At June 30, 2005 the Company had the following future minimum lease payments under non-cancelable operating leases and capital leases (in thousands):

Years	Capital Leases	Operating Leases
2006	$ 94	$ 5,563
2007	91	3,323
2008	88	2,135
2009	86	1,650
2010	83	1,005
Thereafter	358	1,345
Total minimum lease payments	$ 800	$ 15,021
Less: Sublease rental income	-	(131)
Less: Interest portion	(125)	-
Present value of net minimum lease payments	$ 675	$ 14,890

Rent expenses under operating leases for the years ended June 30, 2005, 2004 and 2003 were approximately $5.3 million, $5.5 million and $3.8 million, respectively.

(17) Commitments, Continued

Details of other commercial commitments at June 30, 2005 are as follows (in thousands):

	Total Amounts Committed	Amount of Commitment Expiration Per Period					
		2006	2007	2008	2009	2010	Thereafter
Standby Letters of Credit	$ 32	$32	$ -	$ -	$ -	$ -	$ -
Guarantees*	1,190	-	439	-	211	-	540
Total Commercial Commitments	$ 1,222	$32	$439	$ -	$211	$ -	$ 540

*The above guarantees relate to guarantees required by statutory authorities as a pre-requisite to developing our site at Norwest Business Park, near Sydney, Australia, and to guarantees required by contracts with insurance companies transacting with our German subsidiaries.

(18) Business Acquisitions

Fiscal year ended June 30, 2005

Saime SA ("Saime"). On May 19, 2005 we acquired 100% of the outstanding stock of Financiere ACE SAS, the holding company for Saime SA and its affiliates, for net cash consideration of $40.5 million. This was comprised of $51.0 million in consideration, including acquisition costs, less $10.5 million of cash acquired. Additionally, as part of the acquisition we assumed (and immediately repaid) debt of $65.8 million. The acquisition and the immediate repayment of the assumed debt was funded with cash on hand and a five-year secured loan of 50 million Euro, equivalent to $62.7 million, from HSBC Bank Australia Limited (note 10).

Saime is a leading developer of ventilation products and distributes its products directly in France and Germany and through a network of distributors in Europe and Asia-Pacific.

The acquisition has been accounted for using purchase accounting and has been included within our consolidated financial statements from May, 19, 2005. The company has not yet completed the purchase price allocation as the appraisals associated with the valuation of certain tangible assets are not yet complete. The company does not believe that the appraisals will materially modify the preliminary purchase price allocation. We expect to complete our purchase price allocation in the six months ended December 31, 2005.

(18) Business Acquisitions, Continued

The following table summarizes the estimated fair value of the assets acquired and liabilities assumed from Saime at the date of acquisition based on an independent appraisal and internal studies (in thousands):

	At May 19, 2005
Cash	$ 10,532
Accounts receivable	7,829
Inventory	7,031
Other assets	874
Property, plant & equipment	2,112
Developed / core product technology (useful life of 7 years)	30,733
In-Process research and development (expensed immediately)	5,268
Customer relationships (useful life of 9 years)	10,035
Tradenames (useful life of 7 years)	1,631
Goodwill (non-amortizing, non-tax deductible)	66,338
Total assets acquired	$ 142,383
Current liabilities, primarily consisting of accounts payable, accrued expenses, taxes payable and deferred tax liabilities	(12,329)
Non current liabilities, primarily consisting of capital leases and deferred tax liabilities	(13,271)
Assumed debt repaid upon acquisition	(65,764)
Net assets acquired	$ 51,019

Since its formation in 1987, Saime has developed a complete range of ventilators for use in the home and hospital markets. Saime distributes its products directly in France and Germany and through a network of distributors in Europe and Asia Pacific. Saime develops, manufactures and markets products from its headquarters near Paris, with a staff of approximately 100.

The company believes that the Saime acquisition resulted in the recognition of goodwill primarily because of its industry position and management strength. In addition, Saime's products complete our line of homecare ventilation products and will immediately expand our market presence and distribution network in Europe and other regions. The Saime devices will complement our VPAPIII and Autoset CS devices and will allow us to provide the full range of options for patients who need ventilatory assistance.

Hoefner Medizintechnick GmbH ("Hoefner"). On February 14, 2005 we acquired 100% of the outstanding stock of Hoefner Medizintechnick GmbH ("Hoefner"), for net cash consideration of $8.2 million. This was comprised of the $10.7 million in total consideration, including acquisition costs, less $2.5 million of cash acquired. Under the purchase agreement, we may also be required to make additional future payments of up to $0.9 million based on the achievement of certain performance milestones following the acquisition through December 31, 2006. Hoefner is a German-based company that distributes medical equipment and associated services for the treatment of sleep and respiratory patients. Hoefner was our Bavarian distributor before the acquisition, and the acquisition is consistent with our strategy for ongoing expansion of our international operations. We have been particularly successful in selling directly in Europe, which improves our understanding of local markets as well as our relationships with physicians and payers. The acquisition also brings us into closer contact with patients and allows us to more directly respond to their needs.

(18) Business Acquisitions, Continued

The acquisition has been accounted for using purchase accounting and has been included within our consolidated financial statements from February 14, 2005. An amount of $8.2 million, representing the excess of the purchase price over the fair value of identifiable net assets acquired of $2.5 million, has been recorded as goodwill.

The cost of the acquisition was allocated to the assets acquired and liabilities assumed based on estimates of their respective fair values at the date of acquisition. The fair values were determined by an independent appraisal and internal studies. The following table summarizes the final purchase price allocation of the assets acquired and liabilities assumed from Hoefner at the date of acquisition (in thousands):

	At February 14, 2005
Cash	$ 2,450
Accounts receivable	1,576
Inventory	3,526
Other assets	235
Property, plant & equipment	747
Customer relationships (useful life of 7 years)	1,828
Goodwill (non-amortizing, non-tax deductible)	8,202
Total assets acquired	$ 18,564
Current liabilities, primarily consisting of accounts payable, accrued expenses, taxes payable and deferred revenue	(4,333)
Non-current liabilities, primarily consisting of deferred revenue and deferred tax liabilities	(3,573)
Net assets acquired	$ 10,658

Resprecare BV. On December 1, 2004 we acquired substantially all the assets of Resprecare BV, our Dutch distributor, for initial consideration of $5.9 million in cash, including acquisition costs. The acquisition of the exclusive Dutch distributor for our Resmed-branded products is consistent with our strategy for ongoing expansion of our international operations. Under the purchase agreement, we potentially were also required to make up to $1.4 million of additional future payments based on the achievement of certain milestones. Of these potential additional payments, $0.6 million was paid in January 2005 as a result of the successful achievement of a performance milestone and a further $0.7 million was accrued as additional consideration at June 30, 2005 as a result of the integration of the Dutch subsidiary of our subsidiary MAP with the newly-acquired Resprecare business. The decision to integrate these operations determined the amount of the final future payment, which will be paid in January 2006.

The acquisition has been accounted for using purchase accounting and accordingly, the results of operations of Resprecare have been included within our consolidated financial statements from December 1, 2004. An amount of $4.4 million, representing the excess of the purchase price over the fair value of identifiable net assets acquired of $2.8 million, has been recorded as goodwill, which will be tax deductible under Dutch Law. An independent third party has completed a valuation of identifiable intangible assets associated with the Resprecare acquisition. As a result of this valuation, $1.7 million that was preliminarily allocated to goodwill has been recorded as a customer relationship intangible asset and is being amortized over its estimated useful life of seven years.

(18) Business Acquisitions, Continued

The following unaudited pro-forma financial information presents the combined results of operations of the Company and Resprecare, Hoefner and Saime as if the acquisitions had occurred as of the beginning of the years ended June 30, 2005 and 2004, respectively. The pro-forma financial information does not necessarily reflect the results of operations that would have occurred had the Company and Resprecare, Hoefner and Saime constituted a single entity during such years.

The pro-forma net income for the year ended June 30, 2005 excludes the non-recurring acquisition charge of $5,268,000 for purchased in-process research and development.

(In thousands except per share data)	2005	2004
Net revenue	465,165	376,685
Net income	75,086	59,877
Basic earnings per share	2.19	1.78
Diluted earnings per share[1]	2.09	1.70
Basic shares outstanding	34,322	33,694
Diluted shares outstanding	37,471	35,125

[1] Diluted earnings per share has been calculated after adjusting the numerator (net income) by $3,285,000 and $NIL for the years ended June 30, 2005 and 2004, respectively for the effect of assumed conversion of our convertible notes, and the related reduction in interest expense, net of tax.

Fiscal year ended June 30, 2004

On July 2, 2003 we acquired the assets of Respro Medical Company Limited ("Respro"), our Hong Kong distributor for total consideration of $184,000 in cash. The acquisition has been accounted for using purchase accounting and accordingly, the results of operations of Respro has been included within our consolidated financial statements from July 2, 2003. An amount of $89,000, representing the excess of the purchase price over the fair value of net identifiable assets acquired of $95,000, has been recorded as goodwill.

Fiscal year ended June 30, 2003

On July 24, 2002 we acquired the business of John Stark and Associates, our Texas representative, for total consideration of $0.3 million in cash. The acquisition has been accounted for using purchase accounting and accordingly, the results of operations of John Stark and Associates has been included within the Company's consolidated financial statements from July 24, 2002. An amount of $0.3 million representing the excess of the purchase price over the fair value of net identifiable assets acquired of $nil, has been recorded as goodwill.

(19) Legal Actions and Contingencies

In the normal course of business, we are subject to routine litigation incidental to our business. While the results of this litigation cannot be predicted with certainty, we believe that their final outcome will not have a material adverse effect on our consolidated financial statements taken as a whole.

(19) Legal Actions and Contingencies, Continued

During September and October 2004, the Company received tax assessment notices for the audit of one of its German subsidiaries by the German tax authorities for the years 1996 through 1998. Certain of these adjustments are being contested and appealed to the German tax authority office. We believe no additional provision is necessary for any tax adjustment that may result from the tax audit. However, the outcome of the audit cannot be predicted with certainty. Should any tax audit issues be resolved in a manner not consistent with management's expectations, the Company could be required to adjust its provision for income tax in the period of resolution.

On December 23, 2002 three former contractors of our subsidiary MAP Medizin-Technologie GmbH initiated proceedings in Munich 1 Regional Court (Proceedings No. 7 O 23286/02), petitioning the Court for a declaration of inventorship with respect to MAP German Patent Applications identified as No. 100 31 079 and 101 92 802.5 and European Patent Application No. EP 01 967 819.7. On March 10, 2005 the Court entered judgment in favor of the plaintiffs, finding that they should be identified as co-inventors in place of certain individual defendants. In April 2005, MAP filed an appeal of that decision. We do not expect the outcome of this litigation to have an adverse material effect on our consolidated financial statements.

(20) In-Process Research and Development Charge ("IPR&D")

On acquisition of Saime in May 2005, we recognized as an expense a charge of $5.3 million with respect to IPR&D programs under active development by Saime that, at date of acquisition, had not reached technological feasibility and had no alternative future use. The estimated fair value assigned to IPR&D was based on an independent appraisal and was comprised of the following projects (in thousands):

Project	Value of IPR&D
Upgrade of the Elisee Series of ventilators	$ 1,379
Next generation of portable ventilators	3,889
Total	$ 5,268

The value of IPR&D was calculated by identifying research projects in areas for which technological feasibility had not been established, estimating the costs to develop the purchased in process technology into commercially viable products, estimating the resulting net cash flows from such products, discounting the net cash flows to present value, and applying the reduced percentage completion of the projects thereto. The discount rate used in the analysis was 25%, which was based on the risk profile of the acquired assets.

As of the date of acquisition, these projects have estimated costs to complete totaling approximately $1.1 million. The projects were in various stages of development but are expected to reach completion at various dates ranging from 1 to 3 years.

We believe that the assumptions used to value the acquired intangible assets were reasonable at the time of acquisition. No assurance can be given, however, that the underlying assumptions used to estimate expected project revenues, development costs or profitability, or events associated with such projects, will transpire as estimated. For these reasons, among others, actual results may vary from the projected results.

(21) Subsequent Events

On July 1, 2005 we acquired 100% of the outstanding stock of Pulmomed Medizinisch-technische Geräte GmbH ("Pulmomed), for cash consideration of $1.5 million. Under the purchase agreement we may also be

(21) Subsequent Events, Continued

required to make additional future payments of up to $0.9 million based on the achievement of certain performance milestones following the acquisition through July 15, 2007. Pulmomed is an Austrian based company that distributes medical equipment and associated services for the treatment of sleep and respiratory patients.

On July 7, 2005, we purchased a 9.78-acre parcel of land in San Diego for $21.0 million. The new location at Kearney Mesa, San Diego will allow us to develop our new corporate headquarters. We expect to commence building during calendar year 2006 and begin moving into the facility in calendar 2007.

On August 10, 2005 we announced that our Board of Directors has approved a two-for-one split of its common stock, payable in the form of a 100 percent stock dividend. Shareholders of record will receive one additional share of common stock for every share held on September 15, 2005.

RESMED INC AND SUBSIDIARIES
VALUATION AND QUALIFYING ACCOUNTS AND RESERVES
YEARS ENDED JUNE 30, 2005, 2004 AND 2003
(in thousands)

	Balance at Beginning of Period	Charged to costs and expenses	Other (deductions)	Balance at end of period
Year ended June 30, 2005				
Applied against asset account				
Allowance for doubtful accounts	$ 3,197	611	(609)	3,199
Year ended June 30, 2004				
Applied against asset account				
Allowance for doubtful accounts	$ 2,474	1,178	(455)	3,197
Year ended June 30, 2003				
Applied against asset account				
Allowance for doubtful accounts	$ 1,938	1,144	(608)	2,474

See accompanying report of independent registered public accounting firm.

SIGNATURES

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.

DATED September 12, 2005

ResMed Inc

/S/ PETER C. FARRELL

Peter C. Farrell
President and Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

SIGNATURE	TITLE	DATE
/S/ PETER C. FARRELL Peter C. Farrell	Chief Executive Officer, President, Chairman of the Board (Principal Executive Officer)	September 12, 2005
/S/ ADRIAN M. SMITH Adrian M. Smith	Senior Vice President Finance and Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	September 12, 2005
/S/ CHRISTOPHER G. ROBERTS Christopher G. Roberts	Director	September 12, 2005
/S/ MICHAEL A. QUINN Michael A. Quinn	Director	September 12, 2005
/S/ GARY W. PACE Gary W. Pace	Director	September 12, 2005
/S/ DONAGH MCCARTHY Donagh McCarthy	Director	September 12, 2005
/S/ RICHARD SULPIZIO Richard Sulpizio	Director	September 12, 2005
/S/ RON TAYLOR Ron Taylor	Director	September 12, 2005
/S/ JOHN P. WAREHAM John P. Wareham	Director	September 12, 2005

RESMED INC. AND SUBSIDIARIES

EXHIBIT INDEX

3.1	Certificate of Incorporation of Registrant, as amended [1]
3.2	By-laws of Registrant [1]
4.1	Form of certificate evidencing shares of Common Stock [1]
4.2	Rights agreement dated as of April 23, 1997 [2]
4.3	Indenture dated as of June 20, 2001, between ResMed Inc and American Stock Transfer & Trust Company [5]
4.4	Registration Rights Agreement dated as of June 20, 2001, by and between ResMed Inc, Merrill Lynch & Co., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Deutsche Banc Alex Brown Inc., William Blair & Company, L.L.C., Macquarie Bank Limited and UBS Warburg LLC [5]
4.5	Registration Rights Agreement dated as of May 14, 2002 between ResMed Inc, and Mr. Leslie Hoffman [6]
10.1	1995 Stock Option Plan [1]
10.2	1997 Equity Participation Plan [3]
10.3	Licensing Agreement between the University of Sydney and ResMed Limited dated May 17, 1991, as amended [1]
10.5	Loan Agreement between the Australian Trade Commission and ResMed Limited dated May 3, 1994 [1]
10.6	Lease for 10121 Carroll Canyon Road, San Diego 92131-1109, U.S.A. [4]
10.7	Sale and Leaseback Agreements for 97 Waterloo Rd, North Ryde, Australia [5]
10.8	Employment Agreement dated as of May 14, 2002, between Servo Magnetics Acquisition Inc., and Mr. Leslie Hoffman [6]
10.9	Agreement for the purchase of Lot 6001, Norwest Boulevarde, Norwest Business Park, Baulkham Hills, Australia [6]
10.10	2003 Employee Stock Purchase Plan [7]
10.11	Loan Agreement between ResMed Limited and HSBC Bank Australia Limited
10.12	Saime Purchase Agreement
21.1	Subsidiaries of the Registrant
23.1	Independent Registered Public Accounting Firm's Report on Schedule and Consent
31.1	Certifications of Chief Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2	Certifications of Chief Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1	Certifications of Chief Executive Officer and Chief Financial Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

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[1] Incorporated by reference to the Registrant's Registration Statement on Form S-1 (No. 33-91094) declared effective on June 1, 1995.
[2] Incorporated by reference to the Registrant's Registration Statement on Form 8-A12G filed on April 25, 1997.
[3] Incorporated by reference to the Registrant's 1997 Proxy Statement.
[4] Incorporated by reference to the Registrant's Report on Form 10-K dated June 30, 1998.
[5] Incorporated by reference to the Registrant's Report on Form 10-K dated June 30, 2001.
[6] Incorporated by reference to the Registrant's Report on Form 10-K dated June 30, 2002.
[7] Incorporated by reference to the Registrant's 2003 Proxy Statement.

BLAKE DAWSON WALDRON

LAWYERS

Syndicated
Facility Agreement

ResMed Limited

ABN 30 003 765 142

The financial institutions listed in schedule 1

HSBC Bank Australia Limited

ABN 48 006 434 162

Execution Version

Level 36, Grosvenor Place
225 George Street
SYDNEY NSW 2000
Tel: (02) 9258 6000
Fax: (02) 9258 6999

Ref: JLH DWS 02 1384 2871

CONTENTS

SYNDICATED FACILITY AGREEMENT

DATE 16 May 2005

PARTIES

ResMed Limited ABN 30 003 765 142 (**Borrower**)

The financial institutions listed in schedule 1 (Initial Lenders)

HSBC Bank Australia Limited ABN 48 006 434 162 in its capacity as facility agent **(Facility Agent)**

HSBC Bank Australia Limited ABN 48 006 434 162 in its capacity as security trustee **(Security Trustee)**

OPERATIVE PROVISIONS

1. **INTERPRETATION**

1.1 **Definitions**

The following definitions apply in this document.

A$** and **$ means the lawful currency of the Commonwealth of Australia.

Accounting Principles means generally accepted accounting principles in Australia at the date of this document consistently applied and includes applicable approved accounting standards, or (where required by the status of the holding company of the Borrower) the generally accepted accounting principles of the United States of America.

Accounts means, for a period, a profit and loss statement (or statement of financial performance) and statement of cashflows for that period, and a balance sheet (or statement of financial position) as at the end of that period, together with any notes to them and any statement or report (including any directors' declaration and any auditors' report) that is required by applicable law to be prepared in relation to them.

Advance means the principal amount drawn or proposed to be drawn by the Borrower under the Drawdown Notice.

Authorisation means:

(a) an authorisation, consent, declaration, exemption, notarisation or waiver, however it is described; and

(b) in relation to anything that could be prohibited or restricted by law if a Government Agency acts in any way within a specified period, the expiry of that period without that action being taken,

including any renewal or amendment.

Authorised Representative means:

(a) for a Lender:

(i) a company secretary or director of the Lender or an employee of the Lender whose title includes the word "manager" or "director";

(ii) a person who is acting temporarily in one of those positions; or

(iii) a person, or a person holding a position, nominated by the Lender to the Borrower and the Facility Agent;

(b) for the Facility Agent or the Security Trustee:

(i) a company secretary or director of the Facility Agent or the Security Trustee or an employee of the Facility Agent or the Security Trustee whose title includes the word "manager" or "director";

(ii) a person who is acting temporarily in one of those positions; or

(iii) a person, or a person holding a position, nominated by the Facility Agent or the Security Trustee to the Borrower and each Lender; and

(c) for the Borrower, a person nominated by the Borrower to the Facility Agent in a notice that is accompanied by, and certifies the correctness of, a copy of the signature of that person.

Availability Period means the period commencing on the date of this document and ending on the date 3 calendar months after the date of this document.

Business Day means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Sydney or London.

Commitment means, for each Lender, the amount specified against its name in schedule 1, or acquired under a Substitution Certificate, as reduced or cancelled under this document.

Controller means, in relation to a person's property:

(a) a receiver or receiver and manager of that property; or

(b) anyone else who (whether or not as agent for the person) is in possession, or has control, of that property to enforce an Encumbrance.

Corporations Act means the *Corporations Act 2001* (Cth).

Covenant Review Event has the meaning given to that term in clause 11.7.

Current Assets means the aggregate value of the current tangible assets of the Group on a consolidated basis determined in accordance with Accounting Principles.

Debt Service Cover Ratio means, in respect of a Twelve-Month Period, the ratio of EBITDA to Gross Interest during that Twelve-Month Period.

Default Interest Period means, for an unpaid amount, a period of 30 days (or any other period the Facility Agent selects) beginning on the day on which the amount falls due, or on the last day of another Default Interest Period for that amount.

Default Rate means, for any day in a Default Interest Period, Eurolibor for that Default Interest Period plus *2%*.

Drawdown Date means the date on which the Advance is, or is proposed, to be advanced to the Borrower.

Drawdown Notice means a notice substantially in the form set out in schedule 4 that is completed and signed by an Authorised Representative of the Borrower.

EBITDA means, for any period, the Operating Profit for that period before taking into account Gross Interest payable or receivable by the members of the Group, Tax on income and profits payable by the members of the Group, depreciation and amortisation in respect of fixed assets, real property, and plant and equipment, intangibles and exceptional and extraordinary items (and, in the case of an operating loss, it shall be expressed as a negative amount) determined in accordance with, and by reference to, the relevant financial statements delivered to the Facility Agent and Accounting Principles.

Encumbrance means a mortgage, charge, pledge, lien, hypothecation or title retention arrangement, a right of set-off or right to withhold payment of a deposit or other money, a notice under section 255 of the *Income Tax Assessment Act 1936*(Cth), subdivision 260-A in schedule 1 to the *Taxation Administration Act 1953* (Cth) or any similar legislation, or an easement, restrictive covenant, caveat or similar restriction over property, or an agreement to create any of them or to allow any of them to exist.

Euro or **EUR** means the lawful currency of the member states of the European Union that adopted a single currency in accordance with the Treaty establishing the European Community, as amended by the Treaty on European Union.

Eurolibor means, for an Interest Period:

(a) the rate determined by the Facility Agent to be the arithmetic mean, expressed as a percentage per annum (rounded up (if necessary) to 4 decimal places), of the rates for deposits in Euro quoted:

    (i) at or about 11.00 am (London time) 2 Business Days before the first day of that Interest Period; and

    (ii) for a period equal or comparable to that Interest Period,

    on the Reuters monitor system page “LIBOR 01” or any page which replaces that page; or

(b) where the page referred to in paragraph (a) is not available, or less than 2 rates are quoted on that page at that time, the rate determined by the Facility Agent to be the

arithmetic mean of the rates expressed as a percentage per annum (rounded up (if necessary) to 4 decimal places), at which deposits:

(i) denominated in Euro;

(ii) for the same or for a comparable amount; and

(iii) for a period equal or comparable to that Interest Period.

are offered to the Facility Agent by any two Reference Banks, in the interbank market selected by it, at or about 11.00 am (local time in the place of that market) 2 Business Days in the place of that market before the first day of that Interest Period.

Event of Default means an event or circumstance described in clause 12.1.

Facility means the cash advance facility provided under this document.

Facility Reduction Date means each date for reduction of the Commitments and the Total Commitment under clause 9.2 and (if necessary) repayment of the Principal Outstanding under clause 7.1.

Finance Parties means the Facility Agent, the Security Trustee, the Lenders and the Hedge Counterparty.

Financial Indebtedness means an obligation (whether present or future, actual or contingent) to pay or deliver any money or commodity under or in respect of any financial accommodation including under or in respect of any:

(a) money borrowed or raised;

(b) redeemable or repurchaseable share or stock;

(c) bill of exchange, promissory note or other financial instrument (whether or not transferable or negotiable);

(d) put option or buyback or discounting arrangement in respect of any property;

(e) lease, licence or other arrangement in respect of any property entered into primarily to raise finance or to finance the acquisition of that property (other than a lease, licence or arrangement which may be accounted for as an operating lease under applicable generally accepted accounting principles);

(f) hire purchase or deferred payment obligation for any property or service;

(g) interest or currency swap or hedge arrangement, financial option, futures contract or analogous transaction other than the Hedge Agreement referred to in item 8 of schedule 2 to the extent that it is an open position; or

(h) arrangement which achieves the same or a similar commercial effect as or to any of the above,

and any Guarantee of Financial Indebtedness of another person. It does not include any extended payment terms for the supply of goods and services entered into by the Borrower in the ordinary course of its ordinary business.

Financial Ratio means (individually and collectively) the ratios and covenants set out in clause 11.6.

Gearing Ratio means, in respect of any Twelve-Month Period, the ratio of Total Debt to EBITDA during that period.

Government Agency means:

(a) a government or government department or other body;

(b) a governmental, semi-governmental or judicial person; or

(c) a person (whether autonomous or not) who is charged with the administration of a law.

Gross Interest means, for any period, the aggregate amount of interest, amounts in the nature of interest and other fees of, or associated with, Total Debt that has been paid, incurred or accrued due for payment by the Group during that period calculated in accordance with Accounting Principles.

Group means the Borrower and each of its subsidiaries.

GST means:

(a) the same as in the GST Law;

(b) any other goods and services tax, or any Tax applying to any transaction entered into pursuant to this document or any other Transaction Document in a similar way; and

(c) any additional tax, penalty tax, fine, interest or other charge under a law for such a Tax.

GST Law means the same as in the *A New Tax System (Goods and Services Tax) Act 1999*(Cth).

GST Exclusive Consideration means the consideration for any Taxable Supply and all other money payable by any Obligor under any Transaction Document to a Finance Party or as that Finance Party directs, but does not include GST.

GST Rate means the rate of GST under the GST Law.

Guarantee means a guarantee, indemnity, letter of credit, performance bond, acceptance or endorsement, or other undertaking or obligation:

(a) to provide funds (including by the purchase of property), or otherwise to make property available, in or to enable payment or discharge of;

(b) to indemnify against the consequences of default in the payment of; or

(c) otherwise to be responsible for,

an obligation (whether or not it involves the payment of money), or otherwise to be responsible for the solvency or financial condition, of any other person.

Guarantee and Indemnity means the document so entitled dated on or about the date of this document between the Security Trustee, the Borrower and the Guarantors listed in paragraphs (a) and (b) of that definition.

Guarantor means each of:

(a) ResMed SA;

(b) Take Air Medical (GmbH); and

(c) any other person who becomes a guarantor pursuant to clause 11.5 of this document.

Hedge Agreement means an interest rate hedge agreement or other hedge agreement (including any master agreement, any schedule thereto and any transaction or confirmation under it) entered into by the Borrower in relation to hedging that is permitted under this document.

Hedge Counterparty means HSBC Bank plc, Sydney Branch ABN 98 067 329 015, a public limited company existing under the laws of England, whose registered office is situated at 580 George Street Sydney NSW 2000 or such other entity nominated by HSBC Bank plc, Sydney Branch.

Insolvency Event means, in respect of a person:

(a) an order being made, or the person passing a resolution, for its winding up;

(b) an application being made to a court for an order for its winding up, unless the application is withdrawn or dismissed within 5 Business Days;

(c) an administrator being appointed to the person;

(d) (i) the person resolving to appoint a Controller or analogous person to the person or any of the person's property;

(ii) an application being made to a court for an order to appoint a Controller, provisional liquidator, trustee for creditors or in bankruptcy or analogous person to the person or any of the person's property, unless the application is withdrawn or dismissed within 5 Business Days; or

(iii) an appointment of the kind referred to in subparagraph (ii) being made (whether or not following a resolution or application);

(e) the holder of a Security Interest taking possession of any of the person's property;

(f) the person being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand;

(g) the person:

(i) suspending payment of its debts, ceasing (or threatening to cease) to carry on all or a material part of its business, stating that it is unable to pay its debts or being or becoming otherwise insolvent; or

(ii) being taken by applicable law to be (or if a court would be entitled or required to presume that the person is) unable to pay its debts or otherwise insolvent;

(h) the process of any court or authority being invoked against the person or any of its property to enforce any judgment or order for the payment of money or the recovery of any property, unless the person is able, within 5 Business Days, to satisfy the Facility Agent that there is no substantial basis for the judgment or order in respect of which the process was invoked;

(i) the person dying, ceasing to be of full legal capacity or otherwise becoming incapable of managing its own affairs for any reason;

(j) the person taking any step that could result in the person becoming an insolvent under administration (as defined in section 9 of the Corporations Act);

(k) the person taking any step toward entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors; or

(l) any analogous event,

unless this takes place as part of a solvent reconstruction, amalgamation, merger or consolidation that has been approved by the Facility Agent.

Intercompany Loans means:

(a) any Financial Indebtedness owed by the Borrower to:

(i) ResMed NZ Limited AK/955498;

(ii) ResMed Holdings Limited ABN 28 0003 765 133 in its own capacity; or

(iii) ResMed EAP; and

(b) any Financial Indebtedness owed by:

(i) ResMed (UK) Limited;

(ii) ResMed Inc, Australian Branch ABN 46 064 514 852

(iii) ResMed Asia Pacific Limited ABN 86 070 076 470;

(iv) ResMed Holdings Limited as trustee of the ResMed Property Trust;

(v) ResMed (R&D) Limited ABN 42 087 053 969; or

(vi) ResMed Inc,

to the Borrower,

Interest Payment Date means, for an Interest Period, the last day of that Interest Period.

Interest Period means a period determined in accordance with clause 4.

Interest Rate means, for an Interest Period, the sum of Eurolibor for that Interest Period and the Margin.

Lender means an Initial Lender or a New Lender, other than an Initial Lender or a New Lender that has assigned or substituted all of its rights and obligations under the Transaction Documents in accordance with clause 20.

Lending Office means, for a Lender, the lending office specified for that Lender in schedule 1 or in a valid notice of assignment or Substitution Certificate, or any other office in Australia that the Lender may notify to the Borrower and the Facility Agent.

Majority of Lenders means:

(a) if the Advance is outstanding, one or more Lenders whose aggregate Shares of the Principal Outstanding equal or exceed $66^{2}/_{3}$% of the Principal Outstanding;

(b) if no Advance is outstanding and paragraph (c) does not apply, one or more Lenders whose aggregate Commitments equal or exceed $66^{2}/_{3}$% of the Total Commitment; or

(c) if no Advance is outstanding and the Total Commitment has been reduced to zero, one or more Lenders whose aggregate Shares of the Principal Outstanding immediately before it was repaid in full equalled or exceeded $66\,^{2}/_{3}$% of the Principal Outstanding at that time,

whether or not a majority of Lenders by number.

Margin means the rate (expressed as a percentage per annum) determined in accordance with clause 5.2.

Material Adverse Effect means, in respect of a person, a material adverse effect in the reasonable opinion of the Facility Agent on:

(a) its business, property or financial condition;

(b) its ability to perform its obligations under a Transaction Document; or

(c) the effectiveness or priority of any Security given by it.

Net Profit After Tax has the same meaning given to that term under Accounting Principles.

New Lender means a financial institution or other person that becomes a Lender under clause 20.

Obligor means:

(a) the Borrower; and

(b) each Guarantor.

Operating Profit means for any period, the operating profit on ordinary activities of the Group determined in accordance with, and by reference to, the relevant financial statements delivered to the Lender and Accounting Principles.

Permitted Encumbrance means:

(a) an Encumbrance (if any) created under a Transaction Document;

(b) a lien that arises by operation of law in the ordinary course of ordinary business, where the amount secured is not overdue or is being diligently contested in good faith; or

(c) an Encumbrance that the Facility Agent approves before it arises, where the amount secured does not increase, and the time for payment of that amount is not extended beyond the amount and time approved.

Permitted Interest Period means a period of 30, 60 or 90 days or such other period agreed to by the Lender.

Pledge means the document titled "Agreement for the Pledge of Account of Financial Instruments Relating to Shares of Financiere ACE SAS" dated on or about the date of this document granted by ResMed SA in favour of the Security Trustee in respect of all the issued share capital of the Target Company.

Potential Event of Default means an event or circumstance which, with the passage of time or the giving of notice or both, would become an Event of Default.

Principal Outstanding means, on any day, the principal amount of the Advance outstanding on that day.

Project Document means the Share Sale Agreement.

Protected Person means the Security Trustee and any related body corporate, shareholder, director, officer, employee or controlling person of the Security Trustee.

Quarter means a period of 3 calendar months ending on a Quarter Date.

Quarter Date means 31 March, 30 June, 30 September and 31 December in each year.

Quotation Day means, in relation to an Interest Period, two Business Days before the first day of that Interest Period.

Reference Banks means three financial institutions to be agreed from time to time between the Borrower and the Facility Agent, the initial such institutions being:

(a) HSBC Bank plc;

(b) Barclays Bank plc; and

(c) Lloyds TSB Bank plc.

Regulatory Change means:

(a) the introduction of, or a change in, an applicable law or regulatory requirement or in its interpretation or administration by a Government Agency; or

(b) compliance by a Lender or any related body corporate of a Lender with an applicable direction, request or requirement (whether or not having the force of law and whether existing or future) of a Government Agency.

Relevant Entity means:

(a) the Borrower;

(b) ResMed SA;

(c) the Target Company; and

(d) each subsidiary (whether direct or indirect) of the Target Company.

Resmed Loan Agreement means the loan agreement dated on or about the date of this document between the Borrower (as lender) and ResMed SA (as borrower).

ResMed SA means, ResMed SA, a company incorporated under the laws of France.

Retiring Lender means a Lender that arranges a substitution under clause 20 in respect of its Commitment or participation in an Advance.

Security means:

(a) the Pledge;

(b) the Guarantee and Indemnity; and

(c) each other Encumbrance, Guarantee or undertaking that the Security Trustee holds in its capacity as trustee of the Security Trust.

Security Interest means an Encumbrance that secures the payment of money or the performance of an obligation, or any other interest or arrangement of any kind that gives a creditor priority over other creditors in relation to any property.

Security Trust means the trust established by the Security Trust Deed.

Security Trust Deed means the security trust deed dated on or about the date of this document between the Borrower and the Security Trustee.

Security Trust Fund has the same meaning as in the Security Trust Deed.

Semi-Annual Date means 30 June and 31 December in each year.

Share means, for a Lender:

(a) when calculating the amount that the Lender is required to contribute to the Advance, the proportion that the Lender's Commitment bears to the Total Commitment; and

(b) when referring to the Principal Outstanding or to an outstanding Advance, the proportion that is owing to it.

Share Sale Agreement means the document titled "Securities Sale Agreement – Financiere ACE S.A.S." dated 4 May 2005 between the Sellers named therein and ResMed SA as the purchaser in respect of the sale of shares in the Target Company.

Substitution Certificate means a certificate substantially in the form set out in schedule 6.

Supply means the same as in the *A New Tax System* (*Goods and Services Tax*) *Act 1999* (Cth).

Tangible Net Worth means, in respect of the Group (on a consolidated basis) at any time, the aggregate of tangible fixed assets and Current Assets at that time less all current liabilities and all long term liabilities (including, without limitation contingent liabilities) at that time.

Target Company means Financiere ACE SAS, a company incorporated under the laws of France.

Tax means a tax, levy, duty, charge, deduction or withholding, however it is described, that is imposed by law or by a Government Agency, together with any related interest, penalty, fine or other charge, other than one imposed on overall net income.

Taxable Supply means:

(a) any Supply made by or on behalf of a Finance Party in respect of any transaction entered into pursuant to this document or any other Transaction Document; or

(b) any Supply made by or on behalf of a Finance Party in respect of any transaction contemplated by this document or any other Transaction Document, on which GST is payable.

Tax Invoice means a tax invoice under the GST Law.

Termination Date means the date 5 years after the date of this document.

Total Commitment means, at any time, the aggregate of all Commitments at that time.

Total Debt means, for a period, in respect of the Group, the aggregate principal amount of all Financial Indebtedness to entities outside the Group which is interest bearing (including but not limited to, interest on convertible notes, redeemable preference shares and any amounts payable in relation to any finance lease which is treated as interest) on a consolidated basis, but excluding the Intercompany Loans.

Transaction Document means:

(a) this document;

(b) each Security;

(c) the Security Trust Deed;

(d) any Hedge Agreement between the Borrower and the Hedge Counterparty;

(e) the Resmed Loan Agreement;

(f) any document or agreement that the Borrower and the Facility Agent agree in writing is to be a Transaction Document for the purposes of this document;

(g) any document or agreement that is entered into under any of the above;

(h) any document or agreement that amends, supplements, replaces or novates any of the above; and

(i) any undertaking (whether or not in writing) by or to a party or its lawyers that is given under or relates to any of the above.

Twelve Month Period means a period of twelve calendar months ending on a Semi-Annual Date.

Unused Commitment means, at any time, the Total Commitment less the Principal Outstanding at that time.

Vendor means in relation to a Project Document, each party transferring, assigning or selling shares or other assets or property under that Project Document.

1.2 **Rules for interpreting this document**

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

(a) A reference to:

(i) legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;

(ii) a document or agreement, or a provision of a document or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;

(iii) a party to this document or to any other document or agreement includes a permitted substitute or a permitted assign of that party;

(iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and

(v) anything (including a right, obligation or concept) includes each part of it.

(b) A singular word includes the plural, and vice versa.

(c) A word which suggests one gender includes the other genders.

(d) If a word is defined, another part of speech has a corresponding meaning.

(e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.

(f) The word **agreement** includes an undertaking or other binding arrangement or understanding, whether or not in writing.

(g) The words **subsidiary, holding company** and **related body corporate** have the same meanings as in the Corporations Act and a reference to a subsidiary in relation to the Borrower also includes the ResMed Property Trust.

1.3 **Business Days**

If the day on or by which a person must do something under this document is not a Business Day:

(a) if the act involves a payment that is due on demand, the person must do it on or by the next Business Day; and

(b) in any other case, the person must do it on or by the previous Business Day.

1.4 **Rights and obligations of the Lenders and the Facility Agent**

(a) The rights and obligations of the Lenders and the Facility Agent under the Transaction Documents are several, and none of them is responsible for any act or omission of the others.

(b) If a Lender fails to perform any of its obligations under a Transaction Document, or notifies the Facility Agent that it will not perform any of those obligations, this does not relieve any other party of any of its obligations under any Transaction Document.

(c) Subject to this document, each Lender and the Facility Agent may separately enforce its rights under each Transaction Document.

2. **THE FACILITY**

2.1 **Lenders to provide the Facility**

The Lenders agree to provide the Facility on the terms set out in this document.

2.2 **Borrower may request drawdown**

The Borrower may request the Advance by delivering the Drawdown Notice to the Facility Agent in accordance with clause 3. The Borrower may only request one Advance.

2.3 **Participation in Facility**

Subject to this document, each Lender must contribute its Share of the Advance through its Lending Office on the Drawdown Date for the Advance.

2.4 **Purpose of funding**

The Borrower must on-lend the entire amount of the Advance to ResMed SA pursuant to the Resmed Loan Agreement to enable ResMed SA to acquire 100% of the Target Company, whether by acquisition of share capital, discharge of debt or quasi-debt, the retirement of debt or quasi-debt instruments and the ongoing funding of the Target Company including the discharge of debt or quasi-debt and the retirement of debt or quasi-debt instruments and the ongoing funding of the subsidiaries of the Target Company and for no other purpose.

3. **CONDITIONS PRECEDENT AND CONDITIONS SUBSEQUENT**

3.1 **Conditions precedent to delivery of first Drawdown Notice**

The Borrower may not deliver the Drawdown Notice until it has provided the Facility Agent with the items listed in Schedule 2 in form and substance satisfactory to the Facility Agent other than item 6.

3.2 **Conditions precedent to drawing of an Advance**

A Lender is only obliged to make its Share of the Advance available to the Borrower under the Drawdown Notice if:

(a) the Borrower has provided the Facility Agent with each of the items listed in Schedule 2 in form and substance satisfactory to the Facility Agent;

(b) the Facility Agent has received the Drawdown Notice by 4.00 pm (Sydney time) on the second Business Day before the Drawdown Date specified in the Drawdown Notice;

(c) the Drawdown Notice specifies a Drawdown Date that is a Business Day in the Availability Period;

(d) its Share of the Principal Outstanding will not exceed its Commitment, and the Principal Outstanding will not exceed the Total Commitment, immediately after the Advance is made available;

(e) the Drawdown Notice specifies an Interest Period that is a Permitted Interest Period;

(f) not more than one Advance will be outstanding immediately after the Advance is made;

(g) any fees payable under clause 6 have been paid; and

(h) the Facility Agent is satisfied that no Event of Default or Potential Event of Default has occurred and is continuing, and that the provision of the Advance will not result in the occurrence of an Event of Default or Potential Event of Default.

A Drawdown Notice is effective when received by the Facility Agent as contemplated by paragraph (b) and, once effective, is irrevocable.

3.3 **Facility Agent's discretions concerning conditions precedent**

(a) The Facility Agent (acting on the instructions of all Lenders) may waive, or postpone the time for, fulfilment of any condition precedent concerning the Advance.

(b) Where a postponement is allowed under paragraph (a), the Borrower must comply with the terms of the postponement. The Borrower breaches this document if it fails to satisfy the condition by the postponed date for compliance.

(c) A notice from the Facility Agent to the Lenders that each item referred to in clauses 3.1 and 3.2 has been received or satisfied to the Facility Agent's satisfaction, or waived or postponed under paragraph (a), discharges in full the Facility Agent's obligations to the Lenders concerning those items.

3.4 **Conditions Subsequent**

(a) The Borrower must no later than the date 30 days after the Drawdown Date procure that Take Air Medical (GmbH) executes the Guarantee and Indemnity and delivers to the Security Trustee an original duly executed counterpart of the Guarantee and Indemnity executed by Take Air Medical (GmbH).

(b) The Borrower agrees to do anything reasonably required by the Facility Agent to enable the Facility Agent to obtain a legal opinion from the Facility Agent's German legal counsel no later than the date 30 days after the Drawdown Date in respect of the due execution by, and enforceability against, Take Air Medical (GmbH) of each Transaction Document executed by Take Air Medical (GmbH) including, without limitation, procure that Take Air Medical (GmbH) provides any document reasonably required by the Facility Agent's German legal counsel to enable it to issue that opinion.

(c) The Borrower must no later than 19 May 2005 procure that ResMed SA delivers to the Facility Agent written confirmation that completion under the Share Sale Agreement has occurred and that all conditions precedent under it have been satisfied.

(d) The Borrower must no later than 19 May 2005 procure that ResMed SA delivers to the Security Trustee an account registration certificate *("attestation d' inscription en compte")* issued by the Target Company together with a certified true copy of the share transfer ledger as updated after completion under the Share Sale Agreement evidencing that all the issued share capital of the Target Company are held by ResMed SA.

(e) The Borrower must no later than 19 May 2005 deliver to the Facility Agent evidence satisfactory to the Facility Agent that all Security Interests (excluding Security Interests in relation to the shares and/or assets of Take Air Medical GmbH) over the Target Company and its direct and/or indirect subsidiaries have been discharged and released.

(f) The Borrower must no later than the date 30 days after the Drawdown Date deliver to the Facility Agent evidence satisfactory to the Facility Agent that all Security Interests in relation to the shares and/or assets of Take Air Medical GmbH have been discharged and released.

(g) The Borrower must no later than 19 May 2005 deliver to the Facility Agent a certified copy of the duly executed minutes of the Supervisory Board of the Target Company authorising *("agréant")* all the beneficiaries of the Pledge.

(h) The Borrower must procure that ResMed SA delivers the duly executed Pledge to the Security Trustee in a form satisfactory to the Security Trustee no later than 19 May 2005 to enable the Security Trustee to obtain by that date a pledge of a financial instrument account incorporating all the securities issued to date by the Target Company duly executed by all relevant parties to enable it to be registered in the books of the Target Company together with the amount of money (if any) which

in the Security Trustee's opinion is required for the payment of any stamp duty and registration fees in connection with the Pledge.

(i) The Borrower agrees to do anything reasonably required by the Facility Agent to enable the Facility Agent to obtain no later than 19 May 2005 a legal opinion from Norton Rose, French counsel to the Facility Agent, addressed to the Facility Agent (on behalf of the Lenders) in respect of the due execution by, and enforceability against, each Obligor incorporated or registered in France of each Transaction Document executed by that Obligor including, without limitation, procure that that Obligor provides any document reasonably required by Norton Rose to enable it to issue that opinion.

(j) The Borrower must no later than 19 May 2005 deliver to the Facility Agent in form and substance satisfactory to the Facility Agent:

(i) an original reliance letter executed by Herbert Smith in respect of the due diligence report referred to in item 7 of schedule 2; and

(ii) an original reliance letter executed by Gleiss Lutz in respect of the due diligence report referred to in item 8 of schedule 2.

4. INTEREST PERIODS

4.1 Interest Periods

Subject to this clause, each Interest Period:

(a) is the Permitted Interest Period specified in the Drawdown Notice; and

(b) commences on the Drawdown Date or on the last day of another Interest Period.

4.2 Borrower may change Interest Periods

The Borrower may vary the Interest Period with effect from the next Interest Payment Date by notifying the Facility Agent that it wants to do so by a notice that:

(a) is signed by an Authorised Representative of the Borrower;

(b) is received by the Facility Agent by 4.00 pm (Sydney time) on the second Business Day before the next Interest Payment Date;

(c) identifies the relevant Advance and specifies a Permitted Interest Period as the replacement Interest Period; and

(d) is substantially in the form of schedule 5.

The notice is effective when received by the Facility Agent as contemplated by paragraph (b) and, once effective, is irrevocable.

4.3 **Adjustment of last day of Interest Periods**

(a) If an Interest Period would otherwise end on a day that is not a Business Day, it ends on the previous Business Day.

(b) If an Interest Period would otherwise end after the Termination Date, it ends:

(i) if the Termination Date is a Business Day, on the Termination Date; or

(ii) if the Termination Date is not a Business Day, on the Business Day before the Termination Date.

5. **INTEREST**

5.1 **Accrual and payment of interest**

(a) Interest accrues on the Principal Outstanding over each Interest Period, from (and including) the first day of the Interest Period to (but excluding) its Interest Payment Date, at the Interest Rate for that Interest Period.

(b) The Borrower must pay the interest that accrues over an Interest Period in arrears on the Interest Payment Date at the end of that Interest Period.

(c) The Lenders are entitled to share in interest on the Principal Outstanding pro rata according to their Shares in the Advance.

5.2 **Margin**

If the Gearing Ratio calculated by the Facility Agent by reference to the latest Accounts received by the Facility Agent under clause 11.2 prior to the Quotation Day for an Interest Period:

(a) is less than 1.50:1, the Margin for that Interest Period will be 0.90% per annum; or

(b) is equal to or greater than 1.50:1, the Margin for that Interest Period will be 1.00% per annum.

If for any reason the Facility Agent is unable to calculate the Gearing Ratio (including, without limitation, because the Facility Agent has not received the required Accounts) the Margin will be 1.00% per annum. The parties agree that the Margin may not change within an Interest Period.

5.3 **Default interest**

(a) The Borrower must pay interest on each amount that is not paid when due, from (and including) the day on which it falls due to (but excluding) the day on which it is paid in full, at the rate calculated in accordance with paragraph (b). The Borrower must pay this interest on demand.

(b) Interest on an unpaid amount accrues each day in a Default Interest Period at the Default Rate for that Default Interest Period, and is capitalised (if not paid) on the last day of that Default Interest Period.

(c) This subclause does not affect the Borrower's obligation to pay each amount under this document when it is due.

5.4 **Interest after judgment**

If a liability of the Borrower becomes merged in a judgment or order, the Borrower, as an independent obligation, must pay interest on the amount of that liability, from (and including) the date of the judgment or order until it is paid in full, at the higher of the rate that applies under the judgment or order and the rate calculated in accordance with clause 5.3.

5.5 **Accrual and calculation of interest**

Interest under this clause:

(a) accrues daily; and

(b) is calculated on the basis of the actual number of days on which interest has accrued and of a 360 day year.

6. **FEES**

6.1 **Establishment fee**

The Borrower must pay to the Facility Agent on account of the Lenders an establishment fee of EUR 175,000 on or before the date of this document.

6.2 **Unused Commitment fee**

The Borrower must pay to the Facility Agent on account of the Lenders an Unused Commitment fee at a per annum rate equal to 45% of the Margin on the Unused Commitment as at each date on which the fee is payable. This fee:

(a) accrues daily from the date of this document up to and including the last day of the Availability Period;

(b) is calculated on the basis of the actual number of days elapsed and of a 360 day year; and

(c) is payable in arrears, on the last day of each calendar month, and on the last day of the Availability Period or, if earlier, on the day on which the Total Commitment reduces to zero.

6.3 **No refund**

All fees payable by the Borrower under this clause 6 are non-refundable and non-rebateable.

7. REPAYMENT

7.1 Repayment

(a) On each Facility Reduction Date, the Borrower (without limiting its other obligations under this clause) must repay the Principal Outstanding, to the extent necessary (if at all) to ensure that the Principal Outstanding is no greater than the Total Commitment (as reduced in accordance with clause 9.2). The Lenders are entitled to share in repayments under this paragraph pro rata according to their Shares in the Principal Outstanding.

(b) On the Termination Date, the Borrower must repay the Principal Outstanding and pay any accrued but unpaid interest and all other amounts then outstanding but unpaid under each Transaction Document.

7.2 Limit on repayment

The Borrower may only repay the Principal Outstanding in accordance with this document.

7.3 Notice of prepayment

Subject to the following provisions of this clause, the Borrower may repay all or part of the Principal Outstanding on an Interest Payment Date if the Borrower notifies the Facility Agent that it wants to do so, and the notice:

(a) is signed by an Authorised Representative of the Borrower;

(b) is received by the Facility Agent by 4.00 pm (Sydney time) at least 5 Business Days before the Interest Payment Date on which the prepayment is to be made; and

(c) specifies the amount to be prepaid and the Interest Payment Date on which the prepayment is to be made.

The notice is effective when received by the Facility Agent as contemplated by paragraph (b) and, once effective, is irrevocable.

7.4 Minimum amount for prepayment

The Borrower may only repay part of the Advance under this clause if each of that part and the remaining part of the Advance is a minimum of EUR 2,000,000 and a multiple of EUR 2,000,000.

7.5 Prepayment

If the Borrower gives a notice under clause 7.3, it must pay, on the date specified in the notice:

(a) the amount specified in the notice; and

(b) all interest and fees accrued but unpaid under clauses 5 and 6, and amounts payable under clause 14(d), in relation to the amount to be prepaid.

Amounts prepaid may not be redrawn.

8. PAYMENTS

8.1 How payments must be made

(a) The Borrower must make each payment under this document to the Facility Agent by delivering an unendorsed bank cheque to the Facility Agent at the place, or by direct transfer of cleared funds to the credit of the account, that the Facility Agent nominates at least 1 Business Day before the payment is made.

(b) The Borrower must make each payment under this document without any set-off or counterclaim and (to the extent permitted by law) free and clear of, and without deduction or withholding for or on account of, any Taxes.

8.2 Facility Agent must distribute receipts

Unless this document provides otherwise, each payment that the Borrower makes to the Facility Agent is made for the account of the Lenders entitled to that payment, and the Facility Agent must distribute each amount that it receives under any Transaction Document for the account of one or more Lenders in accordance with their entitlements:

(a) by delivering an unendorsed bank cheque to that Lenders Lending Office, or by direct transfer of cleared funds to the credit of the account, that the Lender nominates at least 1 Business Day before the payment is made; and

(b) if the Facility Agent receives the payment by 1.00pm (local time in the place of receipt), on the day the Facility Agent receives it or, if the Facility Agent receives it after that time, by the next Business Day.

8.3 Facility Agent only obliged to distribute actual receipts

The Facility Agent is not obliged to pay any amount to, or on behalf of, any party **(Receiving Party)** until it is satisfied that it has received that amount from the party obliged to pay it **(Paying Party)**. However, the Facility Agent may assume that the amount has been, or will be, paid to it in accordance with this document. If the Facility Agent pays an amount to, or on behalf of, a Receiving Party, but determines later that it had not already received that amount from the Paying Party:

(a) the Receiving Party must refund or reimburse that amount to the Facility Agent on demand; and

(b) the Receiving Party or (at the option of the Facility Agent) the Paying Party, must indemnify the Facility Agent against, and must pay the Facility Agent (for its own account) on demand the amount of, all losses, liabilities, expenses and Taxes that the Facility Agent incurs because it paid that amount before it received it.

8.4 Effect of payment to Facility Agent

Subject to this document, a payment by the Borrower to the Facility Agent for the account of a Lender satisfies the Borrower's obligation to that Lender except to the extent that:

(a) that Lender is obliged to share the payment with another party in accordance with this document; or

(b) the Facility Agent or that Lender is obliged to refund the payment under any applicable law (whether relating to insolvency or otherwise).

8.5 **Application of money**

(a) If any amount that the Facility Agent or the Security Trustee receives is not sufficient to satisfy all the outstanding obligations of the Borrower to the Security Trustee in that capacity, to the Facility Agent in that capacity and to the Lenders under the Transaction Documents, the amount is to be applied in the following order:

(i) first in accordance with the Securities;

(ii) then in payment to the Facility Agent, the Security Trustee and the Lenders of amounts due to them under clause 14;

(iii) then in payment to the Lenders of interest due on the Principal Outstanding;

(iv) then in payment to the Facility Agent and the Security Trustee of fees due to them for their own account;

(v) then in payment to the Lenders of the Principal Outstanding; and

(vi) then in payment to the Security Trustee, the Facility Agent and the Lenders of any other amounts due under the Transaction Documents,

in each case (if necessary) rateably in accordance with their entitlements.

(b) If the Security Trustee is required to apply money in accordance with paragraph (a) towards payment of obligations that are future or contingent, or have accrued but are payable at a future time, it must withhold a corresponding proportion of that money until:

(i) the obligation becomes actually due for performance; or

(ii) in the case of future or contingent obligations, it is satisfied that the obligation will not become actually due for performance,

and at that time the Security Trustee must apply the relevant amount in accordance with paragraph (a).

8.6 **Deductions and withholdings by Borrower**

If at any time an applicable law obliges the Borrower to make a deduction or withholding in respect of Taxes from a payment under this document, the Borrower:

(a) must notify the Facility Agent of the obligation promptly after the Borrower becomes aware of it;

(b) must ensure that the deduction or withholding does not exceed the minimum amount required by law;

(c) must pay to the relevant Government Agency on time the full amount of the deduction or withholding and promptly deliver to the Facility Agent a copy of any receipt, certificate or other proof of payment; and

(d) must indemnify the party entitled to the payment against the deduction or withholding by paying to the Facility Agent for the account of that party at the time that the payment is due, an additional amount that ensures that, after the deduction or withholding is made, the relevant party receives a net sum equal to the sum that it would have received if the deduction or withholding had not been made.

8.7 **Deductions and withholdings by Facility Agent**

If at any time an applicable law obliges the Facility Agent to make a deduction or withholding in respect of Taxes from a payment by it under this document to a party other than the Borrower:

(a) the Facility Agent must notify the Borrower of the obligation promptly after the Facility Agent becomes aware of it;

(b) the Facility Agent must ensure that the deduction or withholding does not exceed the minimum amount required by law;

(c) the Facility Agent must pay to the relevant Government Agency on time the full amount of the deduction or withholding and promptly deliver to that party a copy of any receipt, certificate or other proof of payment; and

(d) the Borrower must indemnify that party against the deduction or withholding by paying to the Facility Agent (for the account of that party), at the time that the payment is due, an additional amount that ensures that, after the deduction or withholding is made, the party receives a net sum equal to the sum that it would have received if the deduction or withholding had not been made.

8.8 **Currency of payments**

The Borrower must pay each amount required to be paid by it under this document in Euro.

8.9 **Currency indemnity**

If, for any reason (including as a result of a judgment or order), an amount payable by the Borrower under or in respect of this document **(Relevant Amount)** is received by another party in a currency **(Payment Currency)** that is not the currency in which the amount is expressed to be payable under this document **(Required Currency)** then the Borrower, as an independent obligation, must indemnify that party against, and must pay that party on demand the amount of, any shortfall between:

(a) the amount of Required Currency which that party receives on converting the amount it received in the Payment Currency into an amount in the Required Currency in accordance with its usual practice; and

(b) the Relevant Amount in the Required Currency.

9. COMMITMENT AND TOTAL COMMITMENT

9.1 Automatic reduction of Total Commitment

At the close of business on the last day of the Availability Period:

(a) the Unused Commitment (if any) is cancelled;

(b) the Total Commitment is reduced by the amount cancelled; and

(c) each Commitment reduces by the same proportion.

9.2 Reduction of Total Commitment on Facility Reduction Dates

The Total Commitment reduces on each date set out below to the amount appearing beside that date, and each Commitment reduces by the same proportion:

Facility Reduction Date	Reduced Total Commitment EUR
30 June 2006	48,250,000
30 June 2007	44,500,000
30 June 2008	37,750,000
30 June 2009	27,500,000
31 December 2009	15,000,000
Termination Date	0

9.3 Termination of Commitments and Total Commitment on Termination Date

Each Commitment and the Total Commitment reduces to zero and is cancelled on the Termination Date.

10. REPRESENTATIONS AND WARRANTIES

10.1 Representations and warranties

The Borrower represents and warrants that:

(a) **(status)** it and each of its subsidiaries is a company limited by shares under the Corporations Act;

(b) **(power)** it has full legal capacity and power to:

(i) own its property and to carry on its business; and

(ii) enter into the Transaction Documents and to carry out the transactions that they contemplate;

(c) **(corporate authority)** it has taken all corporate action that is necessary or desirable to authorise its entry into the Transaction Documents and its carrying out the transactions that they contemplate;

(d) **(Authorisations)** it holds each Authorisation that is necessary or desirable to:

(i) enable it to properly execute the Transaction Documents and to carry out the transactions that they contemplate;

(ii) ensure that each Transaction Document is legal, valid, binding and admissible in evidence; or

(iii) enable it to properly carry on its business,

and it is complying with any conditions to which any of these Authorisations is subject;

(e) **(documents effective)** each Transaction Document constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms (except to the extent limited by equitable principles and laws affecting creditors' rights generally) subject to any necessary stamping or registration;

(f) **(ranking)** its payment obligations under each Transaction Document rank at least equally with all its other unsecured and unsubordinated payment obligations (whether present or future, actual or contingent), other than obligations that are mandatorily preferred by law;

(g) **(no contravention)** neither its execution of the Transaction Documents nor the carrying out by it of the transactions that they contemplate, does or will:

(i) contravene any law to which it or any of its property is subject or any order of any Government Agency that is binding on it or any of its property;

(ii) contravene any Authorisation;

(iii) contravene any undertaking or instrument binding on it or any of its property;

(iv) contravene its constitution; or

(v) require it to make any payment or delivery in respect of any Financial Indebtedness before it would otherwise be obliged to do so;

(h) **(no litigation)** no litigation, arbitration, mediation, conciliation or administrative proceedings are taking place, pending, or to the knowledge of any of its officers after due inquiry, threatened which, if adversely decided, could have a Material Adverse Effect on it or any of its subsidiaries;

(i) **(Accounts):**

(i) the Accounts and any other financial statements and reports that it has given to the Facility Agent have been prepared in accordance with the laws of Australia and (unless inconsistent with those laws) Accounting Principles;

(ii) the Accounts that it has given to the Facility Agent give a true and fair view of the financial condition of it and its subsidiaries as at the date to which they are made up and of the results of operations of it and its subsidiaries for the period that they cover; and

(iii) there has been no change since the date of the most recent Accounts that it has given to the Facility Agent that could have a Material Adverse Effect on it;

(j) **(other information)**:

(i) the other information and reports (if any) that it has given to the Facility Agent in connection with any Transaction Document are true and accurate in all material respects and not misleading in any material respect (including by omission); and

(ii) any forecasts and opinions in them are fair and reasonable (and were made or formed after due inquiry and consideration by appropriate officers of the Borrower),

as at the date of this document or, if given later, when given;

(k) **(disclosure of relevant information)** it has disclosed to the Facility Agent all the information that is material to an assessment by it of the risks that it assumes by entering into any Transaction Document;

(l) **(no filings or Taxes)** it is not necessary or desirable, to ensure that any Transaction Document is legal, valid, binding or admissible in evidence, that any Transaction Document or any other document be filed or registered with any Government Agency, or that any Taxes be paid;

(m) **(no default)** no Event of Default or Potential Event of Default has occurred and is continuing, and it is not in breach of any other document or agreement in a manner that could have a Material Adverse Effect on it or any of its subsidiaries;

(n) **(no Encumbrance)** none of its property, and no property of any other Relevant Entity or any Relevant Entity's subsidiaries, is subject to an Encumbrance other than a Permitted Encumbrance;

(o) **(no Controller)** no Controller is currently appointed in relation to any of its property, or any property of any of its subsidiaries;

(p) **(no trust)** it is not entering into any Transaction Document as trustee of any trust or settlement;

(q) **(vendor warranties)** to the best of the knowledge, information and belief of the Borrower each of the warranties made by a Vendor in the Project Documents is true and correct at the time it is made or repeated;

(r) **(Project Documents)** the certified copies of each of the Project Documents delivered to the Facility Agent for the purposes of clause 3.1 are true, complete and up-to-date copies of the documents they purport to be and constitute the entire agreement to which the relevant Obligor is a party in relation to the subject matter of those documents;

(s) **(corporate benefit)** its entry into the Transaction Documents is in its best interests and for its benefit;

(t) **(Corporations Act)** by entering into and performing its obligations under the Transaction Documents, neither it nor any Guarantor will be in breach or contravention of the Corporations Act, including Part 2J or Chapter 2E of the Corporations Act; and

(u) **(Group)** ResMed Property Trust is the only subsidiary of the Borrower.

10.2 **Repetition of representations and warranties**

The representations and warranties in this clause are taken to be repeated on the Drawdown Date and on each Interest Payment Date on the basis of the facts and circumstances as at that date.

10.3 **Reliance on representations and warranties**

The Borrower acknowledges that the other parties have executed this document and agreed to take part in the transactions that it contemplates in reliance on the representations and warranties that are made or repeated in this clause.

10.4 **No representations to the Borrower**

The Borrower acknowledges that it has not relied and will not rely on any representation, statement or promise made by or on behalf of any other party in deciding to enter into this document or to exercise any right or perform any obligation under it.

11. **UNDERTAKINGS**

11.1 **General undertakings**

The Borrower must:

(a) **(maintain status)** maintain, and ensure that each of its subsidiaries maintains, its status as a company limited by shares under the Corporations Act;

(b) **(comply with law)** comply with, and ensure that each of its subsidiaries complies with, all applicable law including by paying when due all Taxes for which it or any of its property is assessed or liable (except to the extent that these are being

diligently contested in good faith and by appropriate proceedings and it or the relevant subsidiary has made adequate reserves for them);

(c) (**keep books**) keep, and ensure that each of its subsidiaries keeps, proper books (as defined in the Corporations Act) recording its activities and those of each of its subsidiaries (including financial records in accordance with the Corporations Act), and permit the Facility Agent or its representatives on request to examine and take copies of them;

(d) **(hold Authorisations)** obtain and maintain each Authorisation that is necessary or desirable to:

(i) execute the Transaction Documents and to carry out the transactions that they contemplate;

(ii) ensure that each Transaction Document is legal, valid, binding and admissible in evidence; or

(iii) enable it to properly carry on its business,

and must comply with any conditions to which any of these Authorisations is subject;

(e) **(no administrator)** not appoint, and ensure that none of its subsidiaries appoints, an administrator without notice to the Facility Agent;

(f) **(permitted use of funds)** apply the Advance solely for the purposes specified in clause 2.4;

(g) **(patents)** maintain and keep registered under all applicable laws all patents, trademarks and licenses registered in the name of the Borrower where not to do so would have a Material Adverse Effect;

(h) **(subsidiaries)** ensure that it, each other Relevant Entity and each Relevant Entity's subsidiaries do not acquire or incorporate any subsidiary after the date of this document without the prior written consent of the Facility Agent, unless the Borrower complies with clause 11.5; and

(i) **(ResMed Loan Agreement)** not terminate, rescind or agree to any variation of the ResMed Loan Agreement, assign any of its right, title or interest in the ResMed Loan Agreement, release any person from any of its obligations under the ResMed Loan Agreement or otherwise waive any of the Borrower's rights under the ResMed Loan Agreement except for any variation, assignment, release, waiver or termination granted by the Borrower with the consent of the Facility Agent.

11.2 **Reports and information**

The Borrower must give the Facility Agent:

(a) **(annual Accounts)** as soon as possible (and in any event within 120 days) after the end of each of its financial years, a set of audited consolidated Accounts for the

Group for that financial year, prepared in accordance with the laws of Australia and (except where inconsistent with those laws) Accounting Principles;

(b) **(management accounts)** as soon as possible (and in any event within 45 days) after the end of each Quarter, a set of unaudited management accounts of the Group for that Quarter in a form satisfactory to the Facility Agent certified as giving a true and fair view of the financial condition of the Group;

(c) **(compliance certificate)** within 21 days after each Quarter Date, a certificate in a form satisfactory to the Facility Agent signed by any 2 directors of the Borrower setting out:

(i) the calculation of the Tangible Net Worth for the purposes of clause 11.6(c) as at that Quarter Date; and

(ii) if that Quarter Date is also a Semi-Annual Date, the calculation of the Debt Service Cover Ratio and the Gearing Ratio for the purposes of clause 11.6(a) and clause 11.6(b) as at that Semi-Annual Date,

(d) **(copy of reports)** a copy of each document that it gives to its shareholders or to any stock exchange, at the same time as it gives it to them or it;

(e) **(notice of default)** as soon as it becomes aware that an Event of Default or Potential Event of Default has occurred, full details of that Event of Default or Potential Event of Default;

(f) **(notice of litigation)** full details of any litigation, arbitration, mediation, conciliation or administrative proceedings which, if adversely decided, could have a Material Adverse Effect on it or any of its subsidiaries, as soon as the proceedings are commenced or threatened; and

(g) **(other information)** promptly on request (and in any event within 5 Business Days) any other information relating to the financial condition, business, property and affairs of itself, any Guarantor or any of its related bodies corporate that the Facility Agent reasonably requests.

11.3 **Financial undertakings**

The Borrower must:

(a) **(negative pledge)** not create or permit to exist, and ensure that each other Relevant Entity and each Relevant Entity's subsidiaries do not create or permit to exist, any Encumbrance over any of its property, other than a Permitted Encumbrance;

(b) **(no Financial Indebtedness)** not incur Financial Indebtedness in an aggregate amount for the Group exceeding Euro20,000,000 (or its equivalent) (including without limitation, rent and amounts in the nature of rent payable under any operating lease) from any entity that is not a Relevant Entity, and must ensure that each other Relevant Entity and each Relevant Entity's subsidiaries do not incur Financial Indebtedness (including without limitation, rent and amounts in the nature

of rent payable under any operating lease) exceeding that amount to any entity that is not a Relevant Entity, without the prior written consent of the Facility Agent, other than under an Intercompany Loan provided that the principal amount of any Financial Indebtedness under an Intercompany Loan at any time does not exceed the principal amount of that Financial Indebtedness as at the date of this document;

(c) **(provision of financial accommodation)** not provide any financial accommodation (excluding trade receivables incurred in the ordinary course of its ordinary business and normal corporate recharges) or give any Guarantee to, or on behalf of, any person that is not a Relevant Entity, and must procure that each other Relevant Entity and each Relevant Entity's subsidiaries do not provide any financial accommodation (excluding trade receivables incurred in the ordinary course of its ordinary business and normal corporate recharges) or give any Guarantee to, or on behalf of, any person that is not a Relevant Entity, in each case in an aggregate amount for the Group exceeding Euro 15,000,000 (or its equivalent), without the Facility Agent's prior written consent;

(d) **(real property leases)** ensure that the aggregate amount of rent and amounts in the nature of rent payable by the Borrower as tenant under any lease of real property in any Twelve-Month Period does not exceed Euro20,000,000 (or its equivalent);

(e) **(dividends and distributions)** not declare or pay any dividend, repay any loans from shareholders or make any payment or other distribution to any shareholders in an aggregate amount exceeding:

(i) 100% of Net Profit After Tax in respect of the financial year ending 30 June 2005 to be paid in the period commencing on 1 July 2005 and ending on 30 June 2006; or

(ii) 50% of Net Profit After Tax for any subsequent financial year;

(f) **(no disposal of property)** not dispose of, declare a trust over or otherwise create an interest in, and must ensure that each other Relevant Entity and each Relevant Entity's subsidiaries do not dispose of, declare a trust over or otherwise creates an interest in any of its property which has an aggregate value exceeding Euro20,000,000 (or its equivalent) in any Twelve Month Period except:

(i) as permitted by paragraph (a); or

(ii) with the consent of the Facility Agent;

(g) **(subsidiaries)** ensure that none of its subsidiaries (including where it acts as a trustee) acquires any assets, including without limitation, any real property without the consent of the Facility Agent;

(h) **(insurance)** keep, and must ensure that it, each other Relevant Entity and each Relevant Entity's subsidiaries keeps, its property and business insured:

(i) against the risks and in the amounts that are prudent or usual for a person conducting a business similar to that Relevant Entity or Relevant Entity's subsidiary, with sound and reputable insurers; or

(ii) as the Facility Agent reasonably requires,

and must provide the Facility Agent on request with details of the insurance, evidence that it is in full effect and evidence that all premiums have been paid;

(i) **(financial year)** not change its financial year; and

(j) **(no restructuring)** procure that the Target Company and each of its subsidiaries do not merge, consolidate or amalgamate with any other entity without the prior written consent of the Facility Agent such consent not to be unreasonably withheld.

11.4 **Change to Accounting Principles**

If any Accounts, or other financial statements delivered to the Facility Agent under this document are not prepared in accordance with the Accounting Principles in effect at the date of this document due to a change in the Accounting Principles occurring after the date of this document which results in the Accounts or financial statements being prepared on a different basis to Accounts prepared as at the date of this document then:

(a) unless so indicated by the notes to the relevant Accounts or financial statements, the Borrower must notify the Facility Agent in writing of that matter when delivering the relevant Accounts or financial statements to the Facility Agent; and

(b) the Borrower must, if the change in the Accounting Principles affects in any way the computation of any Financial Ratio, with those Accounts or financial statements delivered under this document, deliver to the Facility Agent:

(i) details of all such adjustments as need to be made to the Accounts or financial statements to bring them into line with the Accounting Principle applied as at the date of this document; and

(ii) a separate set of Accounts or financial statements prepared in accordance with the Accounting Principles in effect at the date of this document.

11.5 **Permitted subsidiaries**

Unless the Facility Agent otherwise consents in writing, the Borrower must ensure that any subsidiary acquired or created by it, any other Relevant Entity or any Relevant Entity's subsidiaries after the date of this document in accordance with clause 11.1(h) executes and delivers to the Facility Agent within 5 Business Days (or such later period necessary in order to comply with any law) of its acquisition or creation a guarantee and indemnity guaranteeing all obligations of the Borrower under the Transaction Documents, which must be in form and substance satisfactory to the Facility Agent. If requested by the Facility Agent, the Borrower must provide a legal opinion as to the enforceability and validity of the guarantee and indemnity and the status of the subsidiary addressed to the Facility Agent

in relation to the new subsidiary, which must be in form and substance satisfactory to the Facility Agent.

11.6 **Financial Ratios**

The Borrower must ensure that:

(a) for each Twelve-Month Period ending on a Semi-Annual Date, the Debt Service Cover Ratio is greater than 5.00:1;

(b) for each Twelve-Month Period ending on a Semi-Annual Date, the Gearing Ratio is less than 1.75:1;and

(c) at each Quarter Date, the Tangible Net Worth is at least A$220,000,000.

11.7 **Covenant Review Event**

(a) A Covenant Review Event occurs if for any Twelve-Month Period ending on a Semi-Annual Date, the Debt Service Cover Ratio is equal to or less than 8.50:1 but greater than 5.00:1.

(b) Following a Covenant Review Event, the Facility Agent may review the Facility, to determine whether to:

(i) change the terms and conditions set out in this agreement; or

(ii) terminate the Facility.

If the Facility Agent (acting on the instructions of the Lenders), in its absolute discretion, decides to do either of the matters referred to in subparagraphs (i) or (ii), it shall notify the Borrower within 20 Business Days of such decision.

(c) Without limiting the Lenders' rights under this document, for the purposes of any review by the Facility Agent under this clause, the Borrower shall promptly provide, or shall procure the provision of, all information reasonably required by the Facility Agent.

(d) Unless otherwise agreed in writing:

(i) if the Lenders decides to change the terms and conditions set out in this document pursuant to subparagraph (b)(i), the change takes effect from the earlier of:

(A) the day the change is consented to by the Borrower; or

(B) the expiry of 20 Business Days after the Borrower is notified in accordance with paragraph (b); and

(ii) if the Borrower notifies the Facility Agent prior to the expiry of the 20 Business Days referred to in subparagraph (i)(B) that the Borrower does not consent to the change, then the Principal Outstanding, any accrued but

unpaid interest and fees and any other amounts outstanding under this document and each other Transaction Document will be due and payable on the date following 40 Business Days after the Borrower is notified in accordance with paragraph (b) and the Commitment automatically reduces to zero and is cancelled on the date the Borrower is notified in accordance with paragraph (b).

(e) If the Facility Agent (acting on the instructions of all the Lenders) decides to terminate the Facility pursuant to subparagraph (b)(ii), then the Principal Outstanding, any accrued but unpaid interest and fees and any other amounts outstanding under this document and each other Transaction Document will be due and payable on the date following 40 Business Days after the Borrower is notified in accordance with paragraph (b) and the Commitment automatically reduces to zero and is cancelled on the date the Borrower is notified in accordance with paragraph (b).

12. DEFAULT

12.1 Events of Default

Each of these events or circumstances is an Event of Default:

(a) **(non-payment)** if an Obligor fails to pay any amount that is due and payable by it under any Transaction Document within 2 Business Days of when it is due;

(b) **(other obligations)** if an Obligor fails to comply with any of its obligations under any Transaction Document (other than a failure referred to elsewhere in this clause) and:

(i) the Facility Agent considers that the failure cannot be remedied; or

(ii) the Facility Agent considers that the failure can be remedied, and the failure is not remedied within 20 Business Days after the Obligor becomes aware of the failure;

(c) **(misrepresentation)** if any representation, warranty or statement made by, or repeated by, an Obligor, in or in connection with any Transaction Document is untrue or misleading (whether by omission or otherwise) in any material respect when so made or repeated;

(d) (**Insolvency Event**) if an Insolvency Event occurs in respect a Relevant Entity or any of its subsidiaries;

(e) **(maintenance of capital)** if a Relevant Entity or any of its subsidiaries passes a resolution:

(i) to permit the giving of financial assistance, whether directly or indirectly, for the purpose of, or in connection with, an acquisition or proposed acquisition by a person of shares or of any right or interest in shares in it or in any holding company of it;

(ii) for the reduction of its share capital (including the purchase of its shares but excluding a redemption of redeemable shares); or

(iii) to limit its ability to make calls on its uncalled share capital,

without the consent of the Facility Agent;

(f) **(Material Adverse Effect)** if an event or a change occurs which could, or could in the opinion of the Facility Agent, have a Material Adverse Effect on a Relevant Entity or any of its subsidiaries;

(g) **(cross-default)** if:

(i) any Financial Indebtedness in an amount exceeding Euro5,000,000 (or its equivalent) of a Relevant Entity or any of its subsidiaries becomes due for payment, or becomes capable of being declared due for payment, (other than at the option of that person or the relevant subsidiary) before the stated maturity of that Financial Indebtedness;

(ii) an agreement by any person with a Relevant Entity or any of its subsidiaries to provide or underwrite financial accommodation in an amount exceeding Euro5,000,000 (or its equivalent) or to acquire or assume any risk in respect of Financial Indebtedness in an amount exceeding Euro5,000,000 (or its equivalent), is prematurely terminated; or

(iii) any money or commodity owing or deliverable by a Relevant Entity or any of its subsidiaries in respect of any Financial Indebtedness in an amount exceeding Euro5,000,000 (or its equivalent) is not paid or delivered when due for payment or delivery (having regard to any applicable grace period);

(h) **(Encumbrance)** if a Relevant Entity or any of its subsidiaries creates or permits to exist any Encumbrance over any of its property, other than a Permitted Encumbrance;

(i) **(compulsory acquisition)** if all or a material part of the property of a Relevant Entity or any of its subsidiaries is compulsorily acquired by any Government Agency or that Relevant Entity or any of its subsidiaries sells or divests itself of all or a material part of its property because it is required to do so by a binding order from a Government Agency, and that Relevant Entity or the relevant subsidiary does not receive compensation for the acquisition, sale or disposal which is acceptable to the Facility Agent;

(j) **(inability to perform)** if an Obligor ceases for any reason to be able lawfully to carry out all the transactions which any Transaction Document contemplates may be carried out by it;

(k) **(provisions void)** if all or any material provision of any Transaction Document is or becomes void, voidable, illegal or unenforceable or of limited force (other than because of equitable principles or laws affecting creditors' rights generally), or an Obligor claims this to be the case;

(l) (**special investigations**) if any matter relating to a Relevant Entity or any of its subsidiaries becomes subject to an investigation under any law relating to companies which could have a Material Adverse Effect;

(m) **(change of control)** if, in the Facility Agent's opinion, ResMed Inc, a US corporation, ceases to control:

(i) the composition of the board of directors or other governing body of a Relevant Entity;

(ii) 100% of the voting rights attaching to the capital of a Relevant Entity; or

(iii) 100% of the issued capital of a Relevant Entity (excluding any part of that capital that carries no right to participate beyond a specified amount in the distribution of either profit or capital),

including, without limitation, by reason of the acquisition by any means by any person of a relevant interest**(as** defined in the Corporations Act) in shares of the Relevant Entity that is sufficient to cause ResMed Inc to cease to exercise the control referred to in paragraph (i), (ii) or (iii);

(n) **(Financial Ratio)** any Financial Ratio is breached;

(o) **(Security)** if any Security becomes enforceable;

(p) **(acquisition)** if the acquisition contemplated by the Project Documents is set aside or avoided by a court for any reason or is otherwise declared void or illegal; and

(q) (**cessation of business**) the Borrower or any Relevant Entity ceases to carry on business or substantially or materially changes the nature of its business.

12.2 **Consequences**

If an Event of Default has occurred and has not been remedied, the Facility Agent may notify the Borrower that:

(a) the Lenders' obligation to provide the Facility is terminated, in which case their obligation to do so terminates immediately;

(b) the Commitment of each Lender is cancelled, in which case their Commitments will be cancelled immediately;

(c) the Principal Outstanding, any accrued but unpaid interest and all other amounts outstanding under each Transaction Document are due and payable, in which case those amounts are immediately due and payable; and

(d) the Principal Outstanding, any accrued but unpaid interest and all other amounts outstanding under each Transaction Document are due and payable on demand, in which case those amounts will be due and payable on demand made at any time.

13. **INCREASED COSTS AND CHANGE OF LAW**

13.1 **Increased costs**

If:

(a) a Regulatory Change or a proposed Regulatory Change:

(i) subjects or will subject a Lender or any related body corporate of that Lender to any Tax relating to any Transaction Document;

(ii) changes or will change the basis of taxation of any payment due or to become due to a Lender relating to any Transaction Document;

(iii) imposes, modifies or deems applicable (or will do so) any capital, liquidity, reserve or prudential requirement or requires the making of any special deposit against or in relation to any assets or liabilities (actual or contingent) of, deposits with or for the account of, or loans by, a Lender or any related body corporate of that Lender; or

(iv) imposes or will impose on a Lender or any related body corporate of that Lender any other condition affecting any Transaction Document; and

(b) the result is (directly or indirectly) to:

(i) increase the cost to that Lender, or any related body corporate of that Lender, of the participation by that Lender in the Facility, or the performance by that Lender of its obligations under any Transaction Document;

(ii) reduce:

(A) the effective rate of return (on capital, property, deposits or otherwise) under any Transaction Document; or

(B) the amount of any payment received by or for the account of that Lender under any Transaction Document; or

(iii) require that Lender or any related body corporate of that Lender to make a payment or to forgo or suffer a reduction in return on or calculated by reference to any amount payable to that Lender under any Transaction Document,

then that Lender must promptly give details to the Facility Agent by notice, and immediately after receiving that notice the Facility Agent must give a copy of it to the Borrower. After receiving notice from the Facility Agent stating the nature of the relevant Regulatory Change, the Borrower must indemnify that Lender in relation to, and must pay to the Facility Agent (for the account of that Lender) on demand the amount of, each amount that the Lender claims is necessary to compensate that Lender, or any related body corporate of that Lender, for the

additional cost, reduction or payment, calculated from the day on which it was first incurred by that Lender or the related body corporate of that Lender.

13.2 **Indirect cost, reduction or payment**

A Lender may claim compensation under clause 13.1 for:

(a) any additional cost, reduction or payment that is directly attributable to any Transaction Document; and

(b) the proportion of any additional cost, reduction or payment that the Lender decides is fairly attributable to any Transaction Document.

13.3 **Prepayment after increased cost**

If the Facility Agent has given a notice under clause 13.1 and that notice has not been withdrawn, the Borrower, by notice to the Facility Agent:

(a) may terminate the relevant Lender's obligation to provide its Commitment; and

(b) may elect to prepay the amount of that Lender's participation in the Principal Outstanding, together with any accrued but unpaid interest and any other amounts (including amounts payable under clause 14(d)) outstanding under each Transaction Document that relate to that Lender, on the first Interest Payment Date that falls at least 30 days after the later of:

(i) the date that the Facility Agent receives that notice; or

(ii) the date on which the Regulatory Change takes effect.

The Borrower's notice is effective when received by the Facility Agent and, once effective, is irrevocable.

13.4 **Notice of change of law**

If, in the opinion of a Lender:

(a) a law or a directive or request (whether or not having the force of law) of any Government Agency not in effect at the date of this document;

(b) an amendment after the date of this document to, or a change after the date of this document in the interpretation or application of, a law or a directive or request (whether or not having the force of law) of a Government Agency; or

(c) any proposal to implement any of the actions specified in clause 13.4(a) or (b),

makes or will make it illegal in any jurisdiction, or otherwise impractical, for that Lender to participate in the Facility, that Lender may give notice (**Change of Law Notice**) to the Facility Agent that it considers that this has happened or that it will happen. Immediately after receiving that notice the Facility Agent must give a copy of it to the Borrower.

13.5 **Termination and prepayment after change of law**

If a Lender gives a Change of Law Notice:

(a) its obligation to provide its Commitment terminates on the date on which the relevant action takes effect (the **Illegal Date**); and

(b) the Borrower must prepay the amount of that Lenders participation in the Principal Outstanding, together with any accrued but unpaid interest and any other amounts (including amounts payable under clause 14(d)) outstanding under each Transaction Document that relate to that Lender:

(i) if that Lender considers that the current or any subsequent Interest Period will end before it becomes illegal or impractical for that Lender to participate in the Facility - on the Interest Payment Date at the end of the relevant Interest Period; or

(ii) if paragraph (b)(i) does not apply to that Lender's Commitment or its participation in the Principal Outstanding on the Illegal Date.

14. **INDEMNITY**

The Borrower must indemnify each other party against, and must pay on demand the amount of, all losses, liabilities, expenses and Taxes incurred in connection with:

(a) any Event of Default or Potential Event of Default;

(b) the administration, and any actual or attempted preservation or enforcement, of any rights under any Transaction Document;

(c) the Lenders not providing the Advance to the Borrower because a condition precedent in clause 3.1 or 3.2 was not satisfied and was not dealt with in accordance with clause 3.3;

(d) the Principal Outstanding being repaid or becoming due for repayment other than on an Interest Payment Date or any other amount required to be paid under any Transaction Document not being paid on its due date, including losses, liabilities, expenses and Taxes incurred because of:

(i) the cancellation, termination or alteration of any swap or other arrangement made by a Lender to fund the Advance or other payment; or

(ii) any liquidation or re-employment of deposits or other funds acquired by a Lender to fund the Advance or other payment.

Without limiting this, the Borrower must also reimburse each Lender on demand for any amount that the Lender is obliged to pay to the Facility Agent under clause 15.

15. FACILITY AGENT AND SECURITY TRUSTEE

15.1 Appointment of Facility Agent and Security Trustee

(a) Each Lender irrevocably appoints the Facility Agent to act as its agent for each Transaction Document under which the Facility Agent is expressed to act as agent of the Lenders. The Facility Agent accepts this appointment. The Facility Agent will be agent for the Lenders except as described in paragraph (c).

(b) Where the Facility Agent provides services in connection with the administration of the Facility, that is when it calculates rates and amounts, keeps records, receives and distributes payments and information received under clause 11.2, and receives and deals with Drawdown Notices and notices to vary Interest Periods, it does not provide those services as agent for the Lenders, but the remainder of this clause 15 still applies.

(c) Each Finance Party irrevocably appoints the Security Trustee to hold the Securities as bare trustee under the Security Trust Deed. The Security Trustee accepts this appointment.

(d) Each of the Facility Agent and the Security Trustee is authorised to:

(i) perform the duties expressly imposed on it by any Transaction Document; and

(ii) exercise the rights expressly given to it by any Transaction Document or by any instructions from a Majority of Lenders or (where so specified) all the Lenders, and any other rights that are reasonably incidental to any of them.

Subject to the other provisions of this clause, this authorisation may not be varied or withdrawn.

(e) The Facility Agent's duties under the Transaction Documents are solely mechanical and administrative in nature. The Facility Agent has no obligations in its capacity as agent for the Lenders other than those expressly imposed on it by any Transaction Document.

(f) The Security Trustee has no obligations in its capacity as trustee for the Finance Parties other than those expressly imposed on it by any Transaction Document.

(g) The Security Trustee has the rights, and is entitled to the indemnities and protections, given to trustees by applicable law, except to the extent that any Transaction Document expressly provides otherwise.

15.2 Nature of relationships

(a) The Facility Agent is not a fiduciary for any Lender or other Finance Party in connection with any Transaction Document except as expressly provided in any Transaction Document. The Facility Agent is not an agent of or fiduciary for the Borrower.

(b) The Security Trustee is not an agent of or fiduciary for the Borrower.

15.3 **Instructions from Majority of Lenders**

(a) Subject to the other provisions of this clause, the Facility Agent and the Security Trustee:

(i) are not obliged to consult with any Lender before exercising a right (including giving a consent or approval or forming an opinion) under any Transaction Document except where this document provides otherwise;

(ii) must act in accordance with any instructions of a Majority of Lenders or, where a provision requires that the Facility Agent act on the instructions of all the Lenders, on the instructions of all the Lenders; and

(iii) must refrain from exercising a right vested in it in its capacity as agent (in the case of the Facility Agent) or trustee (in the case of the Security Trustee) under any Transaction Document if so instructed by a Majority of Lenders,

except in relation to amounts due to it in its own right. Any instructions by a Majority of Lenders are binding on all Lenders except where this document provides that instructions must be provided by all the Lenders.

(b) Both the Facility Agent and the Security Trustee may refrain from exercising any right vested in it under any Transaction Document until it has received instructions from a Majority of Lenders (or, where required, all the Lenders) as to whether it is to be exercised and, if applicable, the way that it is to be exercised.

(c) Subject to this document, where the Facility Agent or the Security Trustee has requested instructions from a Majority of Lenders (or, where required, all the Lenders), but has not received instructions promptly, the Facility Agent or the Security Trustee may (but is not obliged to) act as it considers to be in the best interests of all the Lenders. Any action taken by the Facility Agent or that Security Trustee under this paragraph binds all the Lenders. The Facility Agent and the Security Trustee must give a Lender on reasonable request details of any action taken under this paragraph.

15.4 **Security Trustee's general undertakings**

The Security Trustee undertakes to the Lenders that it will:

(a) act honestly and in good faith in the performance of its functions as Security Trustee, and show the degree of care and diligence required of a trustee having regard to the extent of its rights and obligations under each Transaction Document;

(b) act continuously as Security Trustee until either the Security Trust is terminated, or it retires or is removed in accordance with this clause;

(c) hold, and account for, the Security Trust Fund separate from any other property owned or administered by it; and

(d) not sell or otherwise dispose or part with possession of, or give any Encumbrance (other than a Permitted Encumbrance) over, any part of the Security Trust Fund, except to the extent contemplated by any Transaction Document.

15.5 **Information to Lenders and Facility Agent**

(a) The Facility Agent must:

(i) promptly give a Lender on request a copy of each document that it receives under clause 3, at the expense of that Lender; and

(ii) promptly send to the addressee any communication or document that it receives on behalf of the addressee.

(b) The Security Trustee must promptly give the Facility Agent a copy of each document that it receives under the Security Trust Deed or any Security.

(c) Unless a Transaction Document specifically provides otherwise, neither the Facility Agent nor the Security Trustee is required to determine the accuracy or completeness of any document or copy that it receives, or that it gives to another party.

15.6 **Events of Default**

(a) The Facility Agent and the Security Trustee are not under any obligation to monitor or enquire whether any party is in breach of its obligations under any Transaction Document.

(b) The Facility Agent is not taken to have knowledge that an Event of Default or a Potential Event of Default has occurred unless:

(i) the Facility Agent is aware that a payment due from the Borrower, and required by this document to be paid to the Facility Agent, has not been made; or

(ii) a Lender or the Borrower informs the Facility Agent that an Event of Default or a Potential Event of Default has occurred and gives it details of that event.

(c) The Facility Agent must notify each Lender promptly if it is taken to have knowledge that an Event of Default or a Potential Event of Default has occurred.

(d) The Security Trustee is not taken to have knowledge that an Event of Default or a Potential Event of Default has occurred unless a Lender, the Facility Agent or the Borrower informs the Security Trustee that an Event of Default or a Potential Event of Default has occurred and gives it details of that event.

15.7 **Performance of obligations of Facility Agent and Security Trustee**

Both the Facility Agent and the Security Trustee may:

(a) perform any of its obligations under any Transaction Document by or through its officers, employees or agents, and is not responsible for any default, negligence or misconduct of any agents selected by it with reasonable care;

(b) obtain and pay for expert advice and services it thinks appropriate;

(c) refrain from doing anything that would, or in its reasonable opinion might, contravene any applicable law or a directive or request (whether or not having the force of law) of a Government Agency or constitute a breach of trust or of any proper practice relating to secrecy or confidentiality;

(d) do anything that, in its reasonable opinion, is necessary to comply with any applicable law or a directive or request (whether or not having the force of law) of a Government Agency; and

(e) refrain from exercising any right under a Transaction Document until it has been indemnified or secured to its reasonable satisfaction against all losses, liabilities, expenses (including legal expenses on a full indemnity basis and expenses incurred in engaging consultants) and Taxes (other than Excluded Taxes) that it would or might incur as a result of doing so.

15.8 **Facility Agent and Security Trustee may rely on certain matters**

Both the Facility Agent and the Security Trustee may rely:

(a) on any communication or document reasonably believed by it to be genuine, correct and properly signed;

(b) as to matters of fact that might reasonably be expected to be within the knowledge of the Borrower, on a certificate signed by an Authorised Representative of the Borrower; and

(c) on any advice or statement of any expert, attorney or agent selected by it.

15.9 **Facility Agent and Security Trustee may assume certain matters**

(a) The Facility Agent may assume that any representation or statement made by a person in a Transaction Document remains true unless a Lender or the Borrower notifies it to the contrary.

(b) The Security Trustee may assume that any representation or statement made by any person in a Transaction Document remains true unless a Lender, the Facility Agent or the Borrower notifies it to the contrary.

15.10 **Offices of Lenders**

The Facility Agent may assume that the Lending Office of each Lender is that specified in schedule 1 or in a valid notice of assignment or Substitution Certificate, unless it receives a notice specifying another Lending Office that complies with this document.

15.11 **Identity of Lenders**

The Facility Agent may assume that each Lender is the beneficial owner of its rights, and is bound by its Commitment, under each Transaction Document, except to the extent that it receives a valid notice of assignment or Substitution Certificate from that Lender.

15.12 **Facility Agent and Security Trustee not responsible for monitoring**

(a) Each Lender confirms that it:

(i) has made its own appraisal and investigation of the business, financial condition, status and affairs of the Borrower, each Oligor and each of its subsidiaries;

(ii) is solely responsible for continuing that appraisal and investigation after the date of this document;

(iii) has entered into this document without any inducement from the Facility Agent or the Security Trustee; and

(iv) has made its own appraisal of its financial return under each Transaction Document.

(b) Each Lender confirms that it has not relied, and will not rely, on the Facility Agent or the Security Trustee at any time to:

(i) give it any information concerning the business, financial condition, status or affairs of the Borrower, each Relevant Entity and each of its subsidiaries;

(ii) investigate the adequacy, accuracy or completeness of any information given by the Borrower in connection with any Transaction Document (whether or not the information is given to that Lender by the Facility Agent or the Security Trustee); or

(iii) assess or keep under review the business, financial condition, status or affairs of the Borrower, each Relevant Entity and each of its subsidiaries.

15.13 **Disclosure of information concerning Borrower**

Subject to any applicable law, each of the Facility Agent and the Security Trustee may disclose to the Lenders any information relating to the business, financial condition, status or affairs of the Borrower and its subsidiaries that comes into its possession, but is not obliged to do so except to the extent that a Transaction Document expressly requires it to.

15.14 **Borrower not concerned with authority of Facility Agent and Security Trustee**

The Borrower is not entitled to enquire whether any action by the Facility Agent or the Security Trustee has in fact been authorised by the Lenders and, as between the Borrower and the Lenders, any action taken by the Facility Agent or the Security Trustee concerning any Transaction Document is taken to be authorised by them.

15.15 **Receipts and business activities of Facility Agent and Security Trustee**

Both the Facility Agent and the Security Trustee may:

(a) retain for its own benefit any amount received by it for its own account; and

(b) accept deposits from, lend money or provide services to, and generally conduct any banking or other business with, any party to any Transaction Document and any person connected with any party to any Transaction Document without having to account to the Lenders or any other person.

15.16 **Facility Agent or Security Trustee as Lender**

If the Facility Agent or the Security Trustee is also a Lender, it has the same rights concerning its Commitment and Share of the Principal Outstanding or any Advance as any other Lender, and may exercise those rights as if it were not acting as the Facility Agent or the Security Trustee.

15.17 **Protection of Facility Agent and Security Trustee**

Neither the Facility Agent nor the Security Trustee nor any of their officers, employees, agents or related bodies corporate is responsible to any Lender for:

(a) any recital, statement, representation or warranty contained in any Transaction Document, in any information memorandum or in any document or agreement referred to or provided for in, or received by it under, any Transaction Document;

(b) the execution, validity, effectiveness or sufficiency of any Transaction Document or any document or agreement referred to or provided for in, or received by it under, any Transaction Document;

(c) any failure by the Borrower or any other person to perform its obligations under any Transaction Document; or

(d) any action taken or not taken by it or them under any Transaction Document:

(i) in accordance with any instructions from a Majority of Lenders (or, where required, all the Lenders);

(ii) in any other case, except to the extent of its wilful misconduct or gross negligence or (in the case of the Facility Agent or the Security Trustee itself) any wilful misconduct or gross negligence of any of its officers, employees, agents or related body corporate; or

(iii) in the case of the Security Trustee, its breach of trust, where it fails to show the degree of care and diligence required of it as trustee having regard to its rights and obligations under any Transaction Document.

15.18 **Facility Agent and Security Trustee indemnified by Lenders**

(a) Each Lender must severally indemnify each of the Facility Agent and the Security Trustee for its own account against, and must pay it on demand the amount of, its proportion (which equals the proportion that its Commitment bears to the Total Commitment) of all losses, liabilities, expenses (including legal expenses on a full indemnity basis and expenses incurred in engaging consultants) and Taxes that the Facility Agent or the Security Trustee (as appropriate) incurs in connection with the performance or attempted performance of its functions, except to the extent that they:

(i) have been finally paid by the Borrower under clause 14; or

(ii) are incurred because of the its wilful misconduct or gross negligence.

(b) No payment by a Lender under this subclause affects the Borrower's obligations under clause 14. A payment by a Lender under this subclause constitutes a loan of that amount by that Lender to the Borrower that:

(i) accrues interest at the Default Rate for each Default Interest Period as if it were an unpaid amount under a Transaction Document; and

(ii) must be repaid to the Facility Agent together with its accrued interest on demand for the account of that Lender.

15.19 **Limitation on recourse to Security Trustee**

(a) The Security Trustee enters into the Transaction Documents only in its capacity as trustee of the Security Trust and, despite any other provision of the Transaction Documents, the Security Trustee is not liable to the Lenders or other Finance Parties for, and the Lenders and other Finance Parties have no recourse to the Security Trustee for, any amount that would otherwise be payable by it under, or as a result of a breach of, any Transaction Document except to the extent that:

(i) the Security Trustee obtains final reimbursement from the Security Trust Fund for the amount, or could do so by taking appropriate action;

(ii) the amount is payable as a result of its fraud, gross negligence or breach of trust; or

(iii) a provision in a Transaction Document expressly provides otherwise.

(b) Subject to clause 15.19(c), the Finance Parties may not take any step to recover an amount that is payable by the Security Trustee under, or as a result of a breach of, any Transaction Document from a Protected Person, including by taking any step to:

(i) have an administrator appointed to a Protected Person;

(ii) have a receiver or receiver and manager appointed to a Protected Person, except in relation to the Security Trust Fund;

(iii) have a Protected Person wound up, or to prove in the winding up of a Protected Person;

(iv) obtain a judgment against a Protected Person for the payment of money;

(v) carry out any distress or execution on any property of a Protected Person, other than the Security Trust Fund; or

(vi) exercise any right of set-off, right to combine accounts or banker's lien against a Protected Person, except in relation to the Security Trust Fund.

(c) Clause 15.19(b) does not affect the Finance Parties' rights to:

(i) take steps to recover amounts for which the Security Trustee is liable under clause 15.19(a); or

(ii) obtain an injunction, restraining order or declaration concerning the Security Trust, the Security Trust Fund or the Security Trustee's obligations under the Transaction Documents.

15.20 **Change of Facility Agent**

(a) Subject to this subclause, the Facility Agent may resign as agent by giving at least 30 days' notice to the Borrower and the Lenders.

(b) Subject to this subclause, the Facility Agent may be removed as agent by notice from a Majority of Lenders that:

(i) is given with the consent of the Borrower (which consent may not be unreasonably withheld or delayed); and

(ii) takes effect at least 30 days after the date of receipt of the notice by the Facility Agent.

(c) No resignation or removal under this subclause takes effect until a successor Facility Agent has been appointed either:

(i) by a Majority of Lenders; or

(ii) where a Majority of Lenders have not appointed a successor within 30 days of the date of receipt of the notice of resignation or removal, by the Facility Agent,

and has accepted that appointment in a manner that binds it to perform the obligations of the Facility Agent under each Transaction Document.

(d) The retiring Facility Agent, at its own cost must give the successor Facility Agent any documents and assistance that it reasonably requests for performing its functions as Facility Agent under any Transaction Document.

(e) On the appointment of a successor Facility Agent:

(i) the successor Facility Agent succeeds to the position of the retiring Facility Agent;

(ii) the retiring Facility Agent is discharged from any further obligations under any Transaction Document, but without affecting any accrued rights or obligations;

(iii) the indemnities under any Transaction Document in favour of the retiring Facility Agent survive concerning matters occurring before the appointment of the successor Facility Agent, and the retiring Facility Agent continues to have the benefit of this clause; and

(iv) the successor Facility Agent and the other parties to each Transaction Document have the same rights and obligations as if the successor Facility Agent had been a party to each Transaction Document.

15.21 **Change of Security Trustee**

(a) Subject to this subclause, the Security Trustee may resign as trustee by giving at least 30 days' notice to the Borrower, the Facility Agent, each Lender and any Hedge Counterparty.

(b) Subject to this subclause, the Security Trustee may be removed as trustee by notice from a Majority of Lenders that:

(i) is given to the Security Trustee, the Facility Agent, the Borrower and each Lender that did not form part of that Majority of Lenders; and

(ii) takes effect at least 30 days after the date of receipt of the notice by the Security Trustee or, if that Majority of Lenders decides that the Security Trustee has failed to perform its obligations under any Transaction Document, at any earlier time that they nominate.

(c) No resignation or removal under this subclause takes effect until a successor Security Trustee has:

(i) been appointed either:

(A) by a Majority of Lenders (in consultation with the Borrower); or

(B) where a Majority of Lenders have not appointed a successor within 30 days of the date of receipt of the notice of resignation or renewal, by the Security Trustee;

(ii) accepted that appointment in a manner that binds it to perform the obligations of the Security Trustee under each Transaction Document; and

(iii) acquired legal title to the Security Trust Fund.

(d) The retiring Security Trustee, at its own cost, must give the successor Security Trustee any documents and assistance that it reasonably requires for performing its functions as Security Trustee under any Transaction Document.

(e) On the appointment of a successor Security Trustee:

(i) the successor Security Trustee succeeds to the position of the retiring Security Trustee;

(ii) the retiring Security Trustee is discharged from any further obligations under any Transaction Document, but without affecting any accrued rights or obligations;

(iii) the indemnities under any Transaction Document in favour of the retiring Security Trustee survive concerning matters occurring before the appointment of the successor Security Trustee, and the retiring Security Trustee continues to have the benefit of this clause; and

(iv) the successor Security Trustee and the other parties to each Transaction Document have the same rights and obligations as if the successor Security Trustee had been a party to each Transaction Document.

15.22 **Dealings with Facility Agent**

The Lenders, the Borrower and the Security Trustee agree that they will only deal with each other in relation to matters affecting the Transaction Documents through the Facility Agent in accordance with this document, except to the extent that a Transaction Document expressly provides otherwise.

16. REDISTRIBUTION OF PAYMENTS BETWEEN LENDERS

16.1 **Notice of direct receipts**

A Lender must notify the Facility Agent promptly if it receives or recovers an amount payable under a Transaction Document (including by exercising a banker's lien or right of set-off or combination of accounts), setting out details of the receipt or recovery, unless the amount is:

(a) received from the Facility Agent or the Security Trustee; or

(b) paid by an assignee, transferee or subparticipant of the rights or obligations of that Lender.

16.2 **Redistribution of excess payments**

If:

(a) a Lender must notify the Facility Agent under clause 16.1 of an amount that it has received or recovered; and

(b) that amount would have been distributed among the Lenders if it had been paid to the Facility Agent,

then:

(c) that Lender must promptly pay that amount to the Facility Agent; and

(d) the Facility Agent must distribute the amount received by it to the Lenders in accordance with their entitlements.

16.3 **Reimbursement following clawback**

If:

(a) a Lender has made a payment to the Facility Agent under clause 16.2 in respect of an amount that it has received or recovered;

(b) the Facility Agent has distributed that payment; and

(c) that Lender is obliged to refund that amount under any law relating to bankruptcy, winding up or the protection of creditors,

then, on demand by that Lender through the Facility Agent, each other Lender must repay to the Facility Agent for the account of that Lender all, or the part corresponding to the proportion of the amount which that Lender is obliged to refund, of the amount distributed to it by the Facility Agent.

16.4 **Borrower remains liable**

As between the Borrower and a Lender, any amount that is:

(a) paid by that Lender to the Facility Agent under clause 16.2; or

(b) repaid by that Lender to the Facility Agent for the account of another Lender under clause 16.3,

is taken not to have been paid to that Lender, and the Borrower must immediately pay the amount to the Facility Agent for the account of that Lender.

16.5 **Failure of all Lenders to join in litigation**

A Lender may not share in an amount under clause 16.2 if the amount was recovered as a result of legal proceedings, and the Lender was asked by the Facility Agent to participate in those proceedings or to share the costs of those proceedings but did not do so.

17. **GST**

17.1 **Taxable Supplies**

Notwithstanding any other provision of this document or any other Transaction Document, the Borrower must in relation to any Taxable Supply:

(a) pay to the Facility Agent an amount equal to the GST Exclusive Consideration multiplied by the GST Rate, without deduction or set-off of any other amount;

(b) make that payment promptly on, and in any event no later than two Business Days after, receiving a Tax Invoice addressed to the Borrower in relation to that GST; and

(c) indemnify each Finance Party:

(i) from the GST on each Taxable Supply; and

(ii) against any damage or cost directly or indirectly arising from or caused by the failure by the Borrower to pay any amount as and when required by this clause.

17.2 **Invoices**

The Facility Agent must, whenever requested by the Borrower and at the cost and expense of the Borrower, issue a Tax Invoice to the Borrower for the GST on each Taxable Supply, and must include in the Tax Invoice the particulars required by the GST Law for the Borrower to obtain a credit for that GST.

17.3 **Finance Parties' obligations**

The Finance Parties need not pay any GST on a Taxable Supply or take any other step to minimise liability for that GST, until the Facility Agent receives from the Borrower the payment for that GST.

18. **CONFIDENTIALITY**

18.1 **General**

Subject to clause 18.2, each party to this document must not disclose any information concerning the contents of, or the transactions contemplated by, any Transaction Document to any person who is not a party, except to the extent that:

(a) (**permitted by documents**) the disclosure is expressly permitted by a Transaction Document;

(b) (**consent of other parties**) the other parties consent to the disclosure;

(c) **(public domain)** the information is already in the public domain, unless it entered the public domain because of a breach of confidentiality by the party;

(d) (**employees and advisers**) the disclosure is made on a confidential basis to the party's officers, employees, agents, financiers or professional advisers, and is necessary for the party's business, or is made to any related party of that party;

(e) (**comply with laws**) the disclosure is necessary to comply with any applicable law, or an order of a court or tribunal;

(f) (**comply with directives**) the disclosure is necessary to comply with a directive or request of any Government Agency or stock exchange (whether or not having the force of law) so long as a responsible person in a similar position would comply;

(g) (**obtain Authorisations**) the disclosure is necessary or desirable to obtain an Authorisation from any Government Agency or stock exchange; or

(h) (**discovery and litigation**) the disclosure is necessary or desirable in relation to any discovery of documents, or any proceedings before a court, tribunal, other Government Agency or stock exchange.

18.2 **Disclosure to assignees or substitutes**

(a) Subject to paragraph (b), a Lender may:

(i) disclose to a proposed assignee or substitute under clause 20, or any other person who proposes to enter into contractual relations with a Lender in relation to any Transaction Document, any information about a Relevant Entity which that Lender considers appropriate; and

(ii) give a copy of any Transaction Document to a proposed assignee or substitute under clause 20 or any other person described in paragraph (a)(i).

(b) Any disclosure made under paragraph (a) must be made on the basis that the person to whom the information or document is disclosed must keep that information or document confidential as required by clause 18.1.

19. **NOTICES**

19.1 **How to give a notice**

A notice, consent or other communication under this document is only effective if it is:

(a) in writing, signed by or on behalf of the person giving it;

(b) addressed to the person to whom it is to be given; and

(c) either:

(i) delivered or sent by pre-paid mail (by airmail, if the addressee is overseas) to that person's address; or

(ii) sent by fax to that person's fax number and the machine from which it is sent produces a report that states that it was sent in full.

19.2 **When a notice is given**

A notice, consent or other communication that complies with this clause is regarded as given and received:

(a) if it is delivered or sent by fax:

(i) by 5.00 pm (local time in the place of receipt) on a Business Day - on that day; or

(ii) after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day - on the next Business Day; and

(b) if it is sent by mail - on actual receipt.

19.3 **Address for notices**

A person's address and fax number are those set out below or in schedule 1, or as the person notifies the sender:

Borrower
Address: 97 Waterloo Road, Macquarie Park NSW 2113
Fax number: (02) 9889 1475
Attention: Vice President Treasury and Finance

Facility Agent
Address: HSBC Centre, 580 George Street, Sydney NSW 2000
Fax number: (02) 9006 5534
Attention: Assistant Manager, Credit Operations

Security Trustee
Address: HSBC Centre, 580 George Street, Sydney NSW 2000
Fax number: (02) 9006 5534
Attention: Assistant Manager, Credit Operations

20. **ASSIGNMENTS AND SUBSTITUTIONS**

20.1 **Assignment by Borrower**

The Borrower may not assign any of its rights or transfer any of its obligations under any Transaction Document without the consent of the Facility Agent acting on the instructions of all the Lenders.

20.2 **Assignment by Lender**

After consulting with the Borrower, a Lender may assign any or all of its rights under any Transaction Document without the consent of the Borrower, the Facility Agent or the other Lenders to a financial institution which the Borrower is not prohibited from contracting with by any law of any relevant country.

20.3 **Substitution by Lender**

(a) Subject to paragraph (b), a Lender may transfer any or all of its obligations under the Transaction Documents to another financial institution if the transfer is made by a substitution in accordance with clause 20.4.

(b) A Retiring Lender may only arrange a substitution after consulting with the Borrower if:

(i) in the case of a Lender other than the Facility Agent, it gives the Facility Agent at least 5 Business Days' notice (or any shorter notice approved by the Facility Agent) of its intention to do so;

(ii) the New Lender holds all Authorisations that are necessary or desirable in connection with the substitution; and

(iii) the Borrower is not prohibited from contracting with the New Lender by any law of any relevant country.

20.4 **Procedure for substitution**

(a) A Retiring Lender may arrange to substitute a New Lender for itself in respect of any or all of its Commitment and the corresponding proportion of its Share of the Principal Outstanding by delivering to the Facility Agent 4 counterparts of a Substitution Certificate executed by itself and by the proposed New Lender.

(b) Each party to this document (other than the Retiring Lender and the proposed New Lender) irrevocably authorises the Facility Agent to execute:

(i) a Substitution Certificate delivered under paragraph (a);

(ii) any other document, and to do anything else, that the Facility Agent believes is necessary or desirable to make the substitution,

on its behalf.

(c) After receiving a Substitution Certificate under paragraph (a), the Facility Agent (subject to clause 20.3(b)) must:

(i) countersign the counterparts on behalf of all the other parties to this document (except the Retiring Lender and the proposed New Lender); and

(ii) retain 1 counterpart and deliver the others to the Retiring Lender, the proposed New Lender and the Borrower.

(d) If the Facility Agent countersigns counterparts of a Substitution Certificate as contemplated by paragraph (c) then, on the "Substitution Date" referred to in the Substitution Certificate:

(i) the New Lender is substituted by novation for the Retiring Lender in relation to the Commitment and the Share of the Retiring Lender specified in the Substitution Certificate and the related rights and obligations; and

(ii) the Retiring Lender is released from the obligations to which the New Lender is novated; and

(iii) the New Lender must pay the Facility Agent (for its own account) a fee of $2,500.

20.5 **Consequences of substitution**

If a Lender arranges a substitution in respect of any of its rights and obligations in accordance with this clause:

(a) references in this document to the Retiring Lender as a "Lender", (and the Retiring Lender's identity and address) are to be taken as references to:

(i) the Retiring Lender and the New Lender (and their respective identities and addresses), in each case to the extent of its Commitment and its Share and the related rights and obligations; or

(ii) where the Retiring Lender has no further right, Commitment or Share, to the New Lender (and its identity and address);

(b) all agreements, representations and warranties made in this document survive any substitution made under this clause, and take effect for the benefit of the New Lender and the Retiring Lender to the extent of their respective Commitments and Shares and related rights and obligations; and

(c) the Retiring Lender is not responsible to the New Lender for the performance by the Borrower or any other person of any obligation under any Transaction Document.

20.6 **Subparticipation**

Despite any other provision of this document a Lender may:

(a) subcontract any of its obligations; or

(b) enter into subparticipation or derivative arrangements relating to any of its rights and obligations,

without the consent of, or giving notice to, any person. However, the Lender remains liable for the performance of those obligations as if it had not done so.

20.7 **No deductions and withholdings or increased costs in certain circumstances**

If a Lender assigns or transfers any of its rights or obligations under the Transaction Documents or changes its Lending Office, and the Borrower is later required to make a payment under clause 8.6, 8.7 or 13, because of a Regulatory Change after the date of the assignment, transfer or change, then the Borrower is only required to make that payment up to the amount that would have been payable had the assignment, transfer or change not occurred.

21. AMENDMENTS AND WAIVERS

21.1 Agreement of Facility Agent

(a) Subject to the other provisions of this clause, the Facility Agent and the Borrower may amend, supplement, replace or novate this document, and the Facility Agent may waive an obligation of the Borrower under this document, in writing. The Facility Agent may execute an amendment, supplement, replacement, novation or waiver on behalf of all Lenders.

(b) The Facility Agent must promptly notify each other party to this document if this document is amended, supplemented, replaced or novated, or an obligation of the Borrower is waived, under paragraph (a).

21.2 Agreement of Majority of Lenders

The Facility Agent may only execute an amendment, supplement, replacement, novation or waiver, other than to correct an error of a minor or technical nature with the consent of a Majority of Lenders.

21.3 Agreement of all Lenders

The Facility Agent may only execute an amendment, supplement, replacement, novation or waiver that:

(a) relates to the definition of "Majority of Lenders" in clause 1.1;

(b) extends the date for, decreases the amount of, or changes the currency of, any payment under this document;

(c) increases a Lender's Commitment;

(d) relates to this clause or to clause 16; or

(e) relates to a provision that provides expressly that it may only be amended, supplemented, replaced, novated or waived with the consent of all the Lenders,

with the consent of all the Lenders.

21.4 Consent of Security Trustee

The Facility Agent may only execute an amendment, supplement, replacement, novation or waiver that affects a right or obligation of the Security Trustee with the Security Trustee's consent.

21.5 **Waiver generally**

Without limiting clauses 21.1 to 21.4, a right may only be waived in writing, and:

(a) no other conduct (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;

(b) a waiver of a right on one or more occasions does not operate as a waiver of that right if it arises again; and

(c) the exercise of a right does not prevent any further exercise of that right or of any other right.

22. **GENERAL**

22.1 **Governing law**

(a) This document is governed by the law in force in New South Wales.

(b) Each party submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales, and any court that may hear appeals from any of those courts, for any proceedings in connection with any Transaction Document, and waives any right it might have to claim that those courts are an inconvenient forum.

22.2 **Liability for expenses**

The Borrower must indemnify each other party against, and must pay each other party on demand the amount of, all Taxes and reasonable expenses incurred in connection with:

(a) the negotiation, preparation, execution, stamping and registration of each Transaction Document;

(b) the transactions that each Transaction Document contemplates; and

(c) any amendment to, or any consent, approval, waiver, release or discharge of or under, any Transaction Document,

including reasonable legal expenses and reasonable expenses incurred in engaging consultants.

22.3 **Giving effect to this document**

The Borrower must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that the Facility Agent may reasonably require to give full effect to this document.

22.4 **Operation of this document**

(a) This document contains the entire agreement between the parties about its subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this document and has no further effect.

(b) Any right that the Facility Agent, the Security Trustee or a Lender may have under this document is in addition to, and does not replace or limit, any other right that it may have.

(c) Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

22.5 **Operation of indemnities**

(a) Each indemnity in this document survives the expiry or termination of this document.

(b) A party may recover a payment under an indemnity in this document before it makes the payment in respect of which the indemnity is given.

22.6 **Consents**

Where this document contemplates that a party may agree or consent to something (however it is described), that party may:

(a) agree or consent, or not agree or consent, in its absolute discretion; and

(b) agree or consent subject to conditions,

unless this document expressly contemplates otherwise.

22.7 **Statements by the Facility Agent**

A statement by an Authorised Representative of the Facility Agent on any matter relating to any Transaction Document (including any amount owing by the Borrower) is conclusive unless clearly wrong on its face.

22.8 **Set-off**

If an Event of Default occurs, the Facility Agent and each Lender, without notice to the Borrower, may combine any account that the Borrower holds with it with, or set off any amount that is or may become owing by it to the Borrower against, any amount owing by the Borrower to it under any Transaction Document. For this purpose the Facility Agent and each Lender may:

(a) change the terms (including the repayment date) of any account or other payment obligation between the parties;

(b) convert amounts into different currencies in accordance with its usual practice; and

(c) do anything (including execute any document) in the name of the Borrower that it considers necessary or desirable.

This subclause overrides any other document or agreement to the contrary.

22.9 **No merger**

Nothing in this document merges with any other Security Interest, or any Guarantee, judgment or other right or remedy, that the Facility Agent, the Security Trustee or a Lender may hold at any time.

22.10 **Exclusion of contrary legislation**

Any legislation that adversely affects an obligation of the Borrower, or the exercise by the Facility Agent, the Security Trustee or a Lender of a right or remedy, under or relating to this document is excluded to the full extent permitted by law.

22.11 **Inconsistency with other documents**

If this document is inconsistent with any other document or agreement between the parties, this document prevails to the extent of the inconsistency.

22.12 **Counterparts**

This document may be executed in counterparts.

22.13 **Attorneys**

Each person who executes this document on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

SCHEDULE 1

DETAILS OF LENDERS

Lender	Lending Office	Details for notices	Commitment EUR
HSBC Bank Australia Limited ABN 48 006 434 162	HSBC Centre 580 George Street, Sydney NSW 2000	HSBC Centre 580 George Street, Sydney NSW 2000	EUR 50,000,000

SCHEDULE 2

CONDITIONS PRECEDENT

1. A duly signed and completed certificate from the Borrower dated no earlier than the third Business Day before the Drawdown Date, substantially in the form of schedule 3, with the attachments listed in the certificate.
2. Legal opinion from Blake Dawson Waldron addressed to the Facility Agent (on behalf of the Lenders) in respect of the due execution by, and enforceability against, the Borrower of this document.
3. A duly executed original of each Transaction Document (other than the Pledge and the Guarantee and Indemnity) and a certified copy of each duly executed Project Document.
4. An original of the Guarantee and Indemnity duly executed by the Borrower and ResMed SA.
5. An executed copy of a Hedge Agreement (comprising an ISDA Master Agreement and Schedule only) between the Hedge Counterparty and the Borrower.
6. Payment of the legal costs and disbursements of the Lender (both Australian and offshore) in connection with the negotiation and execution of the Transaction Documents.
7. A copy of the legal due diligence report prepared by Herbert Smith, French lawyers to the Borrower, in relation to the Target Company and its subsidiaries.
8. A copy of the legal due diligence summary from Gleiss Lutz, German counsel to the Borrower, in relation to Take Air Medical Handelsgesellschaft mbH.
9. A certified copy of the duly executed minutes of the Board of Directors of ResMed SA authorising ResMed SA to enter into the Guarantee and Indemnity and the Pledge.

SCHEDULE 3

CERTIFICATE

ResMed Limited ABN 30 003 765 142

To: HSBC Bank Australia Limited
HSBC Centre
580 George Street
Sydney NSW 2000

Attention: [ ]

Syndicated Facility Agreement

I refer to the Syndicated Facility Agreement dated [date] **(Loan Agreement)** between ResMed Limited and HSBC Bank Australia Limited (in various capacities). Terms used in this certificate that are defined in the Loan Agreement have the same meanings as in the Loan Agreement.

I am a director/company secretary of the Borrower.

The attachments to this certificate are complete and up to date copies of:

1. the certificate of incorporation and the constitution of the Borrower, as in force when the resolutions mentioned below were passed and at all times since;
2. an extract from the minutes of a meeting of the board of directors of the Borrower containing resolutions (which have not been amended or revoked and are in full force) that:
   (a) authorise execution and (where applicable) delivery by the Borrower of each Transaction Document;
   (b) authorise the exercise by the Borrower of its rights and the performance by the Borrower of its obligations under each Transaction Document; and
   (c) appoint Authorised Representatives for the Borrower; and
3. the power of attorney (which has not been revoked by the Borrower and is in full force) authorising the execution and (if appropriate) delivery of each Transaction Document on behalf of the Borrower.

The persons named below are the Borrower's Authorised Representatives and the signature appearing beside the name of each Authorised Representative is the true signature, or a copy of the true signature, of that person.

Authorised Representatives

Name	Position	Signature

Dated: [date]

Signed by director/secretary of ResMed Limited:

Signature of director/secretary

Name

SCHEDULE 4

DRAWDOWN NOTICE

ResMed Limited ABN 30 003 765 142

To: HSBC Bank Australia Limited
HSBC Centre
580 George Street
Sydney NSW 2000

Attention: [ ]

Syndicated Facility Agreement - Drawdown Notice

We refer to the Syndicated Facility Agreement dated [date] **(Loan Agreement)** between ResMed Limited and HSBC Bank Australia Limited (in various capacities). Terms used in this Drawdown Notice that are defined in the Loan Agreement have the same meanings as in the Loan Agreement.

1. The Borrower gives you irrevocable notice that it wishes to draw an Advance as follows:
   (a) Drawdown Date: [Drawdown date]
   (b) Amount: [Amount]
   (c) Interest Period: [Interest paid]
2. The bank account or payee to which the Advance is to be credited is [name of account].
3. The representations and warranties set out in clause 10.1 of the Loan Agreement will be true and not misleading (by omission or otherwise) on the Drawdown Date on the basis of the facts and circumstances as at that date.

Dated: [date]

For and on behalf of ResMed Limited by its Authorised Representative:

Signature of Authorised Representative

Name

SCHEDULE 5

NOTICE VARYING INTEREST PERIOD

ResMed Limited ABN 30 003 765 142

To: HSBC Bank Australia Limited
HSBC Centre
580 George Street
Sydney NSW 2000

Attention: [ ]

Syndicated Facility Agreement - Variation of Interest Period

We refer to the Syndicated Facility Agreement dated [date] **(Loan Agreement)** between ResMed Limited and HSBC Bank Australia Limited (in various capacities). Terms used in this notice that are defined in the Loan Agreement have the same meanings as in the Loan Agreement.

The Borrower gives you irrevocable notice that it wishes to vary the Interest Period from the date set out below:

Date: [date]

New Interest Period: [Permitted Interest Period]

Dated: [date]

For and on behalf of ResMed Limited by its
Authorised Representative:

Signature of Authorised Representative

Name

SCHEDULE 6

SUBSTITUTION CERTIFICATE

Syndicated Facility Agreement

DATE

PARTIES

[Name] Alt[ABN/ACN/ARBN] [number] **(Retiring Lender)**

[Name] Alt[ABN/ACN/ARBN] [number] **(New Lender)**

[Name of Facility Agent] (Facility Agent), for itself and for each other party to the Loan Agreement (except for the Retiring Lender and the New Lender)

1. **INTERPRETATION**

1.1 **Definitions**

The following definitions apply in this document.

Borrower means ResMed Limited.

Loan Agreement means the Syndicated Facility Agreement dated [date] **(Loan Agreement)** between the Borrower, certain Lenders and HSBC Bank Australia Limited (in various capacities).

Substituted Commitment means the amount specified under the heading "Substituted Commitment" in the schedule.

Substituted Participation means:

(a) the Substituted Commitment, and the corresponding Share of the Principal Outstanding, that are specified in the schedule;

(b) the corresponding proportion of the Retiring Lender's Share of each Advance; and

(c) any related rights and obligations.

Substitution Date means [date(s)].

1.2 **Terms defined in the Loan Agreement**

Terms that are defined in the Loan Agreement have the same meaning in this document.

1.3 **Rules for interpreting this document**

Clause 1.2 of the Loan Agreement applies as to this document.

2. **SUBSTITUTION**

On the Substitution Date the New Lender is substituted for the Retiring Lender in respect of all the rights and obligations of the Retiring Lender under the Loan Agreement and each other Transaction Document in relation to the Substituted Participation, other than:

(a) obligations (if any) due to be satisfied before the Substitution Date; and

(b) rights to amounts (if any) that are due and payable before the Substitution Date.

3. **RELEASE OF RETIRING LENDER**

On the Substitution Date the Retiring Lender ceases to be entitled to all its rights, and is released from all its obligations, under the Loan Agreement and each other Transaction Document in relation to the Substituted Participation, other than the rights and obligations described in clauses 2(a) and (b).

4. **ASSUMPTION BY NEW LENDER**

On the Substitution Date:

(a) the New Lender is taken to be a party to the Loan Agreement and each other Transaction Document to which the Retiring Lender is or was a party;**Opt[**and**]**

(b) the New Lender and each of the parties to the Loan Agreement assumes obligations to each other and acquires rights against each other that are identical to the rights and obligations that cease and are released under clause 3, except to the extent that they relate to the identity and location of the New Lender (where relevant) rather than to the identity and location of the Retiring Lender **Alt[.**/; and**]**

(c) **Opt[**the Retiring Lender has a Commitment and a Share in the Principal Outstanding equal to its Commitment and Share immediately before the Substitution Date, less the Substituted Participation.**]**

5. **CONFIRMATION BY NEW LENDER**

The New Lender confirms that:

(a) it has received a copy of the Loan Agreement and each other Transaction Document, together with any other documents and information that it reasonably requires in connection with this transaction; and

(b) it has not relied and will not rely on the Retiring Lender or the Facility Agent to check or enquire on its behalf into the execution, validity, effectiveness, genuineness, enforceability, sufficiency, accuracy or completeness of any of those documents or that information.

6. **PAYMENTS AND DELIVERIES**

On and after the Substitution Date, the Facility Agent must make all payments and deliveries that are due to be made under the Loan Agreement in relation to the Substituted

Participation to the New Lender. Accordingly, the Retiring Lender and the New Lender must make, directly to each other, whatever payments and adjustments they agree regarding the principal, accrued interest, fees, expenses and other amounts that have accrued by reference to the Substituted Participation before the Substitution Date.

7. **LENDING OFFICE**

The Lending Office of the New Lender is its office at [details].

8. **NOTICES**

For the purposes of clause 19 of the Loan Agreement, the address of the New Lender is the address set out below, or another address that the New Lender may notify each other party to the Loan Agreement:

New Lender:
Address:
Fax number:
Attention:

9. **GOVERNING LAW**

(a) This document is governed by the law in force in New South Wales.

(b) Each party to this document submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales, and any court that may hear appeals from any of those courts, for any proceedings in connection with any Transaction Document, and waives any right it might have to claim that those courts are an inconvenient forum.

SCHEDULE TO SUBSTITUTION CERTIFICATE

Retiring Lender's Commitment before the Substitution Date $	Substituted Commitment $	Retiring Lender's Share of the Principal Outstanding before the Substitution Date $	New Lender's Share of the Principal Outstanding $

EXECUTED as an agreement.

SIGNED for **[*Retiring Lender*]** under power of attorney in the presence of:

Signature of attorney

Signature of witness

Name

Name

Date of power of attorney

SIGNED for **[*New Lender*]** under power of attorney in the presence of:

Signature of attorney

Signature of witness

Name

Name

Date of power of attorney

SIGNED for **[*Facility Agent*]** under power of attorney in the presence of:

Signature of attorney

Signature of witness

Name

Name

Date of power of attorney

EXECUTED as an agreement.

BORROWER

SIGNED for **RESMED LIMITED** under
power of attorney in the presence of:

Signature of attorney

Brett Sandercock

Signature of witness

Name

Mark Abourizk
Name

10th May 2005
Date of power of attorney

INITIAL LENDER, FACILITY AGENT AND SECURITY TRUSTEE

SIGNED for **HSBC BANK AUSTRALIA LIMITED** under power of attorney
in the presence of:

Signature of attorney

Lewis Williams

Signature of witness

Name

Darren Symons
Name

11 May 2005
Date of power of attorney

SECURITIES SALE AGREEMENT
FINANCIERE ACE S.A.S.

4 May 2005

BETWEEN THE UNDERSIGNED:

1. **Barclays Private Equity FCPR A, Barclays Private Equity FCPR B, and Barclays Private Equity FCPR C 2004** three French *fonds communs de placement* à *risques*, represented by their management company, **Barclays Private Equity France SA** ("**BPEF**"), a *société anonyme* with a directorate and a supervisory board incorporated under the laws of France, with a share capital of 24,000,000 Euro, having its registered office at 73, avenue des Champs Elysées - 75008 Paris, registered with the commercial and companies registry under the number 379 716 699 RCS Paris, itself represented by Mr. Laurent Chauvois, duly empowered for this purpose,

2. **Capvent**, a *société civile à capital variable* incorporated under the laws of France, having its registered office at 21, boulevard de la Madeleine – 75001 Paris, registered with the commercial and companies registry under the number 433 969 870 RCS Paris, itself represented by Mrs. Sophie Rouland, duly empowered for this purpose,

3. **Barclays PVLP Partner Limited**, a company incorporated under English laws, having its registered office at 54, Lombard Street – Londres EC3P 3AH, acting as General Partner of **Barclays Private Equity PVLP Limited Partnership**, represented by Mr. Laurent Chauvois, duly empowered for this purpose, ("**PVLP**")

4. **Paralièle Ventures Nominees n° 2 Ltd**, a company incorporated under English laws, having its registered office at 49 Saint James's Street, Londres SW1A 1JT, represented by Mr. Laurent Chauvois, duly empowered for this purpose, ("**PVN**")

5. **Euromezzanine 4 FCPR**, a French *fonds commun de placement à risques*, represented by its management company, **Euromezzanine Conseil**, a *société anonyme* with a directorate and a supervisory board incorporated under the laws of France, with a share capital of 500,000 Euro, having its registered office at 11, rue Royale – 75008 Paris, registered with the commercial and companies registry under the number 423 762 814 RCS Paris, itself represented by Mr. François-Carré, duly empowered for this purpose,

6. **Benelux Mezzanine**, a limited company incorporated under the laws of Luxembourg, with a capital of 100,000 Euro, having its registered office at 22, Parc d'activités Syrdall – L- 5365 Munsbach, Luxembourg, registered with the commercial and companies registry under the number B97335, by Mr. François Carré, duly empowered for this purpose,

7. **CM-CIC Mezzanine**, a *société par actions simplifiée*, with a directorate and a supervisory board incorporated under the laws of France, with a capital of 3,029,570 Euro, having its registered office at 4, rue Gaillon - 75002 Paris, registered with the commercial and companies registry under the number 452 714 124 RCS Paris, represented by Mr. Guillaume Rico, duly empowered for this purpose,

The parties 1. to 7. are hereinafter collectively referred to as the "**Financial Sellers**" and individually as a "**Financial Seller**" and shall each act individually and not jointly – *individuellement et non solidairement.*

8. **Mr Antoine Heral**, born on 4 May 1964, in Boulogne Billancourt (92100), of French citizenship and residing at 9, rue Brémontier – 75017 Paris, and **Mrs Corinne Heral**, born on 30 January 1964, in Villers Semeuse (08000), of French citizenship and residing at 9, rue Brémontier – 75017 Paris, represented by Mr Antoine Heral,

9. **Mr Philippe Chalvignac**, born on 21 June 1953, in Saint Dizier (52100), of French citizenship and residing at 37, Domaine du Bois de la Garenne – 77760 Acnères la Föret, and and **Mrs Bernadette Chalvignac**, born on 12 October 1953, in Saint Dizier (52100), of French citizenship and residing at 37, Domaine du Bois de la Garenne – 77760 Achères la Föret, represented by Mr Philippe Chalvignac,
10. **Mr Jean Le Roux**, born on 24 April 1963, in Versailles (78000), of French citizenship and residing at 17, rue du Four, Chaux – 78310 Coignières,
11. **Mr Patrick Dehour**, born on 22 April 1966, in Douai (59500), of French citizenship and residing at 9, rue doré 'Résidence les Nymphéas' Bat 9.1 appt. 36, 77000 MELUN, represented by Mr Antoine Heral,
12. **Mr Jean-Hubert Pougnet**, born on 20 February 1965, in Paris (75), of French citizenship and residing at 6 rue Jean Moulin, 94300 Vincennes,
13. **Mr Christian Bera**, born on 1st October 1964, in Rodez (12000), of French citizenship and residing at 9, allée de la Chardonnière – 91280 Saint Pierre du Peray, represented by Mr Antoine Heral,
14. **Mr André Bardon**, born on 29 December 1956, in Corbeil Essonnes (91100), of French citizenship and residing at 2, rue Petit Rué – 91410 Dourdan, represented by Mr Antoine Heral,
15. **Mr David Creusot**, born on 10 January 1970, in Epinal (88000), of French citizenship and residing at 31, avenue des iris – 91600 Savigny sur Orge,
16. **Mr Dieter Paulik**, born on 31 January 1959 in Mettmann, of German citizenship and residing at Emmastraße 43, Bremen, Federal Republic of Germany, represented by Mr Antoine Heral,
17. **Mrs Petra Richters**, born on 11 September 1956, in Wedel, of German citizenship and residing at Am Herzogenkamp 30, Bremen, Federal Republic of Germany, represented by Mr Antoine Heral,
18. **Mr Günter Gromotka**, born on 2 July 1958, in Bremen, of German citizenship and residing at Schukampsweg 81, Bremen, Federal Republic of Germany, represented by Mr Antoine Heral,
19. **Mr Matthias Ehmann**, born on 30 September 1966, of German citizenship and residing at Ringstraße 35 Nordenham, Federal Republic of Germany, represented by Mr Antoine Heral,

The parties 8. to 19. are hereinafter collectively referred to as the '**Minority Sellers**" and individually as a "**Minority Seller**", and shall act individually and not jointly-*conjointement et non solidairement.*

The parties 16. to 19. are hereinafter collectively referred to as the '**German Sellers**" and individually as a **"German Seller"**, and shall act individually and not jointly-*conjointement et non solidairement.*

The parties 1. to 19. are hereinafter collectively referred to as the '**Sellers**" and individually as a "**Seller**", and shall act individually and not jointly *(conjointement et non solidairement*).

ON THE FIRST PART

AND

20. **ResMed**, a limited liability company incorporated under the laws of France, with a share-capital of €6,000,000, having its registered office, 2 rue Maurice Audibert, 69800 Saint Priest, registered with the Commercial and Companies Registry under the number 407 775 170 RCS Lyon, itself duly represented by its President, Mr. Alain Perseguers.

    ResMed may substitute or add a company within the ResMed Group to participate as a purchaser in the transaction, provided that details thereof are transmitted to the Financial Sellers' Representative at least five (5) Business Days prior to the Date of Completion.

(hereinafter referred to as the "**Purchaser**"),

ON THE SECOND PART

(the parties of the first part and of the second part are hereinafter collectively referred to as the "**Parties**" and individually as a "**Party**"),

RECITALS:

A. The Sellers together will own at the Date of Completion (i) 3,037,973 ordinary shares (the "**Shares**"), (ii) 4,852,027 shares with warrants attached (*actions à bons de souscription d'actions ordinaires*) (the "**ABSA**"), (iii) the 14,925,000 Convertible Bonds, (iv) the 50 Junior Mezzanine Bonds with Warrants J attached and (v) the 50 Senior Mezzanine Bonds with Warrants S attached (together referred as the "**Securities**"), issued by **FINANCIERE ACE SAS**, a French *société par actions simplifiée* with a share capital of 7,890,000 Euro, whose registered office is at 73, avenue des Champs Elysées – 76008 Paris, registered with the commercial and companies registry under the number 451 683 536 RCS Paris (the "**Company**"). The Shares, the ABSA, the Warrants J, the Warrants S and the Convertible Bonds represent 100% of the securities (*valeurs mobilieres*) issued by the Company and giving access immediately or in the future to the share capital of the Company and are allocated among the Sellers as described under Schedule A.

B. On the Date of Completion, the Company shall own directly and/or indirectly shareholdings in companies (hereinafter referred to as the "**Subsidiaries**"), a list of which, together with the allocation of their respective share capital, is annexed in Schedule B. The Subsidiaries and the Company shall hereinafter be referred to as the "**Group**".

C. The Sellers gave access to the Purchaser to certain documentation and information. Information on the Group was also made available to the Purchaser in a data room organised in SJ Berwin office, from 29 March to 31 March 2005, during the due diligence investigations conducted by the Purchaser and through a management presentation held on March 18, 2005 and interviews carried on with the management on the following subjects: Intellectual property, quality, tax and finance.

D. Following the management presentation, the interviews and the examination of the said documents, the Purchaser agreed to purchase the Securities and the Sellers agreed to sell them under the terms and conditions provided below.

IT IS HEREBY AGREED AS FOLLOWS:

1. DEFINITIONS

In this Agreement:

"ABSA"	has the meaning which is attributed to it paragraph A of the Recitals;
"Accounting Principles"	means with respect to each of the Companies, the accounting principles and methods generally accepted in the country of incorporation of such Companies, as consistently applied by such Companies for the preparation of the Accounts and as attached in Schedule C;
"Accounts"	means the 30 June 2004 Accounts and the 31 December 2004 Accounts;
"Agent"	means the CIC bank acting as the recipient for the Transfer of Price and any other wire transfer to be made under this agreement for the Sellers and for the Purchaser;
"Agreement"	refers to this agreement, its Schedules and Exhibits;
"Business Day(s)"	means a day not being a Saturday on which banks are open for general banking business in France;
"Clause"	means each clause of the Agreement;
"Companies"	means Financière ACE SAS, Biosciences SAS, OCA Beteiligung AG, SAIME SA, SCI PDG and Premium Medical SARL;
"Company"	has the meaning which is attributed to it in paragraph A of the Recitals;
"Completion"	means the completion of the Sale in accordance with the provisions of the Agreement;
"Consent and Approvals"	means any notice, report or other filing required to be made, or any consent, registration, approval, permit or authorisation required to be obtained from any Governmental Entity;
"Convertible Bonds"	means the 14,295,000 convertible bonds issued by the Company following its extraordinary shareholder's meeting dated 29 June 2004 having each a par value of 1 Euro;
"Date of Completion"	19 May 2005;

"EBIT 2005"	means the addition of (i) the consolidated earnings (*résultat d'exploitation consolidé*) of the Companies (but without taking into account OCA Beteiligung GmbH) for the period 1 July 2004 to 30 June 2005 and (ii) the pro forma earnings (*résuilatat d'exploitation*) of Take Air Medical GmbH for the period 1 July 2004 to 30 June 2005 increased by an amount of 181,356 Euro. The EBIT 2005 will be determined pursuant to Clause 12;
"EBIT Surplus"	means the excess between the EBIT 2005 and 11,000,000 (eleven million) Euro;
"Encumbrance(s)"	means any pledge, privilège (lien), mortgage, or other security interest;
"Exhibit"	means an exhibit to Schedule 6;
"Financial Seller(s)"	has the meaning which is attributed to it in the heading of the Agreement;
"Financial Sellers' Representative"	means Barclays Private Equity France, a *société anonyme* with a share capital of 24,000,000 Euro, having its registered office at 73, avenue des Champs Elysées – 75008 Paris, identified to the commercial and companies registry under the number 379 716 699 RCS Paris, whose functions are described in Clause 13.1;
"German Sellers"	has the meaning which is attributed to it in the heading of the Agreement;
"Governmental Authorisation"	means any licence, certificate of authority, permit, order, consent, approval, registration or authorisation or qualification granted by any Governmental Entity;
"Governmental Entity"	means any public international, multinational or transnational organisation or any national, state, municipal or local governmental, legislative, administrative or other authority, ministry, department, agency, office, organisation or stock exchange having jurisdiction over the Sellers or the Purchaser or the Companies or their respective properties or assets;
"Group"	has the meaning which is attributed to it in the heading of the Agreement;
"Junior Mezzanine Bonds"	means the 50 bonds with attached warrants issued by the Company following its extraordinary shareholder's meeting dated 29 June 2004 for a par value of 100,000 (one hundred thousand) Euros, each bond having 12,438 warrants J1, 8,409 warrants J2 and 25,870 warrants J3 attached;

"Law(s)"	means any law, statute, regulation, rule, ordinance, decree, principle of civil, administrative or common law, government or administrative instruction and any treaty;
"Minority Seller(s)"	has the meaning which is attributed to it in the heading of the Agreement;
"Minority Sellers' Representative"	means Mr. Antoine Heral whose functions are described in Clause 13.1;
"Order"	means any governmental or non-governmental permit or licence or any judgment, injunction, order, rulings or other restriction of any court or Governmental Entity or tribunal;
"Party" or "Parties"	has the meaning which is attributed to it in the heading of the Agreement;
"Purchaser"	has the meaning which is attributed to it in the headings of the Agreement;
"Reduction of Price"	has the meaning which is attributed to in Clause 9.1 of the Agreement,
"Repayment of the Bonds Debenture"	has the meaning which is attributed to it in Clause 3.3.1 of the Agreement;
"Sale"	has the meaning which is attributed to in Clause 2.1 of the Agreement;
"Schedule"	means a schedule to the Agreement;
"Securities"	has the meaning which is attributed to it in paragraph A of the Recitals;
"Seller" or "Sellers"	has the meaning which is attributed to it in the heading of the Agreement;
"Sellers' Representatives"	means the Financial Sellers' Representative together with the Minority Sellers' Representative, pursuant to the terms of Clause 13.1;
"Senior Mezzanine Bonds"	means the 50 bonds with attached warrants issued by the Company following its extraordinary shareholder's meeting dated 29 June 2004, each bond having 3,507 warrants S1, 2,372 warrants S2 and 7,296 warrants S3 attached;
"Shares"	has the meaning which is attributed to it in paragraph A of the Recitals;
"Subsidiaries"	has the meaning which is attributed to it in paragraph B of the Recitals;

"Tax" and "Taxes" and "Taxation"	shall include without limitation all income, transfer, withholding, value added, sales, use, wage, payroll, employment and real and personal property taxes and social security, unemployment and other social contribution of my nature whatsoever; taxes measured by or imposed on capital or turnover; levies, imposts, duties, customs duties, licenses, and registration fees; other taxes imposed by any state, municipal, local or other governmental authority or agency (hereafter "French Taxation authorities"), including assessments in the nature of taxes and including, without limitation, interest, penalties, fines, assessments and deficiencies relating to any tax or taxes.
30 June 2004 Accounts	means the audited consolidated financial statements of Biosciences SAS, SAME as at 30 June 2004 attached as Schedule C
31 December 2004 Accounts	means the non-audited financial statements of the Company, Biosciences SAS, SAIME S.A., Premium Medical SARL and SCI PDG on a corporate (non consolidated) basis as at 31 December 2004, attached as Schedule C
"Transfer Price"	means the price to be paid by the Purchaser for the Transferred Securities as defined in Clause 3.1;
"Transferred Securities"	has the meaning which is attributed to it in Clause 2.1 of the Agreement;
"Warranties"	means the representations made and the warranties granted by the Sellers and set forth inSchedule 6;
"Warrants J"	means the 12,438 warrants J1, 8,409 warrants J2 and 25,870 warrants J3;
"Warrants S"	means the 3,507 warrants S1, 2,372 warrants S2 and 7,296 warrants S3.

2. SALE AND PURCHASE

2.1 Under the terms and conditions provided below, the Sellers hereby agree to sell to the Purchaser, and the Purchaser hereby agrees to buy from the Sellers, the 3,037,973 Shares, the 4,852,027 ABSA, the 2,335,850 Warrants J and the 658,750 Warrants S (collectively referred to as the "**Transferred Securities**"), allocated as described in Schedule 2.1 (the "**Sale**"). The Sale shall become effective on the Date of Completion, subject to due fulfilment of the provisions contained in Clause 5.3.

2.2 The Transferred Securities shall be transferred with all rights to dividends attached and free from any Encumbrances or third party rights.

3. TRANSFER PRICE

3.1 Amount of the Transfer Price

The price of the Transferred Securities (the "**Transfer Price**") shall be equal to a global fixed and definitive amount of forty million eighty five thousand two hundred (40,085,200) Euro.

3.2 Allocation and payment of the Transfer Price

3.2.1 On the Date of Completion, the Purchaser shall pay the Transfer Price by wire transfer in favour of the Sellers into the Agent bank accounts, which details are attached in Schedule 3.2.1. and shall be notified by the Sellers to the Purchaser at least five (5) Business Days before the Date of Completion.

3.2.2 The allocation of the Transfer Price among the Transferred Securities and among the Sellers shall be made by the Agent according to the allocation set out in Schedule 3.2.2.

3.2.3 The Sellers agree that the execution of the wire transfer on the Agent's account to pay the Transfer Price shall discharge the Purchaser of its obligations.

3.3 Repayment of the Bonds Debenture and of the Company's financial Indebtedness

3.3.1 Upon Completion, all the Convertible Bonds, the Junior Mezzanine Bonds and the Senior Mezzanine Bonds shall be repaid by the Company, together with the accrued interests, for a global amount (including interests and all other costs related thereto) equal to twenty-six million sixty-three thousand two hundred and twenty Euros and fifty-nine cents (26,063,220,59 Euro) (the "**Repayment of the Bonds Debentures**"), allocated as described in Schedule 3.3.1, it being specified that the Purchaser shall cause the Company to carry out the Repayment of the Bonds Debentures.

3.3.2 The Company's financial indebtedness (including capitalised or accrued interest thereon), as defined in Schedule 3.3.1 (which includes the 900,000 Euro payable to the German Sellers, as explained in the last paragraph of Clause 9.1 below), will be repaid on the Date of Completion ("**the Company's Financial Indebtedness**").

4. CONDITIONS PRECEDENT - TERMINATION

The obligations of the Purchaser hereunder, are subject to each of the following conditions being satisfied on or prior to Completion (or, when applicable, waived prior to Completion):

4.1 Conditions to obligations of Purchaser:

4.1.1 The due performance in all respects of each of the material covenants and agreements of the Sellers to be performed on or prior to the Date of Completion;

4.1.2 The acquisition by SAIME S.A. of the shares held by Mrs. Mireille Lagard in Premium Medical S.A.R.L for a maximum purchase price of fifty thousand (50,000) Euro; and

4.1.3 The absence of occurrence of a natural catastrophy or a flood or a fire causing the destruction of all or a significant part of the manufacturing sites of SAIME S.A. and Premum Medical Sarl located respectively in Savigny-le-Temple and Lieusaint.

4.2 **Termination**

In the event of any of the conditions stipulated in Clauses 4.1.1 to 4.1.3 above is not fulfilled by the Date of Completion, the Purchaser may terminate this Agreement on such Date of Completion, in which case this Agreement shall become null and void. In such a case, the Purchaser shall deliver within eight (8) Business Days all of the documents and other material received from the Sellers relating to the transactions contemplated by this Agreement (or any other agreement referred to herein), whether obtained before or after the execution of this Agreement.

5. COMPLETION

5.1 **Date of Completion**

Unless the Parties agree otherwise in writing, the Completion will take place on 19 May 2005 (the "Date of Completion"), in accordance with the provisions of Clause 5.3.

5.2 **Location of the Completion**

The Completion will take place in the premises of SJ Berwin – 64 avenue Kléber – 75116 Paris, at the Date of Completion, unless the Parties agree otherwise in writing.

5.3 **Delivery of documents**

5.3.1 **On the Date of Completion, the Sellers will deliver to the Purchaser:**

(i) The share transfer forms for the Transferred Securities duly executed by the Sellers in favour of the Purchaser or its nominees, as well as the share transfer forms for the shares of the Subsidiaries not owned by the majority shareholder of any of the Subsidiaries;

(ii) The updated share transfer register of the Group and the shareholders' accounts thereof;

(iii) The unconditional letters of resignation of the directors and/or the managing director of the Company and the Subsidiaries, whose names appear in Schedule 5.3.1(iii);

(iv) A certified copy of the minutes of the meetings of the management bodies*(organes sociaux)* of the Group convening the shareholders, partners, representatives of the employees and statutory auditors (*commissaires aux comptes)* of the Group at their general meeting at the Date of Completion in order to (a) take cognisance of the resignations aimed at (iii) of the

present Clause 5.3.1 and (b) appoint new directors or managing director whose names will be communicated by the Purchaser at the latest five (5) days before the Date of Completion;

(v) A certificate signed by all the Sellers' Representatives confirming, in accordance with Clause 6 hereof, that the Representations and Warranties contained in Schedule 6 remain true and accurate as at the Date of Completion;

(vi) A certified copy of the minutes of the supervisory board of the Company and of the relevant corporate bodies of the Subsidiaries approving the Purchaser and/or its nominees as new shareholders of the Company;

(vii) A termination agreement signed by all parties to the shareholders' agreement and to all related agreements dated 29 June 2004, as amended, stating that such agreement and the related agreements have been terminated in advance and that the Parties to the shareholders' agreement and to the related agreements have waived all rights they may have had in relation to the Sale of the Securities and a waiver by the relevant Sellers of any sum alleged due under Clause 3.3;

(viii) The updated Minute books of the Group *(Registre des Proces-verbaux);*

(ix) A transfer agreement in six original copies for the share held by Mr. Antoine Heral in SCI P.D.G. (347 623 027 RCS Melun);

(x) A transfer agreement in six original copies providing for the sale to SAIME S.A. of the balance of the shares in Premium Medical S.A.R.L.(383 610 524 RCS Melun) owned by Mrs. Mireille Lagard;

(xi) A duly executed employment agreement between the Purchaser and Mr. Antoine Héral, as well as an amended employment agreement between SAIME S.A. and Philippe Chalvignac (salary increase of at least 300 euro by month, car leasing up to 15,000 euro per year);

(xii) From one to three duly executed bank(s) guarantee(s) *(caution bancaire solidaire)* organised by the Minority Sellers and delivered by a first-ranking bank for a global amount of one million (1,000,000) Euro, pursuant to Clause 9.10; and

(xiii) A waiver letter written by the Agent confirming that all the requirements set out in Clause 3.3. have been duly executed on the Completion Date and that all corresponding Encumbrances have been discharged.

5.3.2 **On the Date of Completion, the Purchaser:**

(i) shall pay the Transfer Price for the Transferred Securities in accordance with Clause 3.2; and

(ii) shall cause the Company to proceed with the Repayment of the Bonds Debentures and of the Company's Financial Indebtness in accordance with Clause 3.3.

6. REPRESENTATIONS AND WARRANTIES OF THE SELLERS

The Sellers make the representations and warranties set forth in Schedule 6 in favour of the Purchaser at the date of this Agreement and will repeat them on the Date of Completion (see Clause 5.3.1 (v) above). Each of the Warranties is true and accurate (except that Warranties made as of a specified date need only be true and correct at such date) and is not misleading.

7. MANAGEMENT OF THE GROUP BETWEEN THE DATE OF THIS AGREEMENT AND THE DATE OF COMPLETION

7.1 The Sellers represent and warrant that between the date of this Agreement and the Date of Completion, without prejudice to what is set out in Schedule 7.1(a):

(i) no dividend or interim dividend will be voted or distributed by the Group and the Group will not purchase or write-down any of his shares or other securities;

(ii) the Group will be managed pursuant to the same rules and under the same conditions as in the past (en bon père de famille) and no acquisition or sale of assets will be completed other than in the ordinary course of business;

(iii) the Group will not sell, transfer or relinquish any assets, except in the context of their normal day-to-day operations consistent with past practices, and will take all reasonable measures to maintain and protect their immovable assets (actifs immobilisés);

(iv) the Group will not agree any amendment to the main agreements entered into with clients, suppliers and other business relations, and will not substantially amend the terms of the main existing obligations;

(v) no significant changes will be made to the salary policy, individual or collective salary increases, benefits in kind, bonuses or other advantages of any nature whatsoever granted to the employees of the Group, except in the context of his day-to-day management consistent with his past practice;

(vi) the Group will not pay any exceptional remuneration to their corporate officers;

(vii) the Group will not engage in any investment outside the investment plan; and

(viii) The Group will manage its cash pursuant to his usual practice without accelerating the collection of receivables or deferring the payment of the debt owed by suppliers, outside the ordinary course of business.

7.2 The Sellers will inform the Purchaser about the resignation and/or the dismissal of employees having an annual remuneration exceeding 40,000 Euro.

8. REPRESENTATIONS OF THE PURCHASER

The Purchaser represents and warrants that:

8.1 it has all of the powers and authorisations necessary for the purpose of entering into this Agreement and the individual signatories in its name and on its behalf are duly authorised to act on behalf of the Purchaser;

8.2 no authorisations or Governmental Authorisation from any Governmental Entity (inter alia, French, European or American governmental authorities), including any authorisation relating to foreign investment in France, is necessary for the purpose of entering into this Agreement;

8.3 the execution of this Agreement by the Purchaser does not constitute a breach of (i) any contractual obligation, (ii) any court or arbitral decision or (iii) any decision from a public body or authority;

8.4 the execution of this Agreement by the Purchaser will represent a valid and enforceable obligation on the Purchaser in accordance with its terms; and

8.5 it has access to sufficient funds in order to complete the Sale.

9. REDUCTION OF THE PURCHASE PRICE

9.1 **Reduction of Price**

9.1.1 Each of the Sellers acting individually and not jointly *(conjointement et non solidairement),* undertakes to indemnify the Purchaser by way of reduction in the Transfer Price (the "**Reduction of Price**") for 100% of the amount of any loss, including reasonable legal fees and expenses, suffered or incurred by the Purchaser or the Group and resulting directly from a breach of the Warranties set out in Schedule 6-A, or as a result of the breach of any of its covenants in the Agreement, insofar as the said loss stems from a fact or event prior to the Date of Completion (the "**Loss**"), and only in accordance with the allocation set forth in Clause 9.2 below.

9.1.2 Each of the Minority Sellers acting individually and not jointly *(conjointement et non solidairement),* undertakes to indemnify the Purchaser by way of reduction in the Transfer Price (the "**Reduction of Price**") for 100% of the amount of any loss, including reasonable legal fees and expenses, suffered or incurred by the Purchaser or the Group and resulting directly from a breach of the Warranties set out in Schedule 6-B, or as a result of the breach of any of its covenants in the Agreement, insofar as the said loss stems from a fact or event prior to the Date of Completion (the "**Loss**"), and only in accordance with the allocation set forth in Clause 9.2 below.

However, the Purchaser acknowledges that the Sellers do not represent nor give any warranty whatsoever (and consequently, shall not be deemed to pay to the Purchaser any Reduction of Price) for any Loss relating to Take Air Medical GmbH (except as regards the representations made under paragraph 15 of Schedule 6), provided that the Group can still benefit from the representations and warranties given by the former owners of Take Air Medical GmbH, it being confirmed by the Sellers that these representation and warranties do not provide for any change of control clause.

The German Sellers also agree that the Sale constitutes an indirect change of control of SAIME S.A., thus triggering the change of control clause set forth in the abovementioned purchase agreement of 18 February 2005 and causing SAIME to pay to the German Sellers, on the Date of Completion, an amount of nine hundred thousand (900,000) Euro as per article 1.3.4 of said purchase agreement of 18 February 2005.

9.2 **Allocation**

9.2.1 The Financial Sellers and the Minority Sellers, each acting individually and not jointly (*conjointement et non solidairement*) shall compensate the Purchaser for the Loss derived from of a breach of the Warranties made by the Sellers in Part A of Schedule 6 to the Purchaser according to the allocation set out in Schedule 9.2.1.

9.2.2 The Minority Sellers acting individually and not jointly *(conjointement et non solidairement)* shall compensate the Purchaser for the Loss derived from a breach of the Warranties made by the Minority Sellers in Part B of Schedule 6 to the Purchaser. The Minority Sellers will allocate between themselves the payment made to the Purchaser according to the allocation set out in Schedule 9.2.2. For the avoidance of doubt, the Financials Sellers shall not be liable for any Reduction of Price for a breach of the warranties made by the Minority Sellers in Part B of Schedule 6.

9.3 **Time Limits**

Any claim for indemnification made pursuant to Clause 9.1 (a "**Claim**") shall be made by notice in writing to the Sellers concerned, within the following time limits;

- Claims relating to taxation (except "**stamp duty**" up to the 31 december 2008), social security, customs or pertaining to the criminal liability of the Companies may be made up to three months after the expiry of relevant statute of limitation.
- Any other Claims are to be made within a period of two (2) years as from the Date of Completion.

9.4 **Calculation**

9.4.1 The Reduction of Price owed under the terms of this clause shall be calculated by taking into account:

(i) the amount of the immediate tax savings made by the Company or the Group, tax savings meaning the reduction in the corporation tax liability of the Company of the Group in respect of the financial year during which any Loss for which a Claim has been made under the terms hereof is incurred;

(ii) any indemnification paid under the insurance policies received by the Group (or, if higher, the indemnification that the Group would have received if the Company had maintained the same insurance coverage as the date hereof) as damages for which a Claim has been made under the terms hereof;

(iii) the reversal of any provision registered in the Accounts insofar such reversal of provision effectively represents a decrease in liability;

(iv) any indemnification net of Tax received for a receivable previously considered to be irrecoverable in whole or in part;

9.4.2 No Reduction of Price shall be due by the Sellers in case of a breach of the Warranties insofar as such a breach is the result of a tax provision which came into force after the date hereof and has a retrospective effect.

9.4.3 No Reduction of Price shall be due with respect to any reassessment made by the French Taxation authorities, the sole consequence of which is to shift a deductible or a taxable element from one fiscal year to another of from the Company or the Subsidiaries, provided, that with respect to any such reassessment, the Sellers shall nevertheless be liable to the extent of any late payment penalties or interest.

9.4.4 If a Claim is based on deferred liabilities, no indemnification shall be due as long as the said liabilities are not due and paid.

9.4.5 No indemnification shall be due by the Sellers insofar as the Loss on which the indemnification is based is exclusively ascribable to an act or an omission from the Purchaser and/or one of the Group after the Date of Completion, or a change in the Accounting Principles after the said date.

9.4.6 As a general matter, the Purchaser and the Group shall use their best efforts to mitigate the amount of the Losses.

9.4.7 For the purpose of calculating the amount of any Loss, only the Loss actually sustained by the Purchaser or the Group shall be taken into account, to the exclusion of any price, earnings or similar multiplier or valuation factor.

9.5 **Limitation of the Reduction of Price**

9.5.1 No Reduction of Price shall be due with respect to any individual Claim (or series of related Claims having the same cause or origin) for an amount of less than 10,000 € (ten thousands Euro), it being agreed that the amount of any Claims below such de minimis amount shall not be taken into account for the purposes of the threshold set forth in Clause 9.5.2.

9.5.2 No Reduction of Price shall be due by the Sellers until the aggregate amount of Reduction of Price owed by them exceeds (after all deductions pursuant to this Clause 9) 100,000 € (one hundred thousands Euro), increased by the amount of the EBIT Surplus in the event such EBIT Surplus arises (the "**Threshold**"), and when this overall Threshold is exceeded, the Reduction of Price shall then become due for the full aggregate, amounts as from the first euro.

9.5.3 The total Reduction of Price which may be due by each of the Sellers to the Purchaser or the Group shall not exceed ten percent (10%) of the Transfer Price effectively paid to each Seller, such amounts being set forth in Schedule 3.2.2.

9.6 **Procedure and Payment**

9.6.1 **Implementation of the Procedure**

(a) The Purchaser shall make a Claim against the Sellers concerned (i.e. either Financial Sellers and Minority Sellers or only Minority Sellers) as

soon as (and in any event no later than twenty (20) Business Days after) it becomes aware of any event, fact or circumstance which could result in indemnification under this Clause 9, provided, however, that in the event the circumstances so require (e.g., emergency proceeding, etc.) the Claim shall be sent in due time to permit the Sellers to participate in the defence of such Claim.

Failure by the Purchaser to comply with the notice period applicable shall have no consequences to the extent that such failure has not caused the Losses for which the Sellers are obliged to pay to be greater than they would have been, had the Purchaser given timely notice.

Any such Claim shall be validly effected if notified to the Sellers' Representative for the Sellers, to the Financial Sellers Representative for the Financial Sellers and to the Minority Sellers' Representative for the Minority Sellers.

(b) Each Claim shall state the amount of Reduction of Price Amount sought from the Sellers, shall state the specific grounds therefor and shall include all evidence necessary to demonstrate the soundness thereof.

(c) The Sellers, or their counsel, shall be granted reasonable access to relevant books and other documents and to the personnel and the premises of the Group concerning the Claim, and such books and documents shall be made available at the registered office of the Group or any other place mutually agreed upon, subject to reasonable notice, and for a reasonable period. The Sellers shall have the right to make copies of such books and documents.

9.6.2 **Disputed Claims**

In the event that a Claim is disputed by the Sellers (in whole or in part):

(a) the Purchaser and the Sellers shall endeavour to reach agreement in respect of the disputed items pertaining to such Claim within thirty (30) Business Days after the date on which the corresponding Claim notice was received by the Sellers; or

(b) in the absence of such agreement within the period referred to in the immediately preceding Clause, either Party may refer the matter to the tribunal provided for in Clause 14.2., being specified that if the Claim is not a third party claim (as specified in Clause 9.6.3 below), the Purchaser or the Group did not refer the matter within six (6) months to the tribunal, the Claim shall be deemed to be definitely abandoned and the related Reduction of Price claimed lost for the Purchaser or the Group.

9.6.3 **Third Party Claims**

(a) In the event that, at any time after Completion (but prior to expiration of the time period referred to in Clause 9.3 above), a Claim is made by the Purchaser on the basis of a third party claim (which includes claims from the French Taxation authorities) against any of the Group and/or the Purchaser (including any notification of a tax or social security audit) the Sellers shall have the right, at their option, to assume sole control of, at their own expense, the defence of such third party claim and in particular

appoint counsel in charge of such defence (in which case such counsel shall have sole power to direct and control such defence).

(b) The Purchaser shall, and shall procure that the Group shall, cooperate with such counsel and provide all reasonable assistance to enable it to assess the third party claim in question, In particular, the Purchaser shall, and shall procure that the Group shall, send it a copy of all relevant correspondence and documents and provide it promptly with all information reasonably requested by it in relation to such third party claim.

(c) The Purchaser shall ensure that, in the defence of such third party claim, the Group shall present any arguments, take any actions, instigate, continue or cease any arbitration or court proceedings, or reach any settlement and take any other such action as reasonably requested by the Sellers or the counsel appointed by them.

(d) In any event (irrespective of whether the Sellers have appointed counsel to defend such third party claim), the Purchaser shall ensure that the Companies do not settle, admit liability or withdraw any claim without the prior written consent of the Sellers (which consent shall not be unreasonably withheld).

9.7 **Payment Obligation**

The Claim shall be payable at the earliest occurrence of one of the following events;

(a) mutual agreement between the Sellers and the Purchaser on the existence and amount of a Claim; or

(b) the handing down of a judgment or other jurisdictional decision (which is not subject to appeal or for which the period of appeal has expired) passed against the Sellers if they disagreed with the Purchaser on the existence and/or amount of a Claim; or

(c) without prejudice to the other provisions of this Clause 9.7, the completion of a final settlement resolving the third party claim.

such payment date being the **"Indemnification Date"**,

On the occurrence of the Indemnification Date, the Purchaser shall send a formal notice *(mise* en *demeure)* to the Sellers Representative to pay the Reduction of Price. The Sellers shall then have ten (10) days from reception of the notice to pay the Reduction of Price the Purchaser, such Reduction of Price bearing interest at an annually compounded interest rate of five (5) % from the expiry of the ten (10) day period from reception of such notice.

9.8 **Limitations**

9.8.1 **Effective Loss**

A Loss shall only be indemnifiable by the Sellers to the extent (and only to the extent) such Loss has effectively been sustained or suffered by the Purchaser or any of the Group. In particular, if a Claim is based upon a liability which is contingent only, no indemnification shall be due unless and until such loss is sustained or suffered.

9.8.2 **Opportunity to cure**

In the event that any event, fact or circumstance giving rise to a Claim is curable, in whole or in part, the Purchaser shall give, or cause the Group to give, the Sellers a reasonable opportunity to cure the same.

9.9 It is expressly agreed between the Sellers and the Purchaser that, with the exception of restructuring measures within the ResMed Group, the Sellers' undertaking under Clause 9 shall be automatically terminated in the event of a change of control, direct or indirect, of either (i) the Company or (ii) the Purchaser (within the meaning of article L.233-3 of the French Commercial Code) at any time after the Date of Completion and the Sellers shall be released from their obligation to compensate any Loss excepted any Loss relating to any pending Claim on the date of such change of control.

9.10 As a partial guarantee for their obligations under this Clause 9, the Minority Sellers shall deliver from one (to three) bank(s) guarantee(s) (*cautionnement solidaire*) to the Purchaser on the Date of Completion issued by a first-ranking bank for a global amount of one million (1,000,000) Euro until 31 December 2007, by which date the bank(s) guarantee(s) shall terminate save for pending Claims notified pursuant to this Clause 9 prior to said date.

The bank(s) guarantee(s) shall be allocated among the Minority Sellers as specified in Schedule 9.2.2:

The bank(s) guarantee(s) shall provide that the Purchaser will be entitled to call upon such guarantee following the occurrence of one of the events mentioned in Clause 9 of this Agreement.

Each of the Minority Sellers will be entitled to substitute to its share of the bank(s) guarantee(s) a pledge over Resmed Inc. shares which such Minority Seller would have purchased after the date of this Agreement, but only to the extent that the amount of the substituted guarantee be at least equivalent to the value of the initial guarantee at the time of the pledge.

10. RESTRICTIVE COVENANT

The Minority Sellers undertake that they shall not (and shall procure that the Sellers' affiliates will not), either alone or in conjunction with or on behalf of any other person, for a period of two (2) full and consecutive years after Completion, in France, do any of the following:

10.1.1 be directly or indirectly engaged or otherwise interested in any form or manner whatsoever in carrying on a business which competes with the business activities of any of the Group (other than as an employee of the Purchaser or of a company controlling, or controlled by, the Purchaser) as such activities are carried out at the Date of Completion, i.e. the conception, manufacturing and marketing of respiratory machines to be used as a homecare device or in hospital;

10.1.2 solicit the custom of any client to whom any of the Group has sold (or proposed to sell) competing goods or services in the course of its business activities, in order to propose similar goods or services; or

10.1.3 directly or indirectly solicit or entice an employee away from the employment of any of the Group.

It is specifically agreed that this undertaking will automatically cease to apply to a Minority Seller who has been dismissed without cause *(licenciement sans cause réelle et sérieuse)* or been laid off (*licenciement économique)* from the Group within the two-year period defined above.

11. NOTICES

The notices and communications provided for herein shall be sent to the Parties at the following addresses:

(i) for the Purchaser: to the address which appears at the head of the Agreement, c/o ResMed Inc. attention: General Counsel, with a copy to Herbert Smith, 20 rue Quentin Bauchart, 75008 Paris;

(ii) for the Sellers: in accordance with Clause 13 of the Agreement, to the Financial Sellers' and the Minority Sellers' Representatives at the address specified in Clause 1, with a copy to SJ Berwin, 64 avenue Kléber, 75116 Paris and White & Case, 11 boulevard de la Madeleine 75008 Paris.

Any notice or communication must be delivered by hand against a receipt dated and signed by the recipient or sent by registered letter with acknowledgement of receipt and shall be deemed to have been received on the date stamped by the recipient on the receipt if it is delivered by hand or the date of first presentation if it is sent by registered letter.

12. CLOSING OF THE 2005 ACCOUNTS

Solely in order to determine and establish the EBIT Surplus, the Purchaser shall draw up the consolidated accounts of the Group on a pro forma basis as at 30 June 2005.

These accounts shall be drawn up using the same principles and methods as those used since the creation of the Group and shall respect the Accounting Principles as consistently applied in the past by the Group, namely in drawing up the Accounts of the Group as of 30 June 2004.

13. POWER OF ATTORNEY

13.1 The Financial Sellers appoint Barclays Private Equity France SA (the '**Financial Sellers' Representative**"), and the Minority Sellers appoint Mr. Antoine Heral (the "**Minority Sellers' Representative**"), as their respective agent in order to act in their name and on their behalf for the purposes of the Agreement and to negotiate, receive and sign all documents to this effect and to negotiate and sign all amendments to the Agreement, and more generally to execute or receive all notifications for the purposes of the Agreement.

13.2 Except in case of gross negligence *(faute lourde)* or wilful misconduct *(faute intentionnelle),* the Sellers shall have no legal recourse against the Sellers' Representatives in respect of the performance of their duties.

14. MISCELLANEOUS

14.1 Severability

The nullity of any one of the provisions hereof, for any reason whatsoever, shall not affect the validity of the other provisions of the Agreement, the Parties undertaking in such a case to consult with each other in order to substitute the void provision with a provision of equivalent effect.

14.2 Applicable law and jurisdiction

The Agreement shall be governed by French law and any dispute relating thereto shall fall within the exclusive jurisdiction of the competent *Tribunal de Commerce*.

14.3 Confidentiality

The Parties undertake to consult each other prior to the circulation of any press release or announcement concerning the transactions referred to herein.

14.4 Taxes, charges and registration costs

The taxes, charges and registration duty resulting from the Agreement, shall be borne by the Purchaser.

Each Party shall bear the expenses, fees and other costs of its own advisors and counsels, except as otherwise provided for in the Agreement.

14.5 Entire agreement

The Agreement constitutes the complete and sole agreement of the Parties. The Agreement also entails the cancellation of any document which may have applied between the Parties prior to the date hereof.

14.6 Number of copies

The Parties expressly agree to limit the number of originals of the Agreement and its Schedules to five (5), these originals being kept as follows:

- One (1) for BPEF on behalf of (i) the three FCPR Barclays Private Equity A, B and C 2004, (ii) Capvent, (iii) PVLP and (iv) PVN;
- One (1) for Euromezzanine 4 FCPR on behalf of (i) itself and (ii) Benelux Mezzanine;
- One (1) for CM-CIC Mezzanine;
- One (1) for Monsieur Antoine Heral (acting for himself and the Minority Sellers, such Minority Sellers waiving their right to article 1325 of the French Civil Code); and
- One (1) for the Purchaser.

Executed in Paris,

On 4 May 2005

- **Barclays Private Equity FCPR A,**
- **Barclays Private Equity FCPR B,**
- **Barclays Private Equity FCPR C,**

All acting by Barclays Private Equity France SAS

- **Barclays Private Equity PVLP Limited Partnership**
  Acting by Barclays PVLP Partner Limited
- **Parallel Ventures Nominees N°2 Ltd**

All such Parties hereby represented by Mr Laurent Chauvois

/s/ Laurent Chauvois

CAPVENT

By: Mrs. Sophie Rouland /s/ Sophie Rouland

Mr. Antoine Héral

Acting for himself
as well as in the name and on behalf of:

- Mrs. Corinne Héral
- Mr. Patrick Dehour
- Mr. Christian Bera
- Mr. André Bardon
- Mr. Dieter Paulik
- Mrs. Petra Richters
- Mr. Günter Gromotka
- Mr. Matthias Ehmann /s/ Antoine Héral

Mr. Philippe Chavignac

Acting for himself
as well as in the name and on behalf of Mrs. Bernadette Chavilgnac /s/ Philippe Chavignac

Mr. Jean-Hubert Pougnet /s/ Jean-Hubert Pougnet

Mr. Jean Le Roux /s/ Jean Le Roux

Mr. David Creusot /s/ David Creusot

- **Euromezzanine 4 FCPR**
  Acting by Euromezzanine Conseil SAS
- **Benelux Mezzanine**

All such Parties hereby represented by Mr. François Carré

/s/ François Carré

CM-CIC Mezzanine

By: Mr. Guillaume Rico /s/ Guillaume Rico

RESMED SAS

By: Mr. Alain Perseguers /s/ Alain Perseguers

SECURITIES SALE AGREEMENT

FINANCIERE ACE S.A.S

SCHEDULES

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RESMED INC.
SUBSIDIARIES OF THE REGISTRANT

ResMed Corporation (a Minnesota corporation)

ResMed Assembly US Inc. (a Delaware corporation)

ResMed (Malaysia) Sdn Bhd (a Malaysian Corporation)(2)

ResMed (UK) Limited (a United Kingdom corporation)(1)

ResMed Asia Pacific Limited (incorporated under the laws of New South Wales, Australia)(1)

ResMed Deutschland GmbH (a German corporation, formerly ResMed Beteiligungs GmbH)(3)

ResMed EAP Holdings Inc. (a Delaware corporation)

ResMed Finland Oy (a Finland corporation)

ResMed Holdings Limited (incorporated under the laws of New South Wales, Australia)

ResMed Hong Kong Limited (a Hong Kong corporation)(2)

ResMed Germany Inc. (a Delaware corporation, formerly ResMed International Inc.)

ResMed KK (a Japanese corporation)(2)

ResMed Limited (incorporated under the laws of New South Wales, Australia)(1)

ResMed New Zealand Limited (a New Zealand Corporation)(2)

ResMed GmbH Verwaltung (a German corporation)

ResMed GmbH and Co KG (a German corporation)(4)

ResMed R&D Limited (incorporated under the laws of New South Wales, Australia)(1)

ResMed SA (a French corporation)(2)

ResMed Singapore Pte Ltd (a Singaporean corporation)(2)

ResMed Spain SL (a Spanish corporation)(2)

ResMed Sweden AB (a Swedish corporation)(2)

Servo Magnetics Inc. (a Delaware corporation)

Labhardt AG (A Swiss corporation)(2)

MAP Hirsch Medizintechnik für Arzt und Patient GmbH (an Austrian corporation)(5)

MAP Medische Techniek voor Arts en Patient BV (a Dutch corporation)(4)

MAP Medizintechnik für Arzt und Patient GmbH (a Swiss corporation)(5)

MAP Medizin-Technologie GmbH (a German corporation)(4)

MAP Beteiligungs GmbH (a German corporation)(5)

Take Air Medical Handels GmbH (a German corporation)(6)

SCI PDG (a French corporation)(6)

Premium Medical SARL (a French corporation)(6)

OCA Beteiligung AG (a Luxemburg corporation)(6)

Hoefner Medizintechnik GmbH (a German corporation)

ResMed Netherland BV (a Netherlands corporation)

Saime SA (a French corporation, formerly Financiere ACE SAS)

ResMed Property Trust (incorporated under the laws of New South Wales, Australia)

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(1)A subsidiary of ResMed Holdings Limited
(2)A subsidiary of ResMed EAP Holdings Inc.
(3)A subsidiary of ResMed Germany Inc.
(4)A subsidiary of ResMed Deutschland GmbH
(5)A subsidiary of MAP Medizin-Technologie GmbH
(6)A subsidiary of Saime SA

INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM'S CONSENT

The Board of Directors and Stockholders
ResMed Inc:

We consent to the incorporation by reference in the registration statement (Nos. 333-08013, 333-88231 and 333-115048) on Form S-8 and the registration statements (Nos. 333-70500 and 333-100825) on Form S-3 of ResMed Inc. of our reports dated September 10, 2005, with respect to the consolidated balance sheets of ResMed Inc. as of June 30, 2005 and 2004, and the related consolidated statements of income, stockholders' equity, cash flows, and comprehensive income for each of the years in the three-year period ended June 30, 2005, and the related financial statement schedule, management's assessment of the effectiveness of internal control over financial reporting as of June 30, 2005, and the effectiveness of internal control over financial reporting as of June 30, 2005, which reports appear in the June 30, 2005, annual report on Form 10-K of ResMed Inc.

Our report dated September 10, 2005, on management's assessment of the effectiveness of internal control over financial reporting and the effectiveness of internal control over financial reporting as of June 30, 2005, contains an explanatory paragraph that states "ResMed Inc. acquired Saime, Hoefner and Resprecare during 2005, and management excluded from its assessment of the effectiveness of ResMed Inc.'s internal control over financial reporting as of June 30, 2005, Saime, Hoefner and Resprecare's internal control over financial reporting associated with total assets of 20% and total revenues of 3% included in the consolidated financial statements of ResMed Inc. and subsidiaries as of and for the year ended June 30, 2005." Our audit of internal control over financial reporting of ResMed Inc. also excluded an evaluation of the internal control over financial reporting of Saime, Hoefner and Resprecare.

/s/ KPMG LLP

San Diego, California
September 10, 2005

Certification of Chief Executive Officer
Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, Peter C. Farrell, certify that:

1. I have reviewed this annual report on Form 10-K of ResMed Inc;

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

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

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

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

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

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

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

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

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

September 12, 2005

/s/ PETER C. FARRELL

Peter C. Farrell
Chairman and Chief Executive Officer

Certification of Chief Financial Officer
Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, Adrian M. Smith, certify that:

1. I have reviewed this annual report on Form 10-K of ResMed Inc;

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

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

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

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

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

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

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

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

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

September 12, 2005

/s/ ADRIAN M. SMITH

Adrian M. Smith
Senior Vice President Finance and Chief Financial Officer

The following certifications are being furnished solely to accompany the Report pursuant to 18 U.S.C. § 1350 and in accordance with SEC Release No. 33-8238. These certifications shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, nor shall they be incorporated by reference in any filing of the Company under the Securities Act of 1933, as amended, whether made before or after the date hereof, regardless of any general incorporation language in such filing.

Certification of Chief Executive Officer

Pursuant to 18 U.S.C. § 1350, as created by Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned officer of ResMed Inc, a Delaware corporation (the "Company"), hereby certifies, to his knowledge, that:

(i) the accompanying Annual Report on Form 10-K of the Company for the year ended June 30, 2005 (the "Report") fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and

(ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: September 12, 2005

/s/ PETER C. FARRELL

Peter C. Farrell
Chairman and Chief Executive Officer

A signed original of this written statement required by Section 906 has been provided to ResMed Inc and will be retained by ResMed Inc and furnished to the Securities and Exchange Commission or its staff upon request.

Certification of Chief Financial Officer

Pursuant to 18 U.S.C. § 1350, as created by Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned officer of ResMed Inc, a Delaware, corporation (the "Company"), hereby certifies, to his knowledge, that:

(i) the accompanying Annual Report on Form 10-K of the Company for the year ended June 30, 2005 (the "Report") fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and

(ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: September 12, 2005

/s/ ADRIAN M. SMITH

Adrian M. Smith
Senior Vice President Finance and Chief Financial Officer

A signed original of this written statement required by Section 906 has been provided to ResMed Inc and will be retained by ResMed Inc and furnished to the Securities and Exchange Commission or its staff upon request.