

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

**FORM 10-Q**

(Mark One)  
 **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended: September 30, 2007

OR

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

For the transition period from to

Commission File Number 1-4471

**XEROX<sup>®</sup>**  
**XEROX CORPORATION**

(Exact Name of Registrant as specified in its charter)

**New York**  
(State or other jurisdiction of  
incorporation or organization)

**P.O. Box 4505**  
**45 Glover Avenue**  
**Norwalk, Connecticut**  
(Address of principal executive offices)

**16-0468020**  
(IRS Employer  
Identification No.)

**06856-4505**  
(Zip Code)

**(203) 968-3000**

(Registrant's telephone number, including area code)

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

Indicate by a check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act.

Large accelerated filer:  Accelerated filer:  Non-accelerated filer:

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

**APPLICABLE ONLY TO CORPORATE ISSUERS:**

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

<u>Class</u>	<u>Outstanding at September 30, 2007</u>
Common Stock, \$1 par value	924,426,231 shares

### **Forward-Looking Statements**

This Quarterly Report on Form 10-Q and any exhibits to this Report may contain "forward-looking statements" as defined in the Private Securities Litigation Reform Act of 1995. The words "anticipate," "believe," "estimate," "expect," "intend," "will," "should" and similar expressions, as they relate to us, are intended to identify forward-looking statements. These statements reflect management's current beliefs, assumptions and expectations and are subject to a number of factors that may cause actual results to differ materially. These factors include but are not limited to: the risk that the future business operations of Global Imaging Systems ("GIS") will not be successful; the risk that customer retention and revenue expansion goals for the GIS transaction will not be met and that disruptions from the GIS transaction will harm relationships with customers, employees, agents, distributors and suppliers; the risk that unexpected costs will be incurred; the outcome of litigation and regulatory proceedings to which we may be a party; actions of competitors; changes and developments affecting our industry; quarterly or cyclical variations in financial results; development of new products and services; interest rates and cost of borrowing; our ability to maintain and improve cost efficiency of operations; changes in foreign currency exchange rates; changes in economic conditions, political conditions, trade protection measures, licensing requirements and tax matters in the foreign countries in which we do business; reliance on third parties for manufacturing of products and provision of services and other risks that are set forth in the "Risk Factors" section, the "Legal Proceedings" section, the "Management's Discussion and Analysis of Financial Condition and Results of Operations" section and other sections of this Quarterly Report on Form 10-Q, as well as in our Quarterly Report on Form 10-Q for the quarters ended March 31, 2007 and June 30, 2007 and our 2006 Form 10-K filed with the Securities and Exchange Commission ("SEC"). The company assumes no obligation to update any forward-looking statements as a result of new information or future events or developments, except as required by law.

XEROX CORPORATION  
Form 10-Q  
September 30, 2007

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Restated Certificate of Incorporation of Registrant filed with the Department of State of the State of New York on November 7, 2003 as amended by Certificate of Amendment to Certificate of Incorporation filed with the Department of State of New York on August 19, 2004 and Certificate of Change filed with the Department of State of New York on October 24, 2007.

By-Laws of Registrant, as amended through May 24, 2007.

Amended and Restated Severance Letter Agreement

Computation of Ratio of Earnings to Fixed Charges and Computation of Ratio of Earnings to Combined Fixed Charges and Preferred Stock Dividends.

Certification of CEO pursuant to Rule 13a-14(a) or Rule 15d-14(a).

Certification of CFO pursuant to Rule 13a-14(a) or Rule 15d-14(a).

Certification of CEO and CFO Pursuant to 18 U.S.C. Section 1350, as adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

For additional information about Xerox Corporation and access to our Annual Reports to Shareholders and SEC filings, free of charge, please visit our website at [www.xerox.com/investor](http://www.xerox.com/investor). Any information on or linked from the website is not incorporated by reference into this Form 10-Q.

## Item 1

**PART I—FINANCIAL INFORMATION**  
**XEROX CORPORATION**  
**CONDENSED CONSOLIDATED STATEMENTS OF INCOME (UNAUDITED)**

(in millions, except per-share data)	Three Months Ended September 30,		Nine Months Ended September 30,	
	2007	2006	2007	2006
<b>Revenues</b>				
Sales	\$2,030	\$1,736	\$ 5,713	\$ 5,284
Service, outsourcing and rentals	2,068	1,900	6,019	5,600
Finance income	204	208	614	632
<b>Total Revenues</b>	<b>4,302</b>	<b>3,844</b>	<b>12,346</b>	<b>11,516</b>
<b>Costs and Expenses</b>				
Cost of sales	1,316	1,142	3,686	3,417
Cost of service, outsourcing and rentals	1,183	1,083	3,449	3,211
Equipment financing interest	79	75	236	227
Research, development and engineering expenses	233	230	674	685
Selling, administrative and general expenses	1,091	985	3,126	2,988
Restructuring and asset impairment charges	(3)	110	(7)	146
Other expenses, net	79	128	214	278
<b>Total Costs and Expenses</b>	<b>3,978</b>	<b>3,753</b>	<b>11,378</b>	<b>10,952</b>
<b>Income before Income Taxes and Equity Income</b>	<b>324</b>	<b>91</b>	<b>968</b>	<b>564</b>
Income tax expense (benefit)	97	(416)	275	(347)
Equity in net income of unconsolidated affiliates	27	29	60	85
<b>Net Income</b>	<b>\$ 254</b>	<b>\$ 536</b>	<b>\$ 753</b>	<b>\$ 996</b>
<b>Basic Earnings per Share</b>	<b>\$ 0.27</b>	<b>\$ 0.55</b>	<b>\$ 0.80</b>	<b>\$ 1.03</b>
<b>Diluted Earnings per Share</b>	<b>\$ 0.27</b>	<b>\$ 0.54</b>	<b>\$ 0.79</b>	<b>\$ 0.99</b>

The accompanying notes are an integral part of these Condensed Consolidated Financial Statements.

**XEROX CORPORATION**  
**CONDENSED CONSOLIDATED BALANCE SHEETS (UNAUDITED)**

(in millions, except share data in thousands)	September 30, 2007	December 31, 2006
<b>Assets</b>		
Cash and cash equivalents	\$ 848	\$ 1,399
Short-term investments	—	137
Total cash, cash equivalents and short-term investments	848	1,536
Accounts receivable, net	2,572	2,199
Billed portion of finance receivables, net	323	273
Finance receivables, net	2,628	2,649
Inventories	1,450	1,163
Other current assets	955	934
Total current assets	8,776	8,754
Finance receivables due after one year, net	4,897	4,922
Equipment on operating leases, net	553	481
Land, buildings and equipment, net	1,579	1,527
Investments in affiliates, at equity	901	874
Intangible assets, net	622	286
Goodwill	3,482	2,024
Deferred tax assets, long-term	1,472	1,790
Other long-term assets	1,115	1,051
<b>Total Assets</b>	<b>\$ 23,397</b>	<b>\$ 21,709</b>
<b>Liabilities and Common Shareholders' Equity</b>		
Short-term debt and current portion of long-term debt	\$ 1,021	\$ 1,485
Accounts payable	1,260	1,133
Accrued compensation and benefits costs	595	663
Other current liabilities	1,401	1,417
Total current liabilities	4,277	4,698
Long-term debt	7,038	5,660
Liability to subsidiary trust issuing preferred securities	620	624
Pension and other benefit liabilities	1,336	1,336
Post-retirement medical benefits	1,512	1,490
Other long-term liabilities	756	821
Total Liabilities	15,539	14,629
Common stock, including additional paid-in-capital	4,375	4,666
Treasury stock, at cost	(212)	(141)
Retained earnings	4,953	4,202
Accumulated other comprehensive loss	(1,258)	(1,647)
Total Common Shareholders' Equity	7,858	7,080
<b>Total Liabilities and Common Shareholders' Equity</b>	<b>\$ 23,397</b>	<b>\$ 21,709</b>
Shares of common stock issued	936,765	954,568
Treasury stock	(12,339)	(8,363)
Shares of common stock outstanding	924,426	946,205

The accompanying notes are an integral part of these Condensed Consolidated Financial Statements.

**XEROX CORPORATION**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS (UNAUDITED)**

(in millions)	Three Months Ended September 30,		Nine Months Ended September 30,	
	2007	2006	2007	2006
<b>Cash Flows from Operating Activities:</b>				
Net income	\$ 254	\$ 536	\$ 753	\$ 996
Adjustments required to reconcile net income to cash flows from operating activities:				
Depreciation and amortization	171	163	485	481
Provisions for receivables and inventory	48	38	142	104
Net gain on sales of businesses and assets	(1)	(11)	(5)	(23)
Undistributed equity in net income of unconsolidated affiliates	(25)	(27)	(43)	(61)
Stock-based compensation	27	17	62	45
Restructuring and asset impairment charges	(3)	110	(7)	146
Cash payments for restructurings	(61)	(42)	(195)	(184)
Contributions to pension benefit plans	(197)	(40)	(252)	(320)
Increase in inventories	(29)	(74)	(189)	(226)
Increase in equipment on operating leases	(84)	(73)	(229)	(186)
Decrease in finance receivables	50	108	270	343
(Increase) decrease in accounts receivable and billed portion of finance receivables	(111)	9	(227)	(103)
Decrease in other current and long-term assets	22	28	76	57
Increase in accounts payable and accrued compensation	150	134	77	164
Net change in income tax assets and liabilities	57	(422)	200	(420)
Net change in derivative assets and liabilities	(20)	18	(44)	24
Increase (decrease) in other current and long-term liabilities	19	45	(8)	38
Other, net	19	13	(5)	22
Net cash provided by operating activities	286	530	861	897
<b>Cash Flows from Investing Activities:</b>				
Purchases of short-term investments	—	(22)	(18)	(121)
Proceeds from sales of short-term investments	19	101	155	245
Cost of additions to land, buildings and equipment	(56)	(54)	(164)	(131)
Proceeds from sales of land, buildings and equipment	7	15	13	18
Cost of additions to internal use software	(29)	(21)	(83)	(52)
Proceeds from divestitures and investments, net	—	3	—	153
Acquisitions, net of cash acquired	(27)	(175)	(1,557)	(175)
Net change in escrow and other restricted investments	12	(42)	52	(64)
Net cash used in investing activities	(74)	(195)	(1,602)	(127)
<b>Cash Flows from Financing Activities:</b>				
Cash proceeds from new secured financings	4	28	62	102
Debt payments on secured financings	(885)	(288)	(1,317)	(1,393)
Net cash proceeds on other debt	859	495	1,855	1,286
Payment of liability to subsidiary trust issuing preferred securities	—	—	—	(100)
Preferred stock dividends	—	(14)	—	(43)
Proceeds from issuances of common stock	8	21	59	49
Excess tax benefits from stock-based compensation	3	5	21	15
Payments to acquire treasury stock	(212)	(226)	(501)	(689)
Other	(20)	(2)	(35)	(5)
Net cash (used in) provided by financing activities	(243)	19	144	(778)
Effect of exchange rate changes on cash and cash equivalents	29	—	46	22
(Decrease) increase in cash and cash equivalents	(2)	354	(551)	14
Cash and cash equivalents at beginning of period	850	982	1,399	1,322
<b>Cash and cash equivalents at end of period</b>	<b>\$ 848</b>	<b>\$ 1,336</b>	<b>\$ 848</b>	<b>\$ 1,336</b>

The accompanying notes are an integral part of these Condensed Consolidated Financial Statements.

**XEROX CORPORATION**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**(Dollars in millions, except per-share data and where otherwise noted)**

**Note 1-Basis of Presentation**

References herein to “we,” “us,” “our,” the “Company” and “Xerox” refer to Xerox Corporation and its consolidated subsidiaries unless the context specifically requires otherwise.

We have prepared the accompanying unaudited Condensed Consolidated Financial Statements in accordance with the accounting policies described in our 2006 Annual Report to Shareholders, which is incorporated by reference in our 2006 Annual Report on Form 10-K (“2006 Annual Report”), and the interim reporting requirements of Form 10-Q. Accordingly, certain information and note disclosures normally included in annual financial statements prepared in accordance with accounting principles generally accepted in the United States of America have been condensed or omitted. You should read these Condensed Consolidated Financial Statements in conjunction with the Consolidated Financial Statements included in our 2006 Annual Report.

In our opinion, all adjustments which are necessary for a fair statement of financial position, operating results and cash flows for the interim periods presented have been made. Interim results of operations are not necessarily indicative of the results of the full year.

For convenience and ease of reference, we refer to the financial statement caption “Income before Income Taxes and Equity Income” as “pre-tax income.”

**Note 2-Recent Accounting Pronouncements**

**Income Taxes**

We adopted the provisions of FASB Interpretation No. 48, “Accounting for Uncertainty in Income Taxes – an Interpretation of FASB Statement No. 109” (“FIN 48”), on January 1, 2007. FIN 48 clarifies the accounting for uncertainty in income taxes by prescribing a minimum recognition threshold for a tax position taken or expected to be taken in a tax return that is required to be met before being recognized in the financial statements. FIN 48 also provides guidance on derecognition, measurement, classification, interest and penalties, accounting in interim periods, disclosure and transition. The cumulative effect of adopting FIN 48 of \$2 was recorded as a reduction to Retained earnings. The total amount of unrecognized tax benefits as of the date of adoption was \$287.

We have filed claims in certain jurisdictions to assert our position should the law be clarified by judicial means. At this point in time, we believe it is unlikely that we will receive any benefit from these claims but we will continue to analyze as the issues develop. Accordingly, we have not included any benefit for these claims in the amount of unrecognized tax benefits.

Included in the balance at adoption are \$59 of tax positions that are highly certain but for which there is uncertainty about the timing. Because of the impact of deferred tax accounting, other than interest and penalties, the disallowance of these positions would not affect the annual effective tax rate but would accelerate the payment of cash to the tax authority to an earlier period.

We recognize interest and penalties accrued on unrecognized tax benefits as well as interest received from favorable settlements within income tax expense. As of the date of adoption, we had \$28 of interest and penalties accrued associated with unrecognized tax benefits.

We file income tax returns in the U.S. federal jurisdiction and various foreign jurisdictions. In the U.S. we are no longer subject to U.S. federal income tax examinations by tax authorities for years before 2006. With respect to our major foreign jurisdictions, we are no longer subject to tax examinations by tax authorities before 2000.

## Other Pronouncements

In September 2006, the FASB issued SFAS No. 157, "Fair Value Measurements" ("FAS 157"). FAS 157 defines fair value, establishes a market-based framework or hierarchy for measuring fair value, and expands disclosures about fair value measurements. FAS 157 is applicable whenever another accounting pronouncement requires or permits assets and liabilities to be measured at fair value. FAS 157 does not expand or require any new fair value measures, however the application of this statement may change current practice. The requirements of FAS 157 are effective for our fiscal year beginning January 1, 2008. We are in the process of evaluating this guidance and therefore have not yet determined the impact that FAS 157 will have on our financial statements upon adoption.

In February 2007, the FASB issued SFAS No. 159, "The Fair Value Option for Financial Assets and Financial Liabilities – Including an Amendment of FASB Statement No. 115" ("FAS 159"). FAS 159 permits entities to choose to measure many financial instruments and certain other items at fair value. Entities that elect the fair value option will report unrealized gains and losses in earnings at each subsequent reporting date. The fair value option may be elected on an instrument-by-instrument basis, with few exceptions. FAS 159 also establishes presentation and disclosure requirements to facilitate comparisons between companies that choose different measurement attributes for similar assets and liabilities. The requirements of FAS 159 are effective for our fiscal year beginning January 1, 2008. We do not believe that the adoption of this statement will have a material effect on our financial condition or results of operations.

## Note 3-Acquisition of GIS

On May 9, 2007, we completed our tender offer for Global Imaging Systems, Inc. ("GIS"), a provider of office technology for small and mid-size businesses in the United States, and acquired 90.4% of GIS stock for cash consideration of \$29 per common share. On May 11, 2007, we acquired the remaining outstanding shares of GIS and GIS became a wholly-owned subsidiary of the Company. The acquisition of GIS expanded our access to the U.S. small and mid-size business market. The aggregate purchase price was approximately \$1.5 billion, consisting of cash paid for outstanding stock, vested employee stock options and restricted stock and direct transaction costs. In addition, in connection with the closing, we also repaid \$200 of GIS' outstanding bank debt. The acquisition and the repayment of the outstanding bank debt was funded through cash on hand, borrowing of \$300 under our bank revolving credit facility and borrowing of \$1 billion under an interim bridge credit facility. The interim bridge facility was subsequently repaid on May 17<sup>th</sup>, using the proceeds from our issuance of \$1.1 billion 5.50% Senior Notes due 2012, and terminated in accordance with its terms. The results of operations for GIS are included in our Condensed Consolidated Statements of Income as of May 9, 2007, the effective date of acquisition. Refer to Note 8-Segment Reporting for a discussion of the segment classification of GIS.

The total cost of the acquisition has been allocated to the assets acquired and the liabilities assumed based on their respective estimated fair values. Goodwill and other intangibles recorded in connection with the acquisition totaled \$1.7 billion. Aggregate amortization expense associated with the intangibles acquired as part of the acquisition was \$6 and \$10 for the three and nine months ended September 30, 2007, respectively, based on estimated values for those acquired intangible assets.

We are still finalizing certain closing date adjustments, including the valuation of intangible assets acquired; therefore the allocation of the purchase price is subject to future adjustment.

The preliminary estimated fair values of assets acquired and liabilities assumed at the acquisition date as reflected in the financial statements are as follows:

	<b>As of May 9, 2007</b>
Current assets (includes cash of \$2)	\$ 299
Other long-term assets	40
Intangible Assets and Goodwill	<u>1,736</u>
Total assets acquired	2,075
Current liabilities	158
Other long-term liabilities	<u>386</u>
Net assets acquired	<u>\$ 1,531</u>

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The unaudited pro forma results presented below include the effects of the GIS acquisition as if it had been consummated as of January 1, 2006. The pro-forma results include the amortization associated with the estimated value of acquired intangible assets and interest expense associated with debt used to fund the acquisition. However, pro forma results do not include any anticipated synergies or other expected benefits of the acquisition. Accordingly, the unaudited pro forma financial information below is not necessarily indicative of either future results of operations or results that might have been achieved had the acquisition been consummated as of January 1, 2006.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2007	2006	2007	2006
Revenue	\$ 4,302	\$ 4,130	\$ 12,737	\$12,336
Net income	254	539	757	1,002
Basic earnings per share	0.27	0.55	0.81	1.04
Diluted earnings per share	\$ 0.27	\$ 0.54	\$ 0.79	\$ 1.00

**Note 4-Restructuring Programs**

Information related to restructuring program activity during the nine months ended September 30, 2007 is outlined below.

Restructuring Activity	Severance and Related Costs	Lease Cancellation and Other Costs	Asset Impairments	Total
<b>Ending Balance December 31, 2006</b>	<b>\$ 293</b>	<b>\$ 44</b>	<b>\$ —</b>	<b>\$ 337</b>
Restructuring Provision	25	3	1	29
Reversals of prior accruals	(34)	(2)	—	(36)
Net current period charges <sup>(1)</sup>	(9)	1	1	(7)
Charges against reserve and currency	(177)	(8)	(1)	(186)
<b>Ending Balance September 30, 2007</b>	<b>\$ 107</b>	<b>\$ 37</b>	<b>\$ —</b>	<b>\$ 144</b>

<sup>(1)</sup> Represents net amount recognized within the Condensed Consolidated Statements of Income for the period shown.

**Reconciliation to the Condensed Consolidated Statements of Cash Flows**

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2007	2006	2007	2006
Charges to reserve, all programs	\$ (56)	\$ (46)	\$ (186)	\$ (183)
Asset impairments	—	4	1	5
Effects of foreign currency and other non-cash	(5)	—	(10)	(6)
<b>Cash payments for restructurings</b>	<b>\$ (61)</b>	<b>\$ (42)</b>	<b>\$ (195)</b>	<b>\$ (184)</b>

The following table summarizes the total amount of costs incurred in connection with these restructuring programs by segment:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2007	2006	2007	2006
Production	\$ (4)	\$ 52	\$ (8)	\$ 55
Office	—	40	2	48
DMO	1	5	1	14
Other	—	13	(2)	29
<b>Total net charges</b>	<b>\$ (3)</b>	<b>\$ 110</b>	<b>\$ (7)</b>	<b>\$ 146</b>

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**Note 5-Inventories**

The following is a summary of Inventories by major category:

	September 30, 2007	December 31, 2006
Finished goods	\$ 1,208	\$ 967
Work-in-process	80	67
Raw materials	162	129
<b>Total Inventories</b>	<b>\$ 1,450</b>	<b>\$ 1,163</b>

**Note 6-Common Shareholders' Equity**

Common shareholders' equity consisted of:

	September 30, 2007	December 31, 2006
Common stock	\$ 938	\$ 956
Additional paid-in-capital	3,437	3,710
Treasury stock <sup>(1)</sup>	(212)	(141)
Retained earnings	4,953	4,202
Accumulated other comprehensive loss <sup>(2)</sup>	(1,258)	(1,647)
<b>Total</b>	<b>\$ 7,858</b>	<b>\$ 7,080</b>

<sup>(1)</sup> The following is a summary of the purchases of common stock made under our stock repurchase programs as described in our 2006 Annual Report for the period (shares in thousands):

	Total Authorized Repurchase Programs of \$2,500	
	Shares	Amount
<b>Treasury stock as of December 31, 2006</b>	<b>8,363</b>	<b>\$ 141</b>
Purchases	28,794	501*
Less cancellations	(24,818)	(430)
<b>Treasury stock as of September 30, 2007</b>	<b>12,339</b>	<b>\$ 212</b>

\* Includes associated fees of less than \$1.

Through September 30, 2007, we have repurchased a cumulative total of 129,407 shares at a cost of \$2,003 (including associated fees of \$3) under these stock repurchase programs. In October 2007, 12,339 repurchased shares were cancelled upon the Board of Directors approval and were recorded as a reduction to both Common stock of \$12 and Additional paid-in-capital of \$200.

<sup>(2)</sup> As of September 30, 2007, Accumulated other comprehensive loss is composed of cumulative translation adjustments of (\$87), benefit plans net actuarial losses and prior service credit of (\$1,171) including our share of Fuji Xerox. The Fuji Xerox amount includes a charge of (\$5) for their initial adoption of SFAS 158, "Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans, an amendment of FASB Statements No. 87, 88, 106 and 132(R)" ("FAS 158") as of its fiscal year-end of March 31, 2007.

Comprehensive income consists of:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2007	2006	2007	2006
Net Income	\$ 254	\$ 536	\$ 753	\$ 996
Translation adjustments	242	57	445	350
Changes in benefit plan assets and obligations <sup>(1)</sup>	(11)	—	(5)	—
Minimum pension liability <sup>(2)</sup>	—	—	(44)	17
Unrealized (losses) gains	(2)	2	(2)	2
Comprehensive income	<u>\$ 483</u>	<u>\$ 595</u>	<u>\$ 1,147</u>	<u>\$ 1,365</u>

(1) 2007 amount includes currency impacts of (\$20) and (\$44) for the three and nine months ended September 30, 2007, respectively.

(2) Represents our portion of a minimum pension liability adjustment recorded by Fuji Xerox, prior to their adoption of FAS 158 as of March 31, 2007. Refer to our 2006 Annual Report regarding our fourth quarter 2006 adoption of FAS 158.

#### Note 7-Interest Expense and Income

Interest expense and interest income were as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2007	2006	2007	2006
Interest expense <sup>(1)</sup>	\$ 154	\$ 138	\$ 439	\$ 404
Interest income <sup>(2)</sup>	\$ 216	\$ 226	\$ 657	\$ 681

(1) Includes Equipment financing interest, as well as non-financing interest expense that is included in Other expenses, net in the Condensed Consolidated Statements of Income.

(2) Includes Finance income, as well as other interest income that is included in Other expenses, net in the Condensed Consolidated Statements of Income.

#### Note 8-Segment Reporting

Our reportable segments are consistent with how we manage the business and view the markets we serve. Our reportable segments are Production, Office, Developing Markets Operations (“DMO”) and Other. The Production and Office segments are centered around strategic product groups which share common technology, manufacturing and product platforms, as well as classes of customers.

The Production segment includes black-and-white products that operate at speeds over 90 pages per minute (“ppm”) excluding 95 ppm with an embedded controller and color products that operate at speeds over 40 ppm excluding 50 and 60 ppm products with an embedded controller. Products include the Xerox iGen3® digital color production press, Xerox Nuvera™, DocuTech®, DocuPrint® and DocuColor® families, as well as older technology light-lens products. These products are sold predominantly through direct sales channels in North America and Europe to Fortune 1000, graphic arts, government, education and other public sector customers.

The Office segment includes black-and-white products that operate at speeds up to 90 ppm as well as 95 ppm with an embedded controller and color products up to 40 ppm as well as 50 and 60 ppm products with an embedded controller. Products include the suite of CopyCentre®, WorkCentre®, and WorkCentre Pro digital multifunction systems, DocuColor color multifunction products, color laser, solid ink color printers and multifunction devices, monochrome laser desktop printers, digital and light-lens copiers, facsimile products and non-Xerox branded products with similar specifications. These products are sold through direct and indirect sales channels in North America and Europe to global, national and mid-size commercial customers as well as government, education and other public sector customers. Approximately 75% of GIS’ revenue is included in our Office segment representing those sales and services that align to our Office segment.

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The DMO segment includes our operations in Latin America, Brazil, the Middle East, India, Eurasia, Central and Eastern Europe, and Africa. This segment's sales consist of office and production products including a large proportion of office devices and printers that operate at speeds of 11-40 ppm. Management serves and evaluates these markets on an aggregate geographic basis, rather than on a product basis.

The segment classified as Other includes several units, none of which met the thresholds for separate segment reporting. This group primarily includes Xerox Supplies Business Group (predominantly paper), value-added services, Wide Format Systems, Xerox Technology Enterprises, royalty and licensing revenues, GIS network integration solutions and electronic presentation systems, equity net income and non-allocated Corporate items. Value-added services includes the results of our July 2006 acquisition of Amici LLC (now Xerox Litigation Services). Other segment profit (loss) includes the operating results from these entities, other less significant businesses, our equity income from Fuji Xerox, and certain costs which have not been allocated to the Production, Office and DMO segments, including non-financing interest as well as other items included in Other expenses, net.

Operating segment revenues and profitability for the three months ended September 30, 2007 and 2006 were as follows:

	<u>Production</u>	<u>Office</u>	<u>DMO</u>	<u>Other</u>	<u>Total</u>
<b>2007</b>					
Total Segment revenues	\$ 1,151	\$ 2,099	\$ 535	\$ 517	\$ 4,302
Segment profit	\$ 97	\$ 225	\$ 32	\$ 6	\$ 360
<b>2006</b>					
Total Segment revenues	\$ 1,088	\$ 1,849	\$ 478	\$ 429	\$ 3,844
Segment profit	\$ 73	\$ 183	\$ 28	\$ 15	\$ 299

Operating segment revenues and profitability for the nine months ended September 30, 2007 and 2006 were as follows:

	<u>Production</u>	<u>Office</u>	<u>DMO</u>	<u>Other</u>	<u>Total</u>
<b>2007</b>					
Total Segment revenues	\$ 3,389	\$ 5,975	\$ 1,524	\$ 1,458	\$ 12,346
Segment profit	\$ 279	\$ 683	\$ 85	\$ 22	\$ 1,069
<b>2006</b>					
Total Segment revenues	\$ 3,257	\$ 5,580	\$ 1,383	\$ 1,296	\$ 11,516
Segment profit	\$ 228	\$ 556	\$ 79	\$ 5	\$ 868

The following is a reconciliation to pre-tax income:

	<u>Three Months Ended September 30,</u>		<u>Nine Months Ended September 30,</u>	
	<u>2007</u>	<u>2006</u>	<u>2007</u>	<u>2006</u>
<b>Total Segment profit</b>	\$ 360	\$ 299	\$ 1,069	\$ 868
Reconciling items:				
Restructuring and asset impairment charges	3	(110)	7	(146)
Restructuring charges of Fuji Xerox	(5)	—	(28)	—
Provision for litigation matters	—	(68)	—	(68)
Miscellaneous expenses	(7)	(1)	(20)	(5)
Equity in net income of unconsolidated affiliates	(27)	(29)	(60)	(85)
<b>Pre-tax income</b>	\$ 324	\$ 91	\$ 968	\$ 564

**Note 9-Investment in Fuji Xerox**

Our equity in net income of our unconsolidated affiliates was as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2007	2006	2007	2006
Fuji Xerox	\$ 25	\$ 27	\$ 55	\$ 80
Other investments	2	2	5	5
Total	<u>\$ 27</u>	<u>\$ 29</u>	<u>\$ 60</u>	<u>\$ 85</u>

Condensed financial data of Fuji Xerox was as follows:

Summary of Operations	Three Months Ended September 30,		Nine Months Ended September 30,	
	2007	2006	2007	2006
Revenues	\$ 2,512	\$ 2,493	\$ 7,515	\$ 7,458
Costs and Expenses	2,334	2,320	7,104	6,909
Income before income taxes	178	173	411	549
Income taxes	70	58	159	204
Minorities' interests	1	2	4	4
Net income	<u>\$ 107</u>	<u>\$ 113</u>	<u>\$ 248</u>	<u>\$ 341</u>

Equity in net income of Fuji Xerox is affected by certain adjustments to reflect the deferral of profit associated with intercompany sales. These adjustments may result in recorded equity income that is different from that implied by our 25% ownership interest. Equity income for the nine months ended September 30, 2007 includes after-tax restructuring charges of \$28 primarily reflecting employee related costs as part of Fuji Xerox's continued cost-reduction actions to improve its competitive position.

**Note 10-Debt**

On April 30, 2007, we amended and restated our \$1.25 billion unsecured revolving credit facility that was originally entered into in April 2006 (the "2006 Credit Facility"). The amended and restated facility (the "2007 Credit Facility") increased the maximum amount available for borrowing to \$2 billion and includes a \$300 letter of credit subfacility. The 2007 Credit Facility includes provisions that would allow us to increase the overall size of the facility to an aggregate amount not to exceed \$2.5 billion. The 2007 Credit Facility matures on April 30, 2012, although we have the right to request a one year extension on each of the first and second anniversaries of the facility.

In May 2007, we issued \$1.1 billion of Senior Notes due 2012 (the "2012 Senior Notes") at 99.613 percent of par, resulting in net proceeds of \$1,088. The 2012 Senior Notes accrue interest at the rate of 5.50% per annum, payable semiannually, and as a result of the discount, have a weighted average effective interest rate of 5.59%. In conjunction with the issuance of the 2012 Senior Notes, debt issuance costs of \$7 were deferred. The 2012 Senior Notes are subordinated to our secured indebtedness and rank equally with our other existing senior unsecured indebtedness. Refer to Note 3-Acquisition of GIS for more details on the funding of the GIS acquisition.

In July and August 2007, we issued \$300 and \$100, respectively, zero coupon bonds in private placement transactions. The bonds mature in 2022 and the final amounts due at maturity are \$706 and \$233, respectively. The bonds are putable annually at the option of the bond holder after two years.

**Note 11-Employee Benefit Plans**

The components of Net periodic benefit cost and other amounts recognized in Other comprehensive income were as follows:

	Three Months Ended September 30,				Nine Months Ended September 30,			
	Pension Benefits		Retiree Health		Pension Benefits		Retiree Health	
	2007	2006	2007	2006	2007	2006	2007	2006
<b>Net periodic benefit cost:</b>								
Service cost	\$ 61	\$ 58	\$ 4	\$ 4	\$ 181	\$ 184	\$ 13	\$ 15
Interest cost	132	128	22	25	389	379	65	72
Expected return on plan assets	(153)	(146)	—	—	(453)	(427)	—	—
Recognized net actuarial loss	19	26	2	3	56	76	7	16
Amortization of prior service credit	(6)	(6)	(3)	(7)	(16)	(12)	(9)	(11)
Recognized settlement loss	4	31	—	—	16	64	—	—
<b>Net periodic benefit cost</b>	<b>\$ 57</b>	<b>\$ 91</b>	<b>\$ 25</b>	<b>\$ 25</b>	<b>\$ 173</b>	<b>\$ 264</b>	<b>\$ 76</b>	<b>\$ 92</b>
<b>Other changes in plan assets and benefit obligations recognized in Other comprehensive income:</b>								
Amortization of net prior service credit	6		3		16		9	
Net actuarial losses	(23)		(2)		(72)		(7)	
<b>Total recognized in Other comprehensive income<sup>(1)</sup></b>	<b>(17)</b>		<b>1</b>		<b>(56)</b>		<b>2</b>	
<b>Total recognized in Net periodic benefit cost and Other comprehensive income</b>	<b>\$ 40</b>		<b>\$ 26</b>		<b>\$ 117</b>		<b>\$ 78</b>	

<sup>(1)</sup> Amount represents the pre-tax effect included within Other comprehensive income. The net of tax amount and the effect of translation adjustments are included within the table in Note 6.

As of September 30, 2007 contributions of \$252 and \$73 were made to our pension plans in 2007 and our other post-retirement benefit plans, respectively. Currently we anticipate contributing an additional \$41 to our pension plans and \$30 to our other post-retirement benefit plans in 2007 for a total of \$293 for pension plans and \$103 for other post-retirement benefit plans. We disclosed in our 2006 Annual Report that we expected to contribute approximately \$130 to our worldwide pension plans and approximately \$100 to our other post-retirement benefit plans in 2007. The increase in expected 2007 defined benefit pension plan contributions is primarily due to our election to contribute \$158 to our U.S. plans in September 2007 following a review of the 2007 actuarial valuation results. The \$158 contribution to the U.S. plans was made for the purpose of making those plans 100% funded on an estimated current liability basis under ERISA funding rules using a corporate bond rate.

**Note 12-Earnings per Share**

The following table sets forth the computation of basic and diluted earnings per share of common stock (shares in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2007	2006	2007	2006
<b>Basic Earnings per Share:</b>				
Net Income	\$ 254	\$ 536	\$ 753	\$ 996
Accrued dividends on Series C Mandatory Convertible Preferred Stock <sup>(1)</sup>	—	—	—	(29)
Adjusted net income available to common shareholders	\$ 254	\$ 536	\$ 753	\$ 967
Weighted Average Common Shares Outstanding	932,217	974,737	938,729	938,690
<b>Basic Earnings per Share</b>	<b>\$ 0.27</b>	<b>\$ 0.55</b>	<b>\$ 0.80</b>	<b>\$ 1.03</b>
<b>Diluted Earnings per Share:</b>				
Net Income	\$ 254	\$ 536	\$ 753	\$ 996
Interest on Convertible Securities, net	—	—	1	1
Adjusted net income available to common shareholders	\$ 254	\$ 536	\$ 754	\$ 997
Weighted Average Common Shares Outstanding	932,217	974,737	938,729	938,690
Common shares issuable with respect to:				
Stock options	8,265	8,585	9,005	8,499
Restricted stock and performance shares	9,071	4,115	6,889	3,499
Series C Mandatory Convertible Preferred Stock <sup>(1)</sup>	—	—	—	49,865
Convertible securities	1,992	1,992	1,992	1,992
Adjusted Weighted Average Common Shares Outstanding	951,545	989,429	956,615	1,002,545
<b>Diluted Earnings per Share</b>	<b>\$ 0.27</b>	<b>\$ 0.54</b>	<b>\$ 0.79</b>	<b>\$ 0.99</b>

<sup>(1)</sup> Series C Mandatory Convertible Preferred Stock were converted to common shares in July 2006.

**Note 13-Contingencies**

*Indemnification of Officers and Directors:* Our corporate by-laws require that, except to the extent expressly prohibited by law, we must indemnify Xerox Corporation's officers and directors against judgments, fines, penalties and amounts paid in settlement, including legal fees and all appeals, incurred in connection with civil or criminal action or proceedings, as it relates to their services to Xerox Corporation and our subsidiaries. Although the by-laws provide no limit on the amount of indemnification, we may have recourse against our insurance carriers for certain payments made by us. However, certain indemnification payments may not be covered under our directors' and officers' insurance coverage. In addition, we indemnify certain fiduciaries of our employee benefit plans for liabilities incurred in their service as fiduciary whether or not they are officers of the Company.

**Other contingencies**

*Brazil Tax and Labor Contingencies:* Our Brazilian operations are involved in various litigation matters and have received, or been the subject of, numerous governmental assessments related to indirect and other taxes as well as disputes associated with former employees and contract labor. The tax matters, which comprise a significant portion of the total contingencies, principally relate to claims for taxes on the internal transfer of inventory, municipal service taxes on rentals and gross revenue taxes. We are disputing these tax matters and intend to vigorously defend our position. Based on the opinion of legal counsel, we do not believe that the ultimate resolution of these matters will materially impact our results of operations, financial position or cash flows. The labor matters principally relate to claims made by former employees and contract labor for the equivalent payment of all social security and other related labor benefits, as well as consequential tax claims, as if they were regular employees. As of September 30, 2007, the total amounts related to the unreserved portion of the tax and labor contingencies, inclusive of any related interest, amounted to approximately \$1,115, with the change from December 31, 2006 balance of \$960 primarily related to indexation, interest and currency.

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In connection with the above proceedings, customary local regulations may require us to make escrow cash deposits or post other security of up to half of the total amount in dispute. As of September 30, 2007, we had \$192 of escrow cash deposits for matters we are disputing and there are liens on certain Brazilian assets with a net book value of \$61 and additional letters of credit of approximately \$71. Generally, any escrowed amounts would be refundable and any liens would be removed to the extent the matters are resolved in our favor. We routinely assess all these matters as to probability of ultimately incurring a liability against our Brazilian operations and record our best estimate of the ultimate loss in situations where we assess the likelihood of an ultimate loss as probable of occurring.

### **Legal Matters**

As more fully discussed below, we are involved in a variety of claims, lawsuits, investigations and proceedings concerning securities law, intellectual property law, environmental law, employment law and the Employee Retirement Income Security Act ("ERISA"). We determine whether an estimated loss from a contingency should be accrued by assessing whether a loss is deemed probable and can be reasonably estimated. We assess our potential liability by analyzing our litigation and regulatory matters using available information. We develop our views on estimated losses in consultation with outside counsel handling our defense in these matters, which involves an analysis of potential results, assuming a combination of litigation and settlement strategies. Should developments in any of these matters cause a change in our determination as to an unfavorable outcome and result in the need to recognize a material accrual, or should any of these matters result in a final adverse judgment or be settled for significant amounts, they could have a material adverse effect on our results of operations, cash flows and financial position in the period or periods in which such change in determination, judgment or settlement occurs.

#### **Litigation Against the Company:**

*In re Xerox Corporation Securities Litigation:* A consolidated securities law action (consisting of 17 cases) is pending in the United States District Court for the District of Connecticut. Defendants are the Company, Barry Romeril, Paul Allaire and G. Richard Thoman. The consolidated action purports to be a class action on behalf of the named plaintiffs and all other purchasers of common stock of the Company during the period between October 22, 1998 through October 7, 1999 ("Class Period"). The amended consolidated complaint in the action alleges that in violation of Section 10(b) and/or 20(a) of the Securities Exchange Act of 1934, as amended ("1934 Act"), and SEC Rule 10b-5 thereunder, each of the defendants is liable as a participant in a fraudulent scheme and course of business that operated as a fraud or deceit on purchasers of the Company's common stock during the Class Period by disseminating materially false and misleading statements and/or concealing material facts relating to the defendants' alleged failure to disclose the material negative impact that the April 1998 restructuring had on the Company's operations and revenues. The amended complaint further alleges that the alleged scheme: (i) deceived the investing public regarding the economic capabilities, sales proficiencies, growth, operations and the intrinsic value of the Company's common stock; (ii) allowed several corporate insiders, such as the named individual defendants, to sell shares of privately held common stock of the Company while in possession of materially adverse, non-public information; and (iii) caused the individual plaintiffs and the other members of the purported class to purchase common stock of the Company at inflated prices. The amended consolidated complaint seeks unspecified compensatory damages in favor of the plaintiffs and the other members of the purported class against all defendants, jointly and severally, for all damages sustained as a result of defendants' alleged wrongdoing, including interest thereon, together with reasonable costs and expenses incurred in the action, including counsel fees and expert fees. On September 28, 2001, the Court denied the defendants' motion for dismissal of the complaint. On November 5, 2001, the defendants answered the complaint. On or about January 7, 2003, the plaintiffs filed a motion for class certification. Xerox and the individual defendants filed their opposition to that motion on June 28, 2005. On or about November 8, 2004, the International Brotherhood of Electrical Workers Welfare Fund of Local Union No. 164 ("IBEW") filed a motion to intervene as a named plaintiff and class representative. Separately, on June 8, 2005, IBEW and Robert W. Roten ("Roten") moved to substitute as lead plaintiffs and proposed class representatives. On May 12, 2006, the Court denied, without prejudice to refiling, plaintiffs' motion for class certification, IBEW's motion to intervene and serve as named plaintiff and class representative, and IBEW and Roten's joint motion to substitute as lead plaintiffs and proposed class representatives. The Court also ordered the parties to submit to it a notice to certain putative class members to inform them of the circumstances surrounding the withdrawal of several lead plaintiffs, and to advise them of the opportunity to express their desire to serve as a representative of the putative class. On July 25, 2006, the Court so-ordered a form of notice, and plaintiffs thereafter distributed the notice. Thereafter, Roten, Robert Agius ("Agius") and Georgia Stanley ("Stanley") filed applications to be considered lead plaintiff. On November 13, 2006, IBEW, Roten, Agius and Stanley filed a motion for appointment as additional lead plaintiffs. Defendants filed their

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response on November 28, 2006. On February 2, 2007, the Court granted the motion of IBEW, Roten, Agius and Stanley and appointed them as additional lead plaintiffs. On February 15, 2007, lead plaintiffs IBEW, Roten, Agius, Stanley and Thomas Dalberth filed their renewed motion for class certification. On July 18, 2007, the Court entered an order denying plaintiffs' renewed motion for class certification, without prejudice to renewal after the Court holds a pre-filing conference to identify factual disputes the Court will be required to resolve in ruling on the motion. The parties are currently engaged in discovery. The individual defendants and we deny any wrongdoing and are vigorously defending the action. Based on the stage of the litigation, it is not possible to estimate the amount of loss or range of possible loss that might result from an adverse judgment or a settlement of this matter.

*Carlson v. Xerox Corporation, et al.*: A consolidated securities law action (consisting of 21 cases) is pending in the United States District Court for the District of Connecticut against the Company, KPMG and Paul A. Allaire, G. Richard Thoman, Anne M. Mulcahy, Barry D. Romeril, Gregory Tayler and Philip Fishbach. On September 11, 2002, the Court entered an endorsement order granting plaintiffs' motion to file a third consolidated amended complaint. The defendants' motion to dismiss the second consolidated amended complaint was denied, as moot. According to the third consolidated amended complaint, plaintiffs purport to bring this case as a class action on behalf of an expanded class consisting of all persons and/or entities who purchased Xerox common stock and/or bonds during the period between February 17, 1998 through June 28, 2002 and who were purportedly damaged thereby ("Class"). The third consolidated amended complaint sets forth two claims: one alleging that each of the Company, KPMG, and the individual defendants violated Section 10(b) of the 1934 Act and SEC Rule 10b-5 thereunder; the other alleging that the individual defendants are also allegedly liable as "controlling persons" of the Company pursuant to Section 20(a) of the 1934 Act. Plaintiffs claim that the defendants participated in a fraudulent scheme that operated as a fraud and deceit on purchasers of the Company's common stock and bonds by disseminating materially false and misleading statements and/or concealing material adverse facts relating to various of the Company's accounting and reporting practices and financial condition. The plaintiffs further allege that this scheme deceived the investing public regarding the true state of the Company's financial condition and caused the plaintiffs and other members of the alleged Class to purchase the Company's common stock and bonds at artificially inflated prices, and prompted a SEC investigation that led to the April 11, 2002 settlement which, among other things, required the Company to pay a \$10 penalty and restate its financials for the years 1997-2000 (including restatement of financials previously corrected in an earlier restatement which plaintiffs contend was improper). The third consolidated amended complaint seeks unspecified compensatory damages in favor of the plaintiffs and the other Class members against all defendants, jointly and severally, including interest thereon, together with reasonable costs and expenses, including counsel fees and expert fees. On December 2, 2002, the Company and the individual defendants filed a motion to dismiss the complaint. On July 13, 2005, the Court denied the motion. On October 31, 2005, the defendants answered the complaint. On January 19, 2006, plaintiffs filed a motion for class certification. On July 18, 2007, the Court entered an order denying plaintiffs' motion for class certification, without prejudice to renewal after the Court holds a pre-filing conference to identify factual disputes the Court will be required to resolve in ruling on the motion. Plaintiffs have filed notices of withdrawal of proposed class representatives Sol Sachs, Leonard Nelson and Fernan Cepero. The Court has approved plaintiffs' notice of withdrawal of proposed class representative Fernan Cepero. The parties are engaged in discovery. The individual defendants and we deny any wrongdoing and are vigorously defending the action. Based on the stage of the litigation, it is not possible to estimate the amount of loss or range of possible loss that might result from an adverse judgment or a settlement of this matter.

*Florida State Board of Administration, et al. v. Xerox Corporation, et al.*: A securities law action brought by four institutional investors, namely the Florida State Board of Administration, the Teachers' Retirement System of Louisiana, Franklin Mutual Advisers and PPM America, Inc., is pending in the United States District Court for the District of Connecticut against the Company, Paul Allaire, G. Richard Thoman, Barry Romeril, Anne Mulcahy, Philip Fishbach, Gregory Tayler and KPMG. The plaintiffs bring this action individually on their own behalves. In an amended complaint filed on October 3, 2002, one or more of the plaintiffs allege that each of the Company, the individual defendants and KPMG violated Sections 10(b) and 18 of the 1934 Act, SEC Rule 10b-5 thereunder, the Florida Securities Investors Protection Act, Fl. Stat. ss. 517.301, and the Louisiana Securities Act, R.S. 51:712(A). The plaintiffs further claim that the individual defendants are each liable as "controlling persons" of the Company pursuant to Section 20 of the 1934 Act and that each of the defendants is liable for common law fraud and negligent misrepresentation. The complaint generally alleges that the defendants participated in a scheme and course of conduct that deceived the investing public by disseminating materially false and misleading statements and/or concealing material adverse facts relating to the Company's financial condition and accounting and reporting practices. The plaintiffs contend that in relying on false and misleading statements allegedly made by the defendants, at various times from 1997 through 2000 they bought shares of the Company's common stock at artificially inflated prices. As a result, they allegedly suffered aggregated cash losses in excess of \$200. The

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plaintiffs further contend that the alleged fraudulent scheme prompted a SEC investigation that led to the April 11, 2002 settlement which, among other things, required the Company to pay a \$10 penalty and restate its financials for the years 1997-2000 including restatement of financials previously corrected in an earlier restatement which plaintiffs contend was false and misleading. The plaintiffs seek, among other things, unspecified compensatory damages against the Company, the individual defendants and KPMG, jointly and severally, including prejudgment interest thereon, together with the costs and disbursements of the action, including their actual attorneys' and experts' fees. On December 2, 2002, the Company and the individual defendants filed a motion to dismiss all claims in the complaint that are in common with the claims in the Carlson action. On July 13, 2005, the Court denied the motion. On December 9, 2005, the defendants moved to dismiss claims based on issues uniquely related to plaintiffs. On September 28, 2007, the Court entered an order proposed by the parties to resolve motions to dismiss, pursuant to which plaintiffs voluntarily dismissed certain claims, the Xerox defendants withdrew as moot their partial motion to dismiss the amended complaint and KPMG withdrew without prejudice its motion to dismiss the amended complaint. Defendants' answer with respect to claims unique to this case is due on November 9, 2007. The parties are engaged in discovery. The individual defendants and we deny any wrongdoing and are vigorously defending the action. Based on the stage of the litigation, it is not possible to estimate the amount of loss or range of possible loss that might result from an adverse judgment or a settlement of this matter.

*In Re Xerox Corp. ERISA Litigation:* On July 1, 2002, a class action complaint captioned Patti v. Xerox Corp. et al. was filed in the United States District Court for the District of Connecticut (Hartford) alleging violations of the ERISA. Three additional class actions (Hopkins, Uebele and Saba) were subsequently filed in the same court making substantially similar claims. On October 16, 2002, the four actions were consolidated as *In Re Xerox Corporation ERISA Litigation*. On November 15, 2002, a consolidated amended complaint was filed. A fifth class action (Wright) was filed in the District of Columbia. It has been transferred to Connecticut and consolidated with the other actions. The purported class includes all persons who invested or maintained investments in the Xerox Stock Fund in the Xerox 401(k) Plans (either salaried or union) during the proposed class period, May 12, 1997 through November 15, 2002, and allegedly exceeds 50,000 persons. The defendants include Xerox Corporation and the following individuals or groups of individuals during the proposed class period: the Plan Administrator, the Board of Directors, the Fiduciary Investment Review Committee, the Joint Administrative Board, the Finance Committee of the Board of Directors, and the Treasurer. The complaint claims that all the foregoing defendants were fiduciaries of the Plan under ERISA and, as such, were obligated to protect the Plan's assets and act in the interest of Plan participants. The complaint alleges that the defendants failed to do so and thereby breached their fiduciary duties. Specifically, plaintiffs claim that the defendants failed to provide accurate and complete material information to participants concerning Xerox stock, including accounting practices which allegedly artificially inflated the value of the stock, and misled participants regarding the soundness of the stock and the prudence of investing their retirement assets in Xerox stock. Plaintiffs also claim that defendants failed to invest Plan assets prudently, to monitor the other fiduciaries and to disregard Plan directives they knew or should have known were imprudent, and failed to avoid conflicts of interest. The complaint does not specify the amount of damages sought. However, it asks that the losses to the Plans be restored, which it describes as "millions of dollars." It also seeks other legal and equitable relief, as appropriate, to remedy the alleged breaches of fiduciary duty, as well as interest, costs and attorneys' fees. Defendants filed a motion to dismiss the complaint for failure to state claim. The plaintiffs subsequently filed a motion for class certification and a motion to commence discovery. Defendants opposed both motions, contending that both are premature before there is a decision on their motion to dismiss. On March 31, 2006, the Court granted defendants' motion to postpone consideration of class certification pending disposition of defendants' motion to dismiss, and granted plaintiffs' motion to commence formal discovery. On April 17, 2007, the Court ruled on the motion to dismiss, granting it in part and denying it in part, and giving the plaintiffs an opportunity to replead. In essence, the Court stated that the class period does not extend past the date on which the complaint was filed, November 15, 2002. The Court also required the plaintiffs to plead with greater specificity with regard to which defendants are alleged to have breached which duties, and granted the motion with respect to the duty of loyalty count, agreeing with defendants that ERISA does not require fiduciaries to avoid conflicts of interest but rather sets a loyalty standard to which fiduciaries must adhere when faced with a conflict of interest. However, the Court did give the plaintiffs leave to replead the duty of loyalty count. Further, the Court granted the motion as to plaintiffs' prayer for relief seeking to enjoin the defendants from violating ERISA, holding that an injunction must be more specific than a simple command that the defendants obey the law. The Court denied the motion as to the prudence count and the monitoring count, ruling that further fact development is needed as to those counts, and, on the disclosure count, determined that plaintiffs have set forth a claim, rejecting defendants' assertion that SEC filings made by the Company in its corporate capacity and required by the federal securities laws cannot be the basis of a fiduciary breach under ERISA even if subsequently included in disclosures made directly to plan participants. Finally, the Court held that the plaintiffs are not precluded from pursuing their claims under section 502(a)(2) merely because any recovery

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will not be shared by all participants in the plan but rather by a sub-class of participants who had invested in Xerox stock during the class period. Also on April 17, 2007, the Court denied plaintiffs' motion to certify a class and said that subject needs to be addressed in a scheduling conference that the Court will convene in the future. The plaintiffs subsequently filed a Second Consolidated Amended Complaint, alleging that some or all defendants breached their ERISA fiduciary duties during 1997-2002 by (1) maintaining the Xerox Stock Fund as an investment option under the Plan; (2) failing to monitor the conduct of Plan fiduciaries; and (3) misleading Plan participants about Xerox stock as an investment option under the Plans. On July 18, 2007, Defendants answered the new complaint and also filed a partial motion to dismiss. On August 9, 2007, the plaintiffs filed their motion for class certification and on August 31, 2007 filed their opposition to defendants' partial motion to dismiss. Discovery is ongoing. The Company and the other defendants deny any wrongdoing and will continue to vigorously defend the action. At this stage of the litigation, it is not possible to estimate the amount of loss or range of possible loss that might result from an adverse judgment or a settlement of this matter.

*Digwamaje et al. v. IBM et al.*: A purported class action was filed in the United States District Court for the Southern District of New York on September 27, 2002. Service of the First Amended Complaint on the Company was deemed effective as of December 6, 2002. On March 19, 2003, Plaintiffs filed a Second Amended Complaint that eliminated a number of corporate defendants but was otherwise identical in all material respects to the First Amended Complaint. The defendants include Xerox and a number of other corporate defendants who are accused of providing material assistance to the apartheid government in South Africa from 1948 to 1994, by engaging in commerce in South Africa and with the South African government and by employing forced labor, thereby violating both international and common law. Specifically, plaintiffs claim violations of the Alien Tort Claims Act, the Torture Victims Protection Act and RICO. They also assert human rights violations and crimes against humanity. Plaintiffs seek compensatory damages in excess of \$200 billion and punitive damages in excess of \$200 billion. The foregoing damages are being sought from all defendants, jointly and severally. Xerox filed a motion to dismiss the Second Amended Complaint. Oral argument of the motion was heard on November 6, 2003. By Memorandum Opinion and Order filed November 29, 2004, the Court granted the motion to dismiss. A clerk's judgment of dismissal was filed on November 30, 2004. On December 27, 2004, the Company received a notice of appeal dated December 24, 2004. On February 16, 2005, the parties filed a stipulation withdrawing the December 24, 2004 appeal on the ground that the November 30, 2004 judgment of dismissal was not appealable. On March 28, 2005, Plaintiffs submitted a letter requesting permission to file a motion for leave to file an amended and consolidated complaint. By Summary Order filed April 6, 2005, the Court denied the request. In a second Summary Order filed the same day, the Court amended its November 29, 2004, Opinion and Order, which dismissed the action, so as to render the Opinion and Order appealable and plaintiffs filed a new appeal on May 3, 2005. On August 19, 2005, plaintiffs-appellants filed their brief in the Second Circuit Court of Appeals. On October 4, 2005, defendants-appellees filed their brief in the Second Circuit Court of Appeals. Oral argument in the Second Circuit Court of Appeals was held on January 24, 2006. On October 12, 2007, the United States Court of Appeals affirmed the dismissal of the claims asserted under the Torture Victim Protection Act, vacated the dismissal of the claims asserted under the Alien Tort Claims Act and remanded those claims to the district court for further proceedings. Xerox denies any wrongdoing and is vigorously defending the action. Based upon the stage of the litigation, it is not possible to estimate the amount of loss or range of possible loss that might result from an adverse judgment or a settlement of this matter.

*Arbitration between MPI Technologies, Inc. and Xerox Canada Ltd. and Xerox Corporation*: In an arbitration proceeding the hearing of which commenced on January 18, 2005, MPI Technologies, Inc. and MPI Tech S.A. (collectively "MPI") sought damages from Xerox Corporation and Xerox Canada Ltd. ("XCL") for royalties owed under a license agreement made as of March 15, 1994 between MPI and XCL (the "Agreement") and breach of fiduciary duty, breach of confidence, equitable royalties and punitive damages and disgorgement of profits and injunctive relief with respect to a claim of copyright infringement. On September 9, 2005, the arbitration panel rendered its decision, holding in part that the Agreement had been assigned to Xerox and that no punitive damages should be granted, and awarded MPI approximately \$89, plus interest thereon. On December 12, 2005, the arbitration panel rendered its decision on the applicable rate of pre-judgment interest resulting in an award of \$13 for pre- and post-judgment interest. In June 2006, Xerox's application for judicial review of the award, seeking to have the award set aside in its entirety, was heard by the Ontario Superior Court in Toronto. The Ontario Superior Court issued a decision on November 30, 2006 dismissing Xerox's appeal. In December 2006, Xerox released all monies and software it had placed in escrow prior to its application for review in satisfaction of the arbitration panel's final award. On January 30, 2007, Xerox and XCL served an arbitration claim against MPI seeking a declaratory award concerning the preclusive effect of the remedy awarded by the prior arbitration panel. On March 27, 2007, MPI delivered to Xerox a statement of defense and counterclaim in response to Xerox's arbitration claim. MPI claims entitlement to an unspecified amount of damages for royalties. In addition, MPI claims damages of \$50 for alleged "misuse" of its licensed software by Xerox after December 2006. MPI also

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claims entitlement to unspecified amounts of pre and post-judgment interest and its costs of the arbitration. Xerox delivered a reply and answer to MPI's defense and counterclaim on May 29, 2007 and MPI delivered a Reply to that pleading on July 5, 2007. Based on the stage of the proceeding, it is not possible to estimate the amount of any material loss or range of material loss that might result from any adverse resolution of any of the claims advanced in such counterclaim.

*National Union Fire Insurance Company v. Xerox Corporation, et al.*: On October 24, 2003, a declaratory judgment action was filed in the Supreme Court of the State of New York, County of New York against the Company and several current and former officers and/or members of the Board of Directors. Plaintiff claims that it issued an Excess Directors & Officers Liability and Corporate Reimbursement Policy to the Company in reliance on information from the Company that allegedly misrepresented the Company's financial condition and outlook. The policy at issue provides for \$25 of coverage as a component of the company reimbursement portion of an insurance program that provides for up to \$135 coverage (after deductibles and coinsurance and subject to other policy limitations and requirements) over a three-year period. However, \$10 of the entire amount may be unavailable due to the liquidation of one of the other insurers. Plaintiff seeks judgment (i) that it is entitled to rescind the policy as void from the outset; (ii) in the alternative, limiting coverage under the policy and awarding plaintiff damages in an unspecified amount representing that portion of any required payment under the policy that is attributable to the Company's and the individual defendants' own misconduct; and (iii) for the costs and disbursement of the action and such other relief as the court deems just and proper. On December 19, 2003, the Company and individual defendants moved to dismiss the complaint. On November 10, 2004, the Court issued an opinion partially granting and partially denying the motions. Among other things, the Court granted the motions to dismiss all of the claims for rescission and denied plaintiff's request to replead. The Court denied the Company's and some of the individual defendants' motions to dismiss certain claims that seek to limit coverage based on particular provisions in the policy and that at least in part related to settlement with the SEC. Plaintiff filed notices of appeal on January 10, 2005 and February 11, 2005. By order entered on January 3, 2006, the Appellate Division affirmed the portions of the Court's November 10, 2004 decision which dismissed several of plaintiff's claims and denied leave to replead. On February 2, 2006, plaintiff moved for reargument or for leave to appeal to the Court of Appeals. On May 30, 2006, the Appellate Division denied plaintiff's motion. Separately, on February 22, 2005, the defendants filed a motion seeking dismissal of any remaining claims in light of Xerox's representation that it will not seek coverage from plaintiff for settlement payments to the SEC. By order dated July 12, 2005, the Court denied the motion. On August 23, 2005, defendants moved for leave to reargue the February 22 motion and separately moved for leave to renew the December 19, 2003 motions. On April 10, 2006, the Court issued an order granting those motions, dismissing one cause of action and partially dismissing the two other causes of action that were the subject of those motions. Subsequently, at a status conference on May 4, 2006, the parties appeared before the Court and discussed inconsistencies between the Court's April 10, 2006 order and its November 10, 2004 decision. As a result, on May 5, 2006 the Court executed an order, which was later rendered on July 27, 2006, withdrawing the April 10, 2006 order and substituting a new order which clarified and confirmed the dismissal of all claims asserted in the original complaint. On August 31, 2006, plaintiff filed a notice of appeal (to the Appellate Division) of the May 5, 2006 order and subsequently filed a withdrawal of such notice of appeal, without prejudice, dated May 11, 2007. On September 5, 2006, plaintiff served a motion to the Court of Appeals seeking leave to appeal directly to that court from the May 5, 2006 order, and seeking review of the Appellate Division's January 3, 2006 order. On November 20, 2006, the Court of Appeals denied plaintiff's motion. Plaintiff had earlier filed an amended complaint on February 27, 2006, naming all defendants named in the original complaint and adding four causes of action against Xerox only, as well as a demand for unspecified monetary relief. On May 11, 2006, Xerox served its motion to dismiss the amended complaint and for sanctions. On August 2, 2006, the Court granted Xerox's motion to dismiss and for sanctions. All claims asserted by National Union now have been dismissed. In accordance with the Court's instructions during the August 2, 2006 oral argument, Xerox submitted an affidavit, sworn to on August 16, 2006, specifying the precise amount of fees and sanctions requested by Xerox. On September 11, 2006, National Union submitted an opposition to Xerox's specific request for fees and sanctions and requested a hearing before the Court. The Court has not scheduled a hearing on the fees issues, nor has it issued a decision.

*Warren, et al. v. Xerox Corporation*: On March 11, 2004, the United States District Court for the Eastern District of New York entered an order certifying a nationwide class of all black salespersons employed by Xerox from February 1, 1997 to the present under Title VII of the Civil Rights Act of 1964, as amended, and the Civil Rights Act of 1871. The suit was commenced on May 9, 2001 by six black sales representatives. The plaintiffs allege that Xerox has engaged in a pattern or practice of race discrimination against them and other black sales representatives by assigning them to less desirable sales territories, denying them promotional opportunities, and paying them less than their white counterparts. Although the complaint does not specify the amount of damages sought, plaintiffs do seek, on behalf of themselves and the classes they seek to represent, front and back pay,

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compensatory and punitive damages, and attorneys' fees. We deny any wrongdoing. Fact discovery has concluded and expert reports have been exchanged. Following three days of mediation with a private mediator, a tentative settlement agreement was reached, the terms of which are not material to Xerox. On March 16, 2007, the parties submitted the settlement agreement to the Court for preliminary approval. At a status conference held on June 6, 2007, the judge indicated that he would not approve the current version of the settlement agreement. He is concerned that the named plaintiffs may be receiving a disproportionate amount of damages as compared to the other class members. He has directed the parties to revise this aspect of the agreement and bring it back to him. If preliminary approval is obtained, the agreement will then be subject to a fairness hearing at which any objections to the agreement shall be heard. If the Court still finds the agreement to be acceptable, it will give its final approval and administration of the settlement shall commence.

### Other Matters:

It is our policy to promptly and carefully investigate, often with the assistance of outside advisers, allegations of impropriety that may come to our attention. If the allegations are substantiated, appropriate prompt remedial action is taken. When and where appropriate, we report such matters to the U.S. Department of Justice and to the SEC, and/or make public disclosure.

*India:* In recent years we have become aware of a number of matters at our Indian subsidiary, Xerox India Ltd. (formerly Xerox Modicorp Ltd.), that occurred over a period of several years, much of which occurred before we obtained majority ownership of these operations in mid 1999. These matters include misappropriations of funds and payments to other companies that may have been inaccurately recorded on the subsidiary's books and certain improper payments in connection with sales to government customers. These transactions were not material to the Company's financial statements. We have reported these transactions to the Indian authorities, the U.S. Department of Justice and to the SEC. The private Indian investigator engaged by the Indian Ministry of Company Affairs has completed an investigation of these matters. In February 2005, the Indian Ministry of Company Affairs provided our Indian subsidiary with the investigator's report which addresses the previously disclosed misappropriation of funds and improper payments and requested comments. The report included allegations that Xerox India Ltd.'s senior officials and the Company were aware of such activities. The report also asserted the need for further investigation into potential criminal acts related to the improper activities addressed by the report. The matter is now pending in the Indian Ministry of Company Affairs. The Company reported these developments and made a copy of the report received by Xerox India Ltd. available to the U.S. Department of Justice and the SEC.

On November 17, 2005, Xerox filed its 40-page Reply (plus attachments) with the DCA. Xerox has sent copies of the Xerox Reply to the SEC and DOJ in the United States. In our Reply, we argue that the alleged violations of Indian Company Law by means of alleged improper payments and alleged defaults/failures of the Xerox India Ltd. board of directors were generally unsubstantiated and without any basis in law. Further, we stated that the Report's findings of other alleged violations were unsubstantiated and unproven. The DCA (now called the "Ministry of Company Affairs" or "MCA") will consider our Reply and will let us know their conclusions in the coming months. There is the possibility of fines or criminal penalties if conclusive proof of wrongdoing is found. We have told the DCA that Xerox's conduct in voluntarily disclosing the initial information and readily and willingly submitting to investigation, coupled with the non-availability of earlier records, warrants complete closure and early settlement. In January 2006, we learned that the DCA has issued a "Show Cause Notice" to certain former executives of Xerox India Ltd. seeking a response to allegations of potential violations of the Indian Companies Act. We have also learned that Xerox India Ltd. has received a formal Notice of Enquiry from the Indian Monopolies & Restrictive Trade Practices Commission ("MRTP Commission") alleging that Xerox India Ltd. committed unfair trading practices arising from the events described in the DCA investigator's Report. Following a hearing on August 29, 2006, the MRTP Commission ordered a process with deadlines between Xerox India Ltd. and the investigating officer for provision of relevant documents to Xerox India Ltd., after which Xerox India Ltd. will have four weeks to file its reply. The MRTP Commission scheduled a hearing for framing of the issues on January 9, 2007, but this hearing was delayed. A new hearing was scheduled for January 29, 2007 for consideration of Xerox India Ltd.'s motion for the MRTP Commission to direct the investigating officer to supply us the relevant documents. At the hearing on January 29<sup>th</sup>, no additional documents were supplied to us. The MRTP Commission directed us to file our reply to the original Notice of Enquiry within four weeks. At a hearing on April 2, 2007, the investigating officer requested another copy of our reply for the purpose of filing a response. A further time of four weeks to file this response was granted, and the next hearing date was set for May 15, 2007 for further consideration and framing of issues. The matter was heard on May 15, 2007, but the investigating officer sought additional time to file his response, which in fact was filed on June 27, 2007. The Commission rescheduled the matter for August 17, 2007 for further proceedings. At the hearing on August 17, 2007, counsel

for Xerox India Ltd. argued that the Enquiry is not properly maintainable under the Commission's jurisdiction. The issue of maintainability of the Notice of Enquiry has been framed as the preliminary issue and the Commission will decide this at the next hearing date, which has been scheduled for January 2008. Our Indian subsidiary plans to contest the Notice of Enquiry and has been fully cooperating with the authorities.

#### **Note 14-Subsequent Events**

##### **Acquisition of Advectis, Inc.**

On September 12, 2007, we agreed to acquire Advectis, Inc. ("Advectis"), a privately-owned provider of a web-based solution to electronically manage the process needed to underwrite, audit, collaborate, deliver and archive mortgage loan documents for \$32 cash. The purchase agreement requires us to pay the sellers an additional \$11 if certain performance conditions are achieved over the next three years. The operating results of Advectis are not material to our financial statements, and will be included within our Other segment from the date of acquisition. The purchase price is expected to be primarily allocated to intangible assets and goodwill and will be based on third party valuations and management's estimates which have not yet been finalized. The acquisition of Advectis closed on October 12, 2007.

##### **France Secured Borrowing Facility**

On October 12, 2007, our secured warehouse financing facility in France matured and we repaid the outstanding borrowings of €331 million (U.S. \$469) under this program. To fund this repayment we borrowed € 330 million through a floating rate unsecured bank bridge loan due March 31, 2008.

Item 2

**XEROX CORPORATION**  
**MANAGEMENT'S DISCUSSION AND ANALYSIS OF**  
**FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

The following Management's Discussion and Analysis ("MD&A") is intended to help the reader understand the financial condition and results of operations of Xerox Corporation. MD&A is provided as a supplement to, and should be read in conjunction with, our consolidated financial statements and the accompanying notes.

Throughout this document, references to "we," "our," the "Company," and "Xerox" refer to Xerox Corporation and its subsidiaries. References to "Xerox Corporation" refer to the stand-alone parent company and do not include its subsidiaries.

To understand the trends in the business, we believe that it is helpful to analyze the impact of changes in the translation of foreign currencies into U.S. dollars on revenue and expense growth. We refer to this analysis as "currency impact" or "the impact from currency." This includes translating the most recent financial results of operations using foreign currency of the earliest period presented. Revenues and expenses from our Developing Markets Operations ("DMO") are analyzed at actual exchange rates for all periods presented, since these countries generally have volatile currency and inflationary environments, and our operations in these countries have historically implemented pricing actions to recover the impact of inflation and devaluation. We do not hedge the translation effect of revenues or expenses denominated in currencies where the local currency is the functional currency.

**Summary**

**Revenues**

(in millions)	Three Months Ended September 30,			Nine Months Ended September 30,		
	2007	2006	Change	2007	2006	Change
Equipment sales	\$1,156	\$1,012	14%	\$ 3,228	\$ 3,068	5%
Post sale and other revenue <sup>(1)</sup>	2,942	2,624	12%	8,504	7,816	9%
Finance income	204	208	(2)%	614	632	(3)%
<b>Total Revenues</b>	<b>\$4,302</b>	<b>\$3,844</b>	<b>12%</b>	<b>\$12,346</b>	<b>\$11,516</b>	<b>7%</b>
<b>Reconciliation to Condensed Consolidated Statements of Income</b>						
Sales	\$2,030	\$1,736		\$ 5,713	\$ 5,284	
Less: Supplies, paper and other sales	(874)	(724)		(2,485)	(2,216)	
<b>Equipment sales</b>	<b>\$1,156</b>	<b>\$1,012</b>		<b>\$ 3,228</b>	<b>\$ 3,068</b>	
Service, outsourcing and rentals	\$2,068	\$1,900		\$ 6,019	\$ 5,600	
Add: Supplies, paper and other sales	874	724		2,485	2,216	
<b>Post sale and other revenue</b>	<b>\$2,942</b>	<b>\$2,624</b>		<b>\$ 8,504</b>	<b>\$ 7,816</b>	
Memo: Color <sup>(2)</sup>	\$1,564	\$1,379		\$ 4,517	\$ 3,957	

<sup>1</sup> Post sale revenue is largely a function of the equipment placed at customer locations, the volume of prints and copies that our customers make on that equipment, the mix of color pages, as well as associated services.

<sup>2</sup> Color revenues represent a subset of total revenues and exclude GIS revenues.

Third quarter 2007 total revenues grew 12% compared to the third quarter 2006. Currency had a 3-percentage point positive impact on total revenues in the quarter. Our consolidated 2007 results include the results of Global Imaging Systems (GIS) since May 9, 2007, the effective date of the acquisition. When including GIS in our 2006 results<sup>3</sup>, third quarter 2007 total revenue grew 4%, with a 2-percentage point benefit from currency. Total revenues included the following:

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- 11% increase in post sale, financing and other revenue, or 6% including GIS in our 2006 results<sup>3</sup>. This included a 3-percentage point benefit from currency. Growth in GIS, color products, DMO, document management services and licensing revenue more than offset a decline in black-and-white digital office revenue and light lens products.
  - 9% increase in service, outsourcing, and rentals revenue to \$2,068 million reflected the inclusion of GIS, growth in document management services and technical service revenue. Supplies, paper, and other sales of \$874 million grew 21% year-over-year due to the inclusion of GIS as well as growth in DMO.
- 14% increase in equipment sales revenue, or unchanged including GIS in our 2006 results<sup>3</sup>. This included a 2-percentage point benefit from currency. Growth in office multifunction color and production color install activity was offset by overall price declines of between 5% and 10%, declines in production black-and-white products and color printers, as well as an increased proportion of equipment installed under operating lease contracts where revenue is recognized over-time in post sale. More than two-thirds of the third quarter 2007 equipment sales were generated from products launched in the past 24 months.
- 13% growth in color revenue<sup>2</sup>. Color revenue of \$1,564 million comprised 39% of total revenue in the third quarter 2007, excluding GIS, compared to 36% in the third quarter 2006<sup>4</sup>, reflecting:
  - 17% growth in color post sale, financing and other revenue. Color represented 35% of post sale, financing and other revenue in the third quarter 2007, excluding GIS, versus 31% in the third quarter 2006<sup>4</sup>.
  - 8% growth in color equipment sales revenue. Color sales represented 51% of total equipment sales in the third quarter 2007, excluding GIS, versus 48% in the third quarter 2006<sup>4</sup>.

Total revenues for the nine months ended September 30, 2007 increased 7% compared to the prior period, or 3% including GIS in our 2006 results<sup>3</sup>. Currency had a 2-percentage point positive impact on total revenues. Total revenues included the following:

- 8% increase in post sale, financing and other revenue, or 5% including GIS in our 2006 results<sup>3</sup>. This included a 3-percentage point benefit from currency. Growth in GIS, color products, DMO and document management services more than offset a decline in black-and-white digital office revenue and light lens products.
  - 7% increase in service, outsourcing, and rentals revenue to \$6,019 million reflected the inclusion of GIS, growth in document management services and technical service revenue. Supplies, paper, and other sales of \$2,485 million grew 12% year-over-year due to the inclusion of GIS as well as growth in DMO.
- 5% increase in equipment sales revenue, or a decrease of 2% when including GIS in our 2006 results<sup>3</sup>. This included a 2-percentage point benefit from currency. Growth in office multifunction color and production color install activity was offset by overall price declines of between 5% and 10%, declines in production black-and-white products and color printers, as well as an increased proportion of equipment installed under operating lease contracts where revenue is recognized over-time in post sale.
- 14% growth in color revenue<sup>2</sup>. Color revenue of \$4,517 million comprised 38% of total revenue during the nine months ended September 30, 2007, excluding GIS, compared to 34% during the nine months ended September 30, 2006<sup>4</sup>, reflecting:
  - 18% growth in color post sale, financing and other revenue. Color represented 34% and 31% of post sale, financing and other revenue, excluding GIS, in the nine months ended September 30, 2007 and 2006, respectively<sup>4</sup>.
  - 7% growth in color equipment sales revenue. Color sales represented 49% and 45% of total equipment sales, excluding GIS, in the nine months ended September 30, 2007 and 2006, respectively<sup>4</sup>.
  - 30% growth in color pages. Color pages represented 12% of total pages, excluding GIS, during the nine months ended September 30, 2007 versus 9% in the corresponding period of 2006<sup>4</sup>.

<sup>3</sup> The percentage point impacts from GIS reflect the revenue growth year-over-year after including GIS' results from 2006 on a proforma basis. See page 36 for an explanation of this non-GAAP measure.

<sup>4</sup> For the three and nine months ended September 30, 2007, total color, color post sale, financing and other, and color equipment sales revenues comprised 36%, 33% and 45%, and 37%, 33%, and 46%, respectively, if calculated on total, total post sale, financing and other, and total equipment sales revenues, including GIS. GIS is excluded from the color information presented, as the breakout of the information required to make this computation for all periods is not available.

## Net Income

Third quarter 2007 net income of \$254 million, or \$0.27 per diluted share decreased \$282 million or \$0.27 per diluted share from the third quarter 2006.

Third quarter 2006 net income of \$536 million, or \$0.54 per diluted share, included the following items:

- \$448 million income tax benefit from the favorable resolution of certain tax matters related to the finalization of the 1999-2003 Internal Revenue Service ("IRS") tax audit.
- \$110 million pre-tax (\$72 million after-tax), charge related to restructuring.
- \$68 million (pre-tax and after-tax) for litigation matters related to probable losses for Brazilian labor-related contingencies.

Net income for the nine months ended September 30, 2007 of \$753 million or \$0.79 per diluted share, decreased \$243 million or \$0.20 per diluted share from the nine months ended September 30, 2006 primarily reflecting:

- Gross profit increase of \$314 million due to increased revenue of \$830 million including the addition of GIS.
- Increase in selling, administrative and general expenses of \$138 million primarily due to the inclusion of GIS.
- Decrease in restructuring and asset impairment charges of \$153 million due to restructuring charges of \$146 million (\$97 million after-tax) in 2006.
- Decrease in Other expenses, net of \$64 million due to \$68 million (pre-tax and after-tax) related to probable losses for Brazilian labor-related contingencies and a \$13 million charge (\$9 million after-tax) from the write-off of the remaining unamortized deferred debt issuance costs as a result of the termination of our 2003 Credit Facility, both in 2006.
- Increase in income tax expense of \$622 million due to higher pre-tax income as well as the following 2006 income tax benefits:
  - \$472 million (\$24 million in first quarter 2006) related to the favorable resolution of certain tax matters from the 1999-2003 IRS audit, which was finalized in the third quarter of 2006.
  - \$46 million tax benefit resulting from the resolution of certain tax matters associated with foreign tax audits in the second quarter 2006.
- Decrease in equity income of \$25 million primarily attributable to \$28 million in charges for our share of Fuji Xerox restructuring charges.

**Operations Review**

(in millions)	Three Months Ended September 30,				
	Production	Office	DMO	Other	Total
<b>2007</b>					
Equipment sales	\$ 290	\$ 653	\$ 156	\$ 57	\$ 1,156
Post sale and other revenue	785	1,323	378	456	2,942
Finance income	76	123	1	4	204
<b>Total Revenues</b>	<b>\$ 1,151</b>	<b>\$ 2,099</b>	<b>\$ 535</b>	<b>\$ 517</b>	<b>\$ 4,302</b>
<b>Segment Profit</b>	<b>\$ 97</b>	<b>\$ 225</b>	<b>\$ 32</b>	<b>\$ 6</b>	<b>\$ 360</b>
<b>Operating Margin</b>	<b>8.4%</b>	<b>10.7%</b>	<b>6.0%</b>	<b>1.2%</b>	<b>8.4%</b>

<b>2006</b>					
Equipment sales	\$ 285	\$ 555	\$ 143	\$ 29	\$ 1,012
Post sale and other revenue	723	1,172	333	396	2,624
Finance income	80	122	2	4	208
<b>Total Revenues</b>	<b>\$ 1,088</b>	<b>\$ 1,849</b>	<b>\$ 478</b>	<b>\$ 429</b>	<b>\$ 3,844</b>
<b>Segment Profit</b>	<b>\$ 73</b>	<b>\$ 183</b>	<b>\$ 28</b>	<b>\$ 15</b>	<b>\$ 299</b>
<b>Operating Margin</b>	<b>6.7%</b>	<b>9.9%</b>	<b>5.9%</b>	<b>3.5%</b>	<b>7.8%</b>

(in millions)	Nine Months Ended September 30,				
	Production	Office	DMO	Other	Total
<b>2007</b>					
Equipment sales	\$ 847	\$ 1,792	\$ 451	\$ 138	\$ 3,228
Post sale and other revenue	2,309	3,817	1,069	1,309	8,504
Finance income	233	366	4	11	614
<b>Total Revenues</b>	<b>\$ 3,389</b>	<b>\$ 5,975</b>	<b>\$ 1,524</b>	<b>\$ 1,458</b>	<b>\$ 12,346</b>
<b>Segment Profit</b>	<b>\$ 279</b>	<b>\$ 683</b>	<b>\$ 85</b>	<b>\$ 22</b>	<b>\$ 1,069</b>
<b>Operating Margin</b>	<b>8.2%</b>	<b>11.4%</b>	<b>5.6%</b>	<b>1.5%</b>	<b>8.7%</b>

<b>2006</b>					
Equipment sales	\$ 874	\$ 1,683	\$ 409	\$ 102	\$ 3,068
Post sale and other revenue	2,140	3,524	968	1,184	7,816
Finance income	243	373	6	10	632
<b>Total Revenues</b>	<b>\$ 3,257</b>	<b>\$ 5,580</b>	<b>\$ 1,383</b>	<b>\$ 1,296</b>	<b>\$ 11,516</b>
<b>Segment Profit</b>	<b>\$ 228</b>	<b>\$ 556</b>	<b>\$ 79</b>	<b>\$ 5</b>	<b>\$ 868</b>
<b>Operating Margin</b>	<b>7.0%</b>	<b>10.0%</b>	<b>5.7%</b>	<b>0.4%</b>	<b>7.5%</b>

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See Note 8 – Segment Reporting in the Condensed Consolidated Financial Statements for further discussion on our segment operating revenues and segment operating profit.

- Approximately 75% of GIS revenue is included in the Office segment representing those sales and services that align to our Office segment, and 25% is in the Other segment.
- Install activity percentages include the Xerox-branded shipments to GIS.

## **Production**

### [Revenue](#)

Third quarter 2007 Production revenue of \$1,151 million increased 6%, including a 4-percentage point benefit from currency, reflecting:

- 9% increase in post sale and other revenue as growth from digital products more than offset declines in revenue from older light lens technology.
- 2% increase in equipment sales revenue reflecting growth in production color systems offset by declines in production black-and-white systems and an increased proportion of equipment installed under operating lease contracts where revenue is recognized over-time in post sale.
- 14% growth in installs of production color products driven by DocuColor® 242/252/260 family, Docucolor 5000, 8000 and iGen3® activity.
- 8% decline in installs of production black-and-white systems including a decline in installs of light production and high-volume production printing systems partially offset by recently launched Xerox Nuvera® systems and continuous feed systems install growth.

Production revenue for the nine months ended September 30, 2007 of \$3,389 million increased 4%, including a 3 –percentage point benefit from currency, reflecting:

- 8% increase in post sale and other revenue, including a 4-percentage point benefit from currency, as growth from digital products more than offset declines in revenue from older light lens technology.
- 3% decrease in equipment sales revenue, including a 4-percentage point benefit from currency, reflecting growth in production color systems offset by declines in production black-and-white systems and an increased proportion of equipment installed under operating lease contracts where revenue is recognized over-time in post sale.
- 7% growth in installs of production color products driven by DocuColor® 242/252/260 family, Docucolor 5000, 8000 and iGen3® activity.
- 7% decline in installs of production black-and-white systems primarily reflecting a decline in installs of high-volume production printing systems.

### [Operating Profit](#)

Third quarter 2007 Production profit of \$97 million increased \$24 million from third quarter 2006 primarily reflecting higher gross profit due to increased revenue.

For the nine months ended September 30, 2007, Production profit of \$279 million increased \$51 million from the nine months ended September 30, 2006. The increase is primarily the result of higher gross profit as well as lower R,D&E and SAG expenses reflecting, in part, the benefits from the 2006 restructuring programs.

## **Office**

### [Revenue](#)

Third quarter 2007 Office revenue of \$2,099 million increased 14%, including a 3-percentage point benefit from currency, reflecting:

- 13% increase in post sale and other revenue, reflecting the inclusion of GIS as well as growth from color multifunction devices and color printers.
- 18% increase in equipment sales revenue, reflecting the inclusion of GIS as well as color multifunction products install growth.
- 69% color multifunction device install growth led by strong demand for Xerox WorkCentre® products.
- 9% increase in installs of black-and-white copiers and multifunction devices, including 9% growth in Segment 1&2 products (11-30 ppm) and 8% growth in Segment 3-5 products (31-90 ppm).
- 10% decline in color printer installs due to lower OEM sales.

Office revenue during the nine months ended September 30, 2007 of \$5,975 million increased 7%, including a 2-percentage point benefit from currency, reflecting:

- 8% increase in post sale and other revenue, reflecting the inclusion of GIS as well as growth from color multifunction devices and color printers.

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- 6% increase in equipment sales revenue, reflecting the inclusion of GIS as well as color multifunction products install growth.
- 64% color multifunction device install growth led by strong demand for Xerox WorkCentre products.
- 4% increase in installs of black-and-white copiers and multifunction devices, including 3% growth in Segment 1&2 products (11-30 ppm) and 9% growth in Segment 3-5 products (31-90 ppm).
- 13% decline in color printer installs due to lower OEM sales.

### Operating Profit

Third quarter 2007 Office profit of \$225 million increased \$42 million from third quarter 2006 as a result of higher gross profit due to increased revenue.

For the nine months ended September 30, 2007, Office profit of \$683 million increased \$127 million from the 2006 comparable period. The increase was primarily due to higher gross profit reflecting increased revenue partially offset by higher SAG expenses as a result of the inclusion of GIS.

## **DMO**

### Revenue

DMO revenue for the three and nine months ended September 30, 2007 increased by \$57 million and \$141 million, respectively, or 12% and 10%, respectively, from the 2006 comparable periods reflecting:

- Strong performance in Eurasia and Central and Eastern Europe.
- 14% and 10% increases, respectively in post sale and other revenue, driven primarily by increased supplies, document management services and paper revenue.
- 9% and 10% increases, respectively, in equipment sales revenue, reflecting install growth in office multifunction devices, light production black-and-white and production color systems. DMO equipment sales consist of Office and Production products, including a large proportion of sales of Segment 1&2 office products.

### Operating Profit

Third quarter 2007 DMO profit of \$32 million increased \$4 million from the third quarter of 2006. For the nine months ended September 30, 2007, DMO profit of \$85 million increased \$6 million from the 2006 comparable period. These increases reflect higher gross profit primarily from increased revenue partially offset by increased SAG expenses.

## **Other**

### Revenue

Third quarter 2007 Other revenue of \$517 million increased 21%, including a 3-percentage point benefit from currency, primarily reflecting the inclusion of GIS and increased licensing revenue as well as increased paper, value-added services and wide-format revenue. Paper comprised approximately half of third quarter 2007 Other segment revenue.

For the nine months ended September 30, 2007, Other revenue of \$1,458 million increased 13%, including a 3-percentage point benefit from currency, primarily reflecting the inclusion of GIS as well as increased paper and value-added services. Paper comprised approximately half of third quarter 2007 Other segment revenue.

### Operating Profit

Third quarter 2007 Other profit of \$6 million decreased \$9 million from third quarter 2006 due to higher 2007 interest expense and the 2006 gain from the sale of a facility that were only partially offset by increased licensing revenue.

For the nine months ended September 30, 2007, Other profit of \$22 million increased \$17 million from September 30, 2006 as higher revenue, currency exchange gains and lower litigation matter charges were partially offset by higher interest expense and lower gains on the sales of businesses and assets.

[Table of Contents](#)**Costs, Expenses and Other Income**[Gross Margin](#)

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2007	2006	Change	2007	2006	Change
Gross Margin						
Sales	35.2%	34.2%	1.0 pts	35.5%	35.3%	0.2 pts
Service, outsourcing and rentals	42.8%	43.0%	(0.2) pts	42.7%	42.7%	— pts
Financing Income	61.3%	63.9%	(2.6) pts	61.6%	64.1%	(2.5) pts
Total	40.1%	40.2%	(0.1) pts	40.3%	40.5%	(0.2) pts

Total gross margin for the three and nine months ended September 30, 2007 decreased 0.1 and 0.2-percentage points, respectively, as compared to the 2006 comparable periods.

Sales gross margin increased 1.0-percentage points compared to the third quarter 2006 primarily as cost improvements, product mix and other variances more than offset the 2.1-percentage point impact of price declines. Sales gross margin increased 0.2-percentage points for the nine months ended September 30, 2007 as cost improvements effectively offset price declines.

Service, outsourcing and rentals margin decreased 0.2-percentage points compared to the third quarter 2006 as cost improvements and favorable product mix did not fully offset price declines and other variances. Service, outsourcing and rentals margin was flat for the nine months ended September 30, 2007 as cost improvements offset price declines and mix.

Financing income margin declined 2.6 and 2.5-percentage points in both periods, respectively, primarily from additional interest expense due to higher interest rates.

[Research, Development and Engineering Expenses \("R,D&E"\)](#)

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2007	2006	Change	2007	2006	Change
R,D&E % Revenue	5.4%	6.0%	(0.6) pts	5.5%	5.9%	(0.4) pts

R,D&E of \$233 million and \$674 million for the three and nine months ended September 30, 2007 increased \$3 million and decreased \$11 million, respectively, from the 2006 comparable periods. R&D of \$195 million and \$564 million for the three and nine months ended September 30, 2007 increased \$3 million and \$7 million, respectively. Sustaining engineering costs of \$38 million and \$110 million for the three and nine months ended September 30, 2007 were unchanged and \$18 million lower, respectively from the 2006 comparable periods. The year-to-date decline was primarily in the Production segment reflecting lower spending related to environmental compliance activities and maturing product platforms.

We invest in technological development, particularly in color, and believe our R&D spending is sufficient to remain technologically competitive. Xerox R&D is strategically coordinated with Fuji Xerox.

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### [Selling, Administrative and General Expenses \("SAG"\)](#)

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2007	2006	Change	2007	2006	Change
SAG % Revenue	25.4%	25.6%	(0.2) pts	25.3%	25.9%	(0.6) pts

SAG expenses of \$1,091 million in the third quarter 2007 were \$106 million higher than the third quarter 2006, including a \$26 million negative impact from currency. The SAG expense increase reflected the following:

- \$50 million increase in selling expenses primarily reflecting the inclusion of GIS and the negative impact of currency, partially offset by the benefits from 2006 restructuring programs intended to realign our sales infrastructure.
- \$59 million increase in general and administrative ("G&A") expenses primarily from the inclusion of GIS expenses.
- \$3 million decrease in bad debt expense of \$27 million in the third quarter of 2007.

SAG expenses for the nine months ended September 30, 2007 of \$3,126 million were \$138 million higher than the comparable period in 2006, including a \$79 million negative impact from currency. The SAG expense change reflected the following:

- \$34 million increase in selling expenses primarily reflecting the negative impact from currency and the inclusion of GIS. These increases were partially offset by the benefits from 2006 restructuring programs intended to realign our sales infrastructure as well as the second quarter 2006 IPEX trade show expenses not repeated in 2007.
- \$82 million increase in general and administrative ("G&A") expenses primarily from the inclusion of GIS expenses.
- Bad debt expense for the nine months ended September 30, 2007 of \$93 million increased \$22 million primarily as a result of an increase in reserves recorded during the second quarter of 2007 for several customers in a European country.

### [Worldwide Employment](#)

Worldwide employment of 57,100 at September 30, 2007, increased approximately 3,400 from year-end 2006 primarily reflecting the addition of GIS personnel and the hiring of former contract employees in certain Latin American subsidiaries, partially offset by reductions from the 2006 restructuring programs.

### [Restructuring and Asset Impairment Charges](#)

During the three and nine months ended September 30, 2007, we recorded net restructuring reversals of \$3 million and \$7 million, respectively, primarily due to changes in estimated reserves for prior year initiatives. The restructuring reserve balance as of September 30, 2007, for all programs was \$144 million, of which approximately \$115 million is expected to be spent over the next twelve months.

[Table of Contents](#)**Other Expenses, Net**

(in millions)	Three Months Ended September 30,		Nine Months Ended September 30,	
	2007	2006	2007	2006
Non-financing interest expense	\$ 75	\$ 63	\$ 203	\$ 177
Interest income	(12)	(18)	(43)	(49)
Gains on sales of businesses and assets	(1)	(11)	(5)	(23)
Currency (gains) losses, net	(8)	7	(6)	31
Amortization of intangible assets	13	10	29	30
Legal matters	(1)	69	—	82
Other expenses, net	13	8	36	30
<b>Total</b>	<b>\$ 79</b>	<b>\$ 128</b>	<b>\$ 214</b>	<b>\$ 278</b>

[Non-Financing Interest Expense](#)

Non-financing interest expense of \$75 million and \$203 million for the three and nine months ended September 30, 2007 was \$12 million and \$26 million higher than the 2006 comparable periods primarily due to higher average debt balances.

[Gains on Sales of Businesses and Assets](#)

Gains during the three and nine months ended September 30, 2006 primarily consisted of the following:

- \$11 million third quarter 2006 gain on the sale of a manufacturing facility.
- \$10 million second quarter 2006 gain from the receipt from escrow of additional proceeds related to our first quarter 2005 sale of Integic. The proceeds were placed in escrow upon the sale of Integic pending completion of an indemnification period, which ended in May 2006.

[Currency \(Gains\) Losses, Net](#)

Net currency gains and losses primarily reflect the mark-to-market of derivative contracts which economically hedge the cost of anticipated foreign currency denominated payments. The changes from 2006 are primarily attributable to currency fluctuations.

[Amortization of Intangible Assets](#)

Amortization of intangible assets expense of \$13 million and \$29 million for the three and nine months ended September 30, 2007, respectively, reflects amortization expenses of approximately \$6 million and \$10 million associated with intangible assets acquired as part of our acquisition of GIS as well as a decrease associated with the end of the amortization period for certain acquired intangible assets from previous acquisitions.

[Legal Matters](#)

Legal matters of \$69 million and \$82 million for the three and nine months ended September 30, 2006, primarily reflected the following:

- \$68 million in the third quarter 2006 for additional probable losses on Brazilian labor-related contingencies – see Note 13 – Contingencies within the Condensed Consolidated Financial Statements for additional details.
- \$22 million in the first and second quarters of 2006 associated with probable losses from various other legal matters partially offset by \$12 million of proceeds from the second quarter 2006 Palm litigation matter.

**Income Taxes**

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2007	2006	2007	2006
Pre-tax income	\$ 324	\$ 91	\$ 968	\$ 564
Income tax expense (benefit)	97	(416)	275	(347)
Effective tax rate	29.9%	(457.1)%	28.4%	(61.5)%

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In the third quarter 2007, we recorded income tax expense of \$97 million compared to a \$(416) million income tax benefit in the third quarter 2006. The effective tax rate for the third quarter 2007 was 29.9% versus (457.1)% in the third quarter 2006.

The effective tax rates for the three and nine months ended September 30, 2007 of 29.9% and 28.4% were lower than the U.S. statutory tax rate of 35.0% primarily reflecting tax benefits from the geographical mix of income before taxes along with the related effective tax rates in those jurisdictions and the utilization of foreign tax credits, partially offset by changes in tax law.

The 2006 third quarter effective tax rate of (457.1)% was lower than the U.S. statutory tax rate of 35.0% primarily due to:

- \$448 million of income tax benefits associated with the finalization of the 1999-2003 IRS audit.
- \$11 million tax benefit from a treaty change.
- The geographical mix of income and the related effective tax rates in those jurisdictions.
- These tax benefits were partially offset by losses in certain jurisdictions where we are not providing tax benefits and continue to maintain deferred tax valuation allowances.

The 2006 year-to-date effective tax rate of (61.5%) was lower than the U.S. statutory rate primarily due to:

- Tax benefits of \$519 million from the resolution of tax issues associated with domestic and foreign tax audits.
- Tax benefits of \$14 million as a result of tax law changes in foreign jurisdictions and tax treaty changes.
- \$11 million from the reversal of a valuation allowance on deferred tax assets associated with foreign net operating loss carryforwards.
- The geographical mix of income and the related effective tax rates in those jurisdictions.
- These benefits were partially offset by losses in certain jurisdictions where we are not providing tax benefits and continue to maintain deferred tax valuation allowances.

Our effective tax rate is based on nonrecurring events as well as recurring factors including the geographical mix of income before taxes and the related tax rates in those jurisdictions, as well as available foreign tax credits. In addition, our effective tax rate will change based on discrete or other nonrecurring events that may not be predictable. We anticipate that our effective tax rate for the fourth quarter will approximate 30%, excluding the effects of any future discrete events and we expect our full year 2007 tax rate to be approximately 29%.

## [Equity in Net Income of Unconsolidated Affiliates](#)

Equity in net income of unconsolidated affiliates of \$27 million in the 2007 third quarter decreased \$2 million compared to third quarter 2006 primarily due to our 25% share of Fuji Xerox's lower net income. For the nine months ended September 30, 2007, equity in net income of unconsolidated affiliates decreased \$25 million compared to the same period of 2006. The decline was attributable to a \$28 million in charges representing our share of a 2007 Fuji Xerox restructuring charges.

## [Capital Resources and Liquidity](#)

The following table summarizes our cash flows and cash, cash equivalents and short-term investments as of and for the nine months ended September 30, 2007 and 2006:

<b>(in millions)</b>	<b>Nine Months Ended September 30,</b>		<b>Amount Change</b>
	<b>2007</b>	<b>2006</b>	
Net cash provided by operating activities	\$ 861	\$ 897	\$ (36)
Net cash used in investing activities	(1,602)	(127)	(1,475)
Net cash provided by (used in) financing activities	144	(778)	922
Effect of exchange rate changes on cash and cash equivalents	46	22	24
(Decrease) increase in cash and cash equivalents	(551)	14	(565)
Cash and cash equivalents at beginning of period	1,399	1,322	77
Cash and cash equivalents at end of period	848	1,336	(488)
Short-term investments	—	120	(120)
<b>Total cash, cash equivalents and short-term investments</b>	<b>\$ 848</b>	<b>\$1,456</b>	<b>\$ (608)</b>

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### [Cash Flows from Operating Activities](#)

Net cash provided by operating activities of \$861 million for the nine months ended September 2007 decreased \$36 million from the nine months ended September 2006 primarily due to the following:

- \$251 million increase in pre-tax income before restructuring.
- \$124 million decrease due to higher accounts receivable primarily reflecting increased revenue as well as the timing of collections. The third quarter 2007 also included a \$64 million sale of receivables.
- \$87 million decrease primarily due to a reduction in accounts payable based on timing of payments.
- \$73 million decrease due to lower net run-off of finance receivables.

### [Cash Flows from Investing Activities](#)

Net cash used in investing activities was \$1,602 million for the nine months ended September 2007. The decrease in cash flow of \$1,475 million from the nine months ended September 2006 was primarily due to the following:

- \$1,382 million decrease due to \$1,531 million acquisition of GIS in 2007 as compared to \$175 million acquisition of Amici LLC in 2006.
- \$153 million decrease primarily as a result of a \$119 million 2006 distribution related to the sale of investments held by Ridge Re and a \$21 million distribution from the liquidation of our investment in Xerox Capital LLC in 2006.
- \$64 million decrease due to higher capital and internal use software expenditures in 2007.
- \$116 million increase due to a reduction in escrow and restricted investments in 2007, as 2006 included a \$103 million escrow deposit related to the MPI litigation matter.

### [Cash Flows from Financing Activities](#)

Net cash provided by financing activities was \$144 million for the nine months ended September 2007. The increase in cash flows of \$922 million from the nine months ended September 2006 was primarily due to the following:

- \$569 million increase due to higher net cash proceeds from unsecured debt. This reflects the May 2007 issuance of the \$1.1 billion Senior Notes, as well as, the issuances of two zero coupon bonds in 2007 resulting in net proceeds of approximately \$400 million and lower repayments on other unsecured debt in 2007 as compared to 2006. These higher net proceeds were partially offset by the March 2006 issuance of the \$700 million Senior Notes and the August 2006 issuances of an additional \$650 million of Senior Notes.
- \$188 million increase due to lower purchases under our share repurchase program.
- \$100 million increase due to the first quarter 2006 payment of our liability to Xerox Capital LLC in connection with their redemption of Canadian deferred preferred shares.
- \$43 million increase relating to the 2006 payment of preferred stock dividends. The conversion of our Series C Mandatory Convertible Preferred Stock occurred in the third quarter of 2006.
- \$36 million increase due to lower net repayments of secured financing.

### [Customer Financing Activities and Debt](#)

The following represents our total finance assets associated with our lease and finance operations:

	September 30, 2007	December 31, 2006
Total Finance receivables, net <sup>(1)</sup>	\$ 7,848	\$ 7,844
Equipment on operating leases, net	553	481
<b>Total Finance Assets, net</b>	<b>\$ 8,401</b>	<b>\$ 8,325</b>

<sup>(1)</sup> Includes (i) billed portion of finance receivables, net, (ii) finance receivables, net and (iii) finance receivables due after one year, net as included in our Condensed Consolidated Balance Sheets.

As of September 30, 2007, approximately 11% of total debt was secured by finance receivables and other assets compared to 29% at December 31, 2006.

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In July 2007, we gave notice to GE and repaid the outstanding £293 million (U.S. \$593 million) loan under the U.K. secured funding program using a combination of the proceeds from our July \$300 million private placement (refer to Note 10-Debt in the Condensed Consolidated Financial Statements) a \$75 million borrowing under our 2007 Credit Facility and cash on hand. In July 2007, we also delivered notice to GE to terminate our secured borrowing program in Canada effective July 31, 2008.

In July 2007, we completed a transaction with De Lage Landen (“DLL”) to purchase their 51% ownership interest in our lease financing joint venture in the Netherlands (the “DLL Joint Venture”) for approximately \$25 million. In connection with the purchase, the secured borrowings to DLL of approximately \$153 million were repaid and the related finance receivables are no longer encumbered. To fund the purchase and repayment we borrowed approximately \$161 million of unsecured debt due July 1, 2008. Other than the repayment of the secured debt and the borrowing under a new unsecured bank facility, the effects from this transaction were immaterial as the DLL Joint Venture continues to be consolidated in our financial statements.

Refer to Note 14-Subsequent Events in the Condensed Consolidated Financial Statements for information related to our secured warehousing facility in France.

### **Liquidity, Financial Flexibility and Funding Plans:**

We manage our worldwide liquidity using internal cash management practices, which are subject to (1) the statutes, regulations and practices of each of the local jurisdictions in which we operate, (2) the legal requirements of the agreements to which we are a party and (3) the policies and cooperation of the financial institutions we utilize to maintain and provide cash management services.

Our credit ratings as of September 30, 2007 were as follows:

	<b>Senior Unsecured Debt</b>	<b>Outlook</b>	<b>Comments</b>
Moody's Investors Service <sup>(1)</sup>	Baa3	Positive	The Moody's rating was upgraded from Ba1 in November 2006. Moody's affirmed the positive outlook on April 2, 2007.
Standard & Poors (“S&P”) <sup>(2)</sup>	BBB-	Stable	The S&P rating was upgraded from BB+ to investment grade, BBB-, in May 2007. Outlook is stable.
Fitch Ratings <sup>(3)</sup>	BBB-	Stable	The Fitch rating was upgraded from BB+ in August 2006. The stable outlook was affirmed on April 2, 2007.

(1) In November 2006, Moody's upgraded the Senior Unsecured rating from Ba1 to Baa3, a one notch upgrade. Moody's maintains a Positive Outlook on the credit. In conjunction with the upgrade to investment grade ratings for the senior unsecured debt, Moody's has withdrawn all Loss Given Default assessments and Speculative Grade Liquidity ratings as they are only appropriate for non-investment grade issuers. Moody's ratings upgrades also included: Senior unsecured shelf registration to Baa3 from Ba1; Trust preferred to Ba1 from Ba2; subordinated shelf registration to Ba1 from Ba2 and preferred shelf registration to Ba1 from Ba2. On April 2, 2007, Moody's affirmed its ratings and positive outlook on Xerox, stating they are not affected by our acquisition of GIS. On October 25, 2007, Moody's placed Xerox on review for a positive upgrade.

(2) In May 2007, S&P upgraded the Senior Unsecured and Corporate Credit ratings from BB+ to BBB-, investment grade, with a stable outlook. At the same time, S&P upgraded the ratings on Subordinated debt from BB- to BB+ and Preferred Stock from B+ to BB. The ratings upgrade followed our announcement that we completed our tender offer for GIS.

(3) In August 2006, Fitch upgraded its debt ratings and assigned a stable outlook on Xerox. Fitch had upgraded the senior unsecured debt of Xerox from BB+ to BBB- and also upgraded the Trust Preferred securities from BB- to BB, both one notch upgrades. On April 2, 2007, Fitch affirmed Xerox's ratings and stable outlook following Xerox's announcement of an agreement in principal to acquire GIS.

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Our credit ratings, which are periodically reviewed by major rating agencies, have substantially improved over the past three years. We are currently rated investment grade by Moody's Investors Service, S&P and Fitch Ratings.

### *Acquisition of GIS:*

Refer to Note 3-Acquisition of GIS in the Condensed Consolidated Financial Statements for additional information regarding this acquisition.

The acquisition of GIS resulted in an increase in our minimum operating lease commitments reported in our 2006 Annual Report on Form 10-K of approximately \$65 million.

### *2007 Debt Activity:*

In addition to the repayments of secured debt totaling \$1.2 billion and related refinancing thereof noted above, the following is a summary of our debt activity in 2007:

- amended and restated our \$1.25 billion unsecured revolving credit facility in April (now \$2 billion);
- issued \$1.1 billion of Senior Notes due 2012 in May; and
- issued \$400 million of zero coupon bonds in private placement transactions in July/August.

For more details on these transactions, see Note 10-Debt in the Condensed Consolidated Financial Statements.

### *Summary—Financial Flexibility and Liquidity:*

Our liquidity is a function of our ability to successfully generate cash flows from a combination of efficient operations and improvement therein, access to capital markets, securitizations, funding from third parties and borrowings secured by our finance receivables portfolios. As of September 30, 2007, total cash and cash equivalents was \$848 million and our borrowing capacity under our 2007 Credit Facility was \$1.3 billion, reflecting outstanding borrowings of \$700 million. Our ability to maintain positive liquidity going forward depends on our ability to continue to generate cash from operations and have access to the financial markets, both of which are subject to general economic, financial, competitive, legislative, regulatory and other market factors that are beyond our control.

## **Financial Risk Management**

We are exposed to market risk from foreign currency exchange rates and interest rates, which could affect operating results, financial position and cash flows. We manage our exposure to these market risks through our regular operating and financing activities and, when appropriate, through the use of derivative financial instruments. These derivative financial instruments are utilized to hedge economic exposures as well as reduce earnings and cash flow volatility resulting from shifts in market rates. As permitted, certain of these derivative contracts have been designated for hedge accounting treatment under SFAS No. 133. Certain of our derivatives do not qualify for hedge accounting but are effective as economic hedges of our inventory purchases and currency exposure. These derivative contracts are accounted for using the mark-to-market accounting method and accordingly are exposed to some level of volatility. Under this method, the contracts are carried at their fair value on our Condensed Consolidated Balance Sheets within Other assets and Other liabilities. The level of volatility will vary with the type and amount of derivative hedges outstanding, as well as fluctuations in the currency and interest rate market during the period. The related cash flow impacts of all of our derivative activities are reflected as cash flows from operating activities.

We enter into limited types of derivative contracts, including interest rate and cross currency interest rate swap agreements, foreign currency spot, forward and swap contracts and net purchased foreign currency options to manage foreign currency exposures. Our primary foreign currency market exposures include the Japanese Yen, Euro, British Pound Sterling, Canadian Dollar and Brazilian Real. The fair market values of all our derivative contracts change with fluctuations in interest rates and/or currency rates and are designed so that any changes in their values are offset by changes in the values of the underlying exposures. Derivative financial instruments are held solely as risk management tools and not for trading or speculative purposes.

By their nature, all derivative instruments involve, to varying degrees, elements of market and credit risk not recognized in our financial statements. The market risk associated with these instruments resulting from currency exchange and interest rate movements is expected to offset the market risk of the underlying transactions, assets

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and liabilities being hedged. We do not believe there is a significant risk of loss in the event of non-performance by the counterparties associated with these instruments because these transactions are executed with a diversified group of major financial institutions. Further, our policy is to deal with counterparties having a minimum investment-grade or better credit rating. Credit risk is managed through the continuous monitoring of exposures to such counterparties.

Some of our derivative and other material contracts at September 30, 2007 may require us to post cash collateral or maintain minimum cash balances in escrow. These cash amounts are reported in our Condensed Consolidated Balance Sheets within Other current assets or Other long-term assets, depending on when the cash will be contractually released.

### Non-GAAP Financial Measures

We reported our financial results in accordance with generally accepted accounting principles ("GAAP"). In addition, we discussed our revenue growth for the three and nine months ended September 30, 2007 and 2006 using non-GAAP financial measures. Management believes these measures give investors an additional perspective of revenue trends, as well as the impact to the company of the acquisition of GIS that was completed in May 2007. To understand these trends in the business, we believe that it is helpful to adjust revenue to illustrate the impact on revenue growth rates of our acquisition of GIS. We have done this by including GIS' revenue for the comparable 2006 period. We refer to this adjusted revenue as "adjusted revenue" in the following reconciliation table. Management believes that these non-GAAP financial measures can provide an additional means of analyzing the current periods' results against the corresponding prior periods' results. However, all of these non-GAAP financial measures should be viewed in addition to, and not as a substitute for, the company's reported results prepared in accordance with GAAP. A reconciliation of these non-GAAP financial measures and the most directly comparable financial measures calculated and presented in accordance with GAAP is as follows:

(in millions)	Three Months Ended September 30,		
	2007	2006	% Change
<b>Equipment Sales Revenue:</b>			
As Reported	\$ 1,156	\$ 1,012	14%
As Adjusted	\$ 1,156	\$ 1,154	—%
<b>Post Sale, Financing &amp; Other Revenue:</b>			
As Reported	\$ 3,146	\$ 2,832	11%
As Adjusted	\$ 3,146	\$ 2,976	6%
<b>Total Revenues:</b>			
As Reported	\$ 4,302	\$ 3,844	12%
As Adjusted	\$ 4,302	\$ 4,130	4%

(in millions)	Nine Months Ended September 30,		
	2007	2006	% Change
<b>Equipment Sales Revenue:</b>			
As Reported	\$ 3,228	\$ 3,068	5%
As Adjusted	\$ 3,228	\$ 3,295	(2)%
<b>Post Sale, Financing &amp; Other Revenue:</b>			
As Reported	\$ 9,118	\$ 8,448	8%
As Adjusted	\$ 9,118	\$ 8,681	5%
<b>Total Revenues:</b>			
As Reported	\$12,346	\$11,516	7%
As Adjusted	\$12,346	\$11,976	3%

Revenue "As Adjusted" adds GIS's results for the period from May 9<sup>th</sup> through September 30<sup>th</sup> 2006 to our 2006 reported revenue.

**Item 3 Quantitative and Qualitative Disclosures About Market Risk**

The information set forth under the caption “Financial Risk Management” on Page 35 of this Quarterly Report on Form 10-Q is hereby incorporated by reference in answer to this Item.

**Item 4 Controls and Procedures**

(a) Evaluation of Disclosure Controls and Procedures

The Company’s management evaluated, with the participation of our principal executive officer and principal financial officer, or persons performing similar functions, the effectiveness of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as of the end of the period covered by this report. Based on this evaluation, our principal executive officer and principal financial officer have concluded that, as of the end of the period covered by this report, our disclosure controls and procedures were effective to ensure that information we are required to disclose in the reports that we file or submit under the Securities Exchange Act of 1934, as amended, is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission’s rules and forms relating to Xerox Corporation, including our consolidated subsidiaries, and was accumulated and communicated to the Company’s management, including the principal executive officer and principal financial officer, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure.

(b) Changes in Internal Controls

In connection with the evaluation required by paragraph (d) of Rule 13a-15 under the Exchange Act, there was no change identified in our internal control over financial reporting that occurred during the last fiscal quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

## PART II—OTHER INFORMATION

### Item 1 Legal Proceedings

The information set forth under Note 13-Contingencies contained in the “Notes to Condensed Consolidated Financial Statements” of this Quarterly Report on Form 10-Q is incorporated by reference in answer to this Item.

### Item 1A Risk Factors

Reference is made to the Risk Factors set forth in Part I, Item 1A of our 2006 Annual Report. The Risk Factors remain applicable from our 2006 Annual Report, with the exception of the following changes:

***Our significant debt could adversely affect our financial health and pose challenges for conducting our business.***

We have and will continue to have a significant amount of debt and other obligations, primarily to support our customer financing activities. As of September 30, 2007, we had \$8.1 billion of total debt (\$883 million of which is secured by finance receivables) and \$620 million of liabilities to trusts issuing preferred securities. The total value of financing activities, shown on the balance sheet as Finance Receivables and On-Lease equipment, was \$8.4 billion at September 30, 2007. The total cash and cash equivalents balance was \$848 million at September 30, 2007. Our substantial debt and other obligations could have important consequences. For example, it could (i) increase our vulnerability to general adverse economic and industry conditions; (ii) limit our ability to obtain additional financing for future working capital, capital expenditures, acquisitions and other general corporate requirements; (iii) increase our vulnerability to interest rate fluctuations because a portion of our debt has variable interest rates; (iv) require us to dedicate a substantial portion of our cash flows from operations to service debt and other obligations thereby reducing the availability of our cash flows from operations for other purposes; (v) limit our flexibility in planning for, or reacting to, changes in our business and the industry in which we operate; (vi) place us at a competitive disadvantage compared to our competitors that have less debt; and (vii) become due and payable upon a change in control. If new debt is added to our current debt levels these related risks could increase.

***We need to maintain adequate liquidity in order to have sufficient cash to meet operating cash flow requirements and to repay maturing debt and other obligations. If we fail to comply with the covenants contained in our various borrowing agreements, it may adversely affect our liquidity, results of operations and financial condition.***

Our liquidity is a function of our ability to successfully generate cash flows from a combination of efficient operations and improvement therein, access to capital markets, securitizations, funding from third parties and borrowings secured by our finance receivables portfolios. As of September 30, 2007, total cash and cash equivalents was \$848 million, and our borrowing capacity under our 2007 Credit Facility was \$1.3 billion, reflecting outstanding borrowings of \$700 million. We also have funding available through various secured borrowing arrangements. We believe our liquidity (including operating and other cash flows that we expect to generate) will be sufficient to meet operating requirements as they occur; however, our ability to maintain sufficient liquidity going forward depends on our ability to generate cash from operations and access to the capital markets, secured borrowings, securitizations and funding from third parties, all of which are subject to general economic, financial, competitive, legislative, regulatory and other market factors that are beyond our control.

The 2007 Credit Facility contains affirmative and negative covenants including limitations on: (i) liens of Xerox and certain of our subsidiaries securing debt, (ii) certain fundamental changes to corporate structure, (iii) changes in nature of business and (iv) limitations on debt incurred by certain subsidiaries. The 2007 Credit Facility contains financial maintenance covenants, including maximum leverage (debt for borrowed money divided by consolidated EBITDA, as defined) and a minimum interest coverage ratio (consolidated EBITDA divided by consolidated interest expense, as defined). The indentures governing our outstanding senior notes contain affirmative and negative covenants including limitations on: issuance of secured debt and preferred stock; investments and acquisitions; mergers; certain transactions with affiliates; creation of liens; asset transfers; hedging transactions; payment of dividends and certain other payments. They do not, however, contain any financial maintenance covenants, except the fixed charge coverage ratio applicable to certain types of payments. Our U.S. Loan Agreement with General Electric Capital Corporation (“GECC”) (effective through 2010) relating to our customer financing program (the “Loan Agreement”) provides for loans secured by eligible finance receivables up to \$5 billion outstanding at any one time. As of September 30, 2007, \$416 million was outstanding under the

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Loan Agreement, including a similar loan agreement with GE in Canada. These agreements incorporate the financial maintenance covenants contained in the 2007 Credit Facility and contain other affirmative and negative covenants.

At September 30, 2007, we were in full compliance with the covenants and other provisions of the 2007 Credit Facility, the senior notes and the Loan Agreement. Any failure to be in compliance with any material provision or covenant of the 2007 Credit Facility or the senior notes could have a material adverse effect on our liquidity, results of operations and financial condition. Failure to be in compliance with the covenants in the Loan Agreement, including the financial maintenance covenants incorporated from the 2007 Credit Facility, would result in an event of termination under the Loan Agreement and in such case GECC would not be required to make further loans to us. If GECC were to make no further loans to us, and assuming a similar facility was not established and that we were unable to obtain replacement financing in the public debt markets, it could materially adversely affect our liquidity and our ability to fund our customers' purchases of our equipment and ultimately, our results of operations.

***We need to successfully bring GIS into our operations in order to realize all of the anticipated benefits from the transaction.***

Our ability to realize the anticipated benefits of the Global Imaging Systems, Inc. ("GIS") acquisition is subject to certain risks including, but not limited to the risks that; the future business operations of GIS will not be successful; customer retention and revenue expansion goals for the GIS transaction will not be met; and disruptions from the GIS transaction will harm relationships with customers, employees, agents, distributors and suppliers.

## **Item 2 Unregistered Sales of Equity Securities and Use of Proceeds**

### **(a) Sales of Unregistered Securities during the Quarter ended September 30, 2007**

During the quarter ended September 30, 2007, registrant issued the following securities in transactions that were not registered under the Securities Act of 1933, as amended (the "Act").

- (a) Securities issued on July 13, 2007: Registrant issued 21,383 deferred stock units ("DSU"), representing the right to receive shares of Common Stock, par value \$1 per share, at a future date.
- (b) No underwriters participated. The DSUs were issued to each of the non-employee Directors of Registrant: Glenn A. Britt, Richard J. Harrington, William Curt Hunter, Vernon E. Jordan, Jr., Ralph S. Larsen, Robert A. McDonald, N. J. Nicholas, Jr., Ann N. Reese and Mary Agnes Wilderotter.
- (c) The DSUs were issued at a deemed purchase price of \$19.82 per DSU (aggregate price \$423,811), based upon the market value of our Common Stock on the date of issuance, in payment of the semi-annual Directors' fees pursuant to Registrant's 2004 Equity Compensation Plan for Non-Employee Directors.
- (d) Exemption from registration under the Act was claimed based upon Section 4(2) as a sale by an issuer not involving a public offering.

**(b) Issuer Purchases of Equity Securities during the Quarter ended September 30, 2007**

**Repurchases of Xerox Common Stock, par value \$1.00 per Share**

	<b>Total Number of Shares Purchased</b>	<b>Average Price Paid per Share<sup>(1)</sup></b>	<b>Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs<sup>(2)</sup></b>	<b>Maximum Number (or Approximate Dollar Value) of Shares That May Yet Be Purchased under the Plans or Programs<sup>(2)</sup></b>
<b>July 1 through 31</b>	100,000	\$ 18.5621	100,000	\$ 710,027,342
<b>August 1 through 31</b>	12,238,697	17.1691	12,238,697	499,900,016
<b>September 1 through 30</b>	—	—	—	499,900,016
<b>Total</b>	<u>12,338,697</u>		<u>12,338,697</u>	

(1) Exclusive of fees and costs.

(2) The original \$500 million Stock Repurchase Program was authorized by our Board of Directors in October, 2005. In each of January 2006, July 2006, November 2006 and February 2007 our Board of Directors authorized additional \$500 million Stock Repurchase Programs covering the aggregate repurchase of up to \$2.5 billion of our common stock, par value \$1.00 per share. The most recently adopted program covers purchases through the period ending January 31, 2008. The \$2.5 billion is exclusive of fees and expenses. The repurchases under these programs may be made on the open market, or through derivative or negotiated transactions. Open-market repurchases will be made in compliance with the Securities and Exchange Commission's Rule 10b-18, and are subject to market conditions as well as applicable legal and other considerations.

**Item 5. Other Information**

**Rule 10b5-1 Plans**

Registrant has been advised on October 26, 2007 that Anne M. Mulcahy, its Chairman and Chief Executive Officer, Ursula M. Burns, its President, and James A. Firestone, Executive Vice President, Xerox North America, have each entered into a pre-arranged plan with the Smith Barney Division of Citigroup Global Markets Inc. to exercise certain Xerox stock options and sell the stock acquired upon such exercises. These plans were adopted in compliance with Rule 10b5-1 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Under her plan, Mulcahy may exercise up to 1,000,000 options which were granted in 2001. Under her plan, Burns may exercise up to 249,600 options which were granted in 2002. Under his plan, Firestone may exercise up to 182,357 options which were granted in 2000 and 2002. In addition, Firestone may sell up to 120,206 additional shares of common stock acquired in 2000-2004. These transactions are scheduled to occur in 2008.

Both Mulcahy and Burns entered into similar plans in 2006, which are scheduled to expire by their terms by the end of 2007. Mulcahy, Burns and Firestone elected to participate in the planned selling program for diversification and tax planning purposes. Their stock ownership level of Registrant's common stock will not be affected by these transactions and their current holdings are in excess of Registrant's mandatory equity holding requirements. Transactions by Mulcahy, Burns and Firestone under their Rule 10b5-1 plans will be publicly disclosed with the SEC through Form 4 filings.

**Item 6 Exhibits**

Exhibit 3(a)—Restated Certificate of Incorporation of Registrant filed with the Department of State of the State of New York on November 7, 2003 as amended by Certificate of Amendment to Certificate of Incorporation filed with the Department of State of New York on August 19, 2004 and Certificate of Change filed with the Department of State of New York on October 24, 2007.

Exhibit 3(b)—By-Laws of Registrant, as amended through May 24, 2007.

Exhibit 10 (i)—Form of Amended and Restated Severance Letter Agreement

Incorporated by reference to Exhibit 10 to Registrant's Current Report on Form 8-K dated October 11, 2007.

Exhibit 12—Computation of Ratio of Earnings to Fixed Charges and Computation of Ratio of Earnings to Combined Fixed Charges and Preferred Stock Dividends.

Exhibit 31—(a) Certification of CEO pursuant to Rule 13a-14(a) or Rule 15d-14(a).

(b) Certification of CFO pursuant to Rule 13a-14(a) or Rule 15d-14(a).

Exhibit 32—Certification of CEO and CFO Pursuant to 18 U.S.C. Section 1350, as adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

**SIGNATURES**

Pursuant to the requirements 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.

Date: October 26, 2007

**XEROX CORPORATION**  
(Registrant)

By: /s/ GARY R. KABURECK  
Gary R. Kabureck  
Vice President and  
Chief Accounting Officer  
(Principal Accounting Officer)

**EXHIBITS**

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**RESTATED CERTIFICATE OF INCORPORATION  
OF  
XEROX CORPORATION  
UNDER SECTION 807 OF THE  
BUSINESS CORPORATION LAW**

We, the undersigned, ANNE M. MULCAHY and LESLIE F. VARON, being respectively the Chairman of the Board and the Secretary of XEROX CORPORATION, DO HEREBY CERTIFY that:

1. The name of the Corporation is "XEROX CORPORATION". The name under which it was formed is "THE HALOID COMPANY".
2. The Certificate of Incorporation was filed in the Office of the Secretary of State of the State of New York on April 18, 1906.

3. This restatement of the Certificate of Incorporation was authorized by a resolution adopted by the Board of Directors of the Corporation at a meeting thereof duly called and held. The text of the Certificate of Incorporation is hereby restated without further amendment to read as herein set forth in full:

FIRST: The name of the Corporation is XEROX CORPORATION.

SECOND: The purposes for which it is formed are as follows:

To engage in the invention, development, production, operation, sale or lease of devices, papers and other items, processes, and services, relating to the communications, photographic, printing and image reproduction arts;

To engage in any commercial, mercantile, manufacturing, mining, industrial, importing, exporting or trading business, venture, activity or service or other business, venture, activity or service of a kind or type described in these purposes;

To engage in scientific and technological research and pursuits of every lawful kind and description and to utilize, employ and exploit any and all knowledge resulting therefrom;

To purchase, lease or otherwise acquire, own, hold, sell, mortgage, charge or otherwise dispose of, invest, trade and deal in and with real and personal property of every kind and description.

THIRD: The office of the Corporation is to be located in the City of Rochester, Monroe County, New York.

FOURTH: The aggregate number of shares which the Corporation shall have the authority to issue is 1,750,000,000 shares of Common Stock, of the par value of \$1.00 each (hereinafter referred to as "Common Stock"), 600,000 shares of Class B Stock of the par value of \$1.00 each (hereinafter referred to as "Class B Stock"), and 22,043,067 shares of Cumulative Preferred Stock, of the par value of \$1.00 each (hereinafter referred to as "Cumulative Preferred Stock").

The designations, preferences, privileges and voting powers of each class of stock of the Corporation, and the restrictions and qualifications thereof, shall be as follows:

1. The Cumulative Preferred Stock may be issued from time to time as follows:

(a) The Cumulative Preferred Stock may be issued from time to time as shares of one or more series of Cumulative Preferred Stock and the Board of Directors is expressly authorized, prior to issuance, in the resolution or resolutions providing for the issue of shares in each particular series, to fix the following:

(i) the distinctive serial designation and number of shares which shall constitute such series, which number may be increased (except where otherwise provided by the Board of Directors in creating such series) or decreased (but not below the number of shares thereof then outstanding) from time to time by like action of the Board of Directors;

(ii) the annual dividend rate for such series, and the date from which dividends on shares of such series shall be cumulative;

(iii) the redemption provisions and price or prices, if any, for such series, which may consist of a redemption price or scale of redemption prices applicable only to redemption for a sinking fund and the same or a different redemption price or scale of redemption prices applicable to any other redemption;

(iv) the amount or amounts which shall be paid to the holders of the shares of such series in the event of voluntary or involuntary liquidation, dissolution or winding up of the Corporation (but not less than \$1.00 in the case of involuntary liquidation);

(v) the obligation, if any, of the Corporation to retire shares of such series pursuant to a sinking fund which shall be applied to the redemption of shares of such series;

(vi) the terms and conditions (with or without limitations), if any, on which shares of such series shall be convertible into, or exchangeable for, shares of stock of any other class or classes, including the price or prices or at the rate or rates of conversion or exchange and the terms and conditions of adjustment thereof, if any; and

(vii) the voting rights, if any, in addition to those specified herein, and any other preferences, privileges and restrictions or qualifications of such series.

(b) All shares of Cumulative Preferred Stock, regardless of series, shall be of equal rank with each other and shall be identical with each other in all respects except as provided in or permitted by paragraph (a) of this subdivision 1 and except as provided in paragraph (b) of subdivision 6; and the shares of the Cumulative Preferred Stock of any one series shall be identical with each other in all respects except as to the dates from and after which dividends thereon shall be cumulative.

(c) In case the stated dividends and the amounts payable on liquidation are not paid in full, the shares of all series of the Cumulative Preferred Stock shall share ratably in the payment of dividends (including accumulations, if any) in accordance with the sums which would be payable on said shares if all dividends were declared and paid in full, and in any distribution of assets other than by way of dividends in accordance with the sums which would be payable on such distributions if all sums payable were discharged in full.

2. The holders of the Cumulative Preferred Stock of each series shall be entitled to receive, when and as declared by the Board of Directors, but only out of funds legally available for the payment of dividends, cumulative cash dividends at the annual rate for such series (as fixed by the Board of Directors in accordance with subdivision 1 in respect of any series), and no more, payable quarter-yearly, on the first day of January, April, July and October in each year, to shareholders of record on the respective dates, not exceeding forty days preceding such dividend payment dates, fixed for the purpose by the Board of Directors in advance of payment of each particular dividend; provided that if dividends on any shares of the Cumulative Preferred Stock shall be cumulative from a date less than thirty days prior to the first quarter-yearly dividend payment date in respect of such shares, the dividends accrued on such shares to such date shall not be payable on such date but shall be payable on the next following quarter-yearly dividend payment date. The holders of shares of the Cumulative Preferred Stock shall not be entitled to receive any dividends thereon other than the dividends referred to in this subdivision 2.

As provided in paragraph (c) of subdivision 1, no dividend shall be paid upon, or declared or set apart for, any share of Cumulative Preferred Stock of any series for any quarter-yearly dividend period (other than the first quarter-yearly dividend period for any shares if the dividend on such shares for such period shall not then be payable pursuant to the provisions of subdivision 2) unless at the same time a like proportionate dividend for the same quarter-yearly dividend period, ratably in proportion to the respective annual dividend rates fixed therefor, shall be paid upon, or declared and set apart for, all shares of Cumulative Preferred Stock of all series then issued and outstanding and entitled to receive the dividend.

3. So long as any shares of the Cumulative Preferred Stock are outstanding, no dividend whatever shall be paid or declared at any time, and no distribution made, on any junior stock (other than in junior stock) nor shall any shares of junior stock be purchased or otherwise acquired for value or redeemed at any time by the Corporation or any subsidiary:

(a) unless all dividends on the Cumulative Preferred Stock of all series for all past quarter-yearly dividend periods (other than the first quarter-yearly dividend period for any shares if the dividend on such shares for such period shall not then be payable pursuant to the provisions of subdivision 2) shall have been paid and the full dividends thereon for the then current quarter-yearly dividend period shall have been paid or declared and a sum sufficient for the payment thereof set apart; and

(b) unless the Corporation shall have redeemed, retired or purchased all shares of each series of Cumulative Preferred Stock required to have been redeemed, retired or purchased at such time pursuant to the sinking fund fixed for such series by the Board of Directors in accordance with subdivision 1,

provided, however, that the foregoing restrictions in this subdivision 3 shall not apply to the acquisition of any junior stock solely in exchange for, or solely out of the proceeds of sale of, any other junior stock.

Subject to the foregoing provisions of this subdivision 3, and to any further limitations prescribed by the Board of Directors in accordance with subdivision 1, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the Board of Directors may be declared and paid on any junior stock from time to time out of any funds of the Corporation legally available therefor, and the Cumulative Preferred Stock shall not be entitled to participate in any such dividends.

4. Subject to the provisions of subdivision 5, the Corporation at its option (expressed by resolution of the Board of Directors) or for the purpose of any sinking fund therefor may (except as otherwise provided by the Board of Directors in accordance with subdivision 1 in respect of any series) redeem the outstanding shares of Cumulative Preferred Stock, or of any one or more series thereof, at any time in whole, or from time to time in part, upon notice duly given as hereinafter specified, at the applicable redemption price or prices for such shares (as fixed in accordance with subdivision 1 in respect of any series), including, in each case, an amount equal to all accrued and unpaid dividends thereon to the date fixed for redemption.

Notice of every such redemption of Cumulative Preferred Stock of any series (a) if all the shares of such series are held of record by not more than ten holders, shall be given by mailing such notice not less than 30 nor more than 60 days prior to the date fixed for such redemption to each holder of record of shares of such series so to be redeemed at his address as the same shall appear on the books of the Corporation, or (b) if all the shares of such series are held of record by more than ten holders, shall be given by publication at least once in each of two successive calendar weeks in a newspaper printed in the English language and customarily published on each business day and of general circulation in the Borough of Manhattan, The City of New York, the first publication to be not less than 30 nor more than 60 days prior to the date fixed for such redemption, and notice of such redemption shall also be mailed not less than 30 nor more than 60 days prior to the date fixed for such redemption, to each holder of record of shares of such series so to be redeemed at his address as the same shall appear on the books of the Corporation; but, if publication is required, no failure to mail any such notice nor any defect therein or in the mailing thereof shall affect the validity of the proceeding for the redemption of any shares to be redeemed.

In case of redemption of a part only of the Cumulative Preferred Stock of any series at the time outstanding, whether for the sinking fund therefor or otherwise, the redemption may (subject to any provision made by the Board of Directors in accordance with subdivision 1 in respect of any series) be either pro rata or by lot, as determined by the Board of Directors. Subject to the foregoing, the Board of Directors shall have full power and authority to prescribe the manner in which the drawings by lot or the pro rata redemption shall be conducted and, subject to the provisions contained in the Certificate of Incorporation or provided by the Board of Directors in accordance with subdivision 1, the terms and conditions upon which the Cumulative Preferred Stock shall be redeemed from time to time.

If any such notice of redemption shall have been duly given and if, on or before the redemption date specified therein, all funds necessary for such redemption shall have been set aside by the Corporation, separate and apart from its other funds, in trust for the pro rata benefit of the holders of the shares so called for redemption, so as to be and continue to be available therefor, then, notwithstanding that any certificate for shares so called for redemption shall not have been surrendered for cancellation, all shares so called for redemption shall no longer be deemed outstanding on and after such redemption date, and the right to receive dividends thereon and all other rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the holders thereof to receive the amount payable on redemption thereof without interest, and the right to exercise, on or before the date fixed for redemption, all privileges of conversion or exchange, if any, not theretofore expired.

If any such notice of redemption shall have been duly given or if the Corporation shall have given to the bank or trust company hereinafter referred to irrevocable written authorization promptly to give or complete such notice, and if on or before the redemption date specified therein the funds necessary for such redemption shall have been deposited by the Corporation with a bank or trust company in good standing, designated in such notice, organized under the laws of the United States of America or of the State of New York, doing business in the Borough of Manhattan, The City of New York, having a capital, surplus, and undivided profits aggregating at least \$5,000,000 according to its last published statement of condition, in trust for the pro rata benefit of the holders of the shares so called for redemption, then, notwithstanding that any certificate for shares so called for redemption shall not have been surrendered for cancellation, from and after the time of such deposit all shares so called for redemption shall no longer be deemed to be outstanding and all rights with respect to such shares shall forthwith cease and terminate, except only the right of the holders thereof to receive from such bank or trust company at any time after the time of such deposit the funds so deposited, without interest, and the right to exercise, on or before the date fixed for redemption, all privileges of conversion or exchange, if any, not theretofore expired. Any interest accrued on such funds shall be paid to the Corporation from time to time.

Any funds so set aside or deposited, as the case may be, and unclaimed at the end of six years from such redemption date shall be released or repaid to the Corporation, after which the holders of the shares so called for redemption shall look only to the Corporation for payment thereof; provided that any funds so deposited which shall not be required for redemption because of the exercise of any privilege of conversion or exchange subsequent to the date of deposit shall be repaid to the Corporation forthwith.

None of the shares of Cumulative Preferred Stock of any series redeemed or retired pursuant to the sinking fund fixed for such series by the Board of Directors in accordance with subdivision 1, shall be reissued and all such shares shall, in the manner provided by law, be eliminated from the authorized capital stock of the Corporation. The Corporation shall not be prohibited from reissuing any shares of Cumulative Preferred Stock redeemed or retired (other than for the sinking fund therefor) or converted into or exchanged for stock pursuant to the provisions fixed by the Board of Directors in accordance with subdivision 1, and after such redemption, retirement or conversion of the Corporation may, in the manner provided by law, restore such shares to the status of authorized but unissued shares of Cumulative Preferred Stock undesignated as to series.

5. If and so long as all dividends on the Cumulative Preferred Stock of all series for all past quarter-yearly dividend periods (other than the first quarter-yearly dividend period for any shares if the dividend on such shares for such period shall not then be payable pursuant to the provisions of subdivision 2) shall not have been paid and the full dividends thereon for the then current quarter-yearly dividend period shall not have been paid or declared and a sum sufficient for the payment thereof set apart, the Corporation shall not redeem (for sinking fund or otherwise) less than all of the Cumulative Preferred Stock at the time outstanding, and neither the Corporation nor any subsidiary shall purchase or otherwise acquire for value (for sinking fund or otherwise) any of the Cumulative Preferred Stock at the time outstanding.

6. Unless the consent of the holders of a greater number of shares shall then be required by law, the consent of the holders of at least two-thirds of the shares of Cumulative Preferred Stock at the time outstanding, given in person or by proxy, either in writing or at any special or annual meeting called for the purpose, at which the Cumulative Preferred Stock shall vote separately as a class, shall be necessary to permit, effect or validate any one or more of the following:

(a) The authorization of, or any increase in the authorized amount of, any class of stock ranking prior to the Cumulative Preferred Stock;

(b) The amendment, alteration or repeal of any of the provisions of the Certificate of Incorporation, or of the By-Laws of the Corporation which would affect adversely any right, preference, privilege or voting power of the Cumulative Preferred Stock or of the holders thereof; provided, however, that if any such amendment, alteration or repeal would affect adversely any right, preference, privilege or voting power of one or more, but not all, of the series of Cumulative Preferred Stock at the time outstanding, the consent of the holders of at least two-thirds of the outstanding shares of each such series so affected, similarly given, shall be required in lieu of (or if such consent is required by law, in addition to) the consent of the holders of two-thirds of the shares of the Cumulative Preferred Stock as a class; and

(c) The voluntary liquidation, dissolution or winding up of the Corporation, or the sale, lease or conveyance (other than by mortgage) of all or substantially all the property or business of the Corporation, or the consolidation or merger of the Corporation with or into any other corporation, except any such consolidation or merger wherein none of the rights, preferences, privileges or voting powers of any series of the Cumulative Preferred Stock or the holders thereof are adversely affected.

No consent of the holders of the Cumulative Preferred Stock or of any series thereof which would otherwise be required to permit, effect or validate any action of the Corporation or a subsidiary pursuant to the provisions of this subdivision 6 or pursuant to any provision fixed by the Board of Directors in accordance with subdivision 1 shall be required if, prior to or concurrently with such action, provision shall be made in accordance with the provisions of the fourth paragraph of subdivision 4 for the redemption of all outstanding shares of Cumulative Preferred Stock or all outstanding shares of such series, as the case may be, and all funds necessary for such redemption shall be deposited in trust in accordance with the provisions of such paragraph.

7. Unless and until six quarter-yearly dividends on the Cumulative Preferred Stock of any series shall be in default, in whole or in part, the entire voting power, except as otherwise provided in the Certificate of Incorporation or By-Laws, shall be vested exclusively in the Common Stock in accordance with the provisions of, and except as otherwise expressly provided in, the Certificate of Incorporation. If and whenever six full quarter-yearly dividends (whether or not consecutive) payable on the Cumulative Preferred Stock of any series shall be in arrears, in whole or in part, the number of Directors then constituting the Board of Directors shall be increased by two and the holders of the Cumulative Preferred Stock, voting separately as a class, regardless of series, shall be entitled to elect the two additional directors at any annual meeting of shareholders or special meeting held in place thereof, or at a special meeting of the holders of the Cumulative Preferred Stock called as hereinafter provided. Whenever all arrears in dividends on the Cumulative Preferred Stock then outstanding shall have been paid and dividends thereon for the current quarter-yearly dividend period shall have been paid or declared and set apart for payment, then the right of the holders of the Cumulative Preferred Stock to elect such additional two Directors shall cease (but subject always to the same provisions for the vesting of such voting rights in the case of any similar future arrearages in dividends), and the terms of office of all persons elected as Directors by the holders of the Cumulative Preferred Stock shall forthwith terminate and the number of the Board of Directors shall be reduced accordingly. At any time after such voting power shall have been so vested in the Cumulative Preferred Stock, the Secretary of the Corporation may, and upon the written request of any holder of the Cumulative Preferred Stock (addressed to the Secretary at the principal office of the Corporation)

shall, call a special meeting of the holders of the Cumulative Preferred Stock for the election of the two Directors to be elected by them as herein provided, such call to be made by notice similar to that provided in the By-Laws for a special meeting of the shareholders or as required by law. If any such special meeting required to be called as above provided shall not be called by the Secretary within twenty days after receipt of any such request, then any holder of Cumulative Preferred Stock may call such meeting, upon the notice above provided, and for that purpose shall have access to the stock books of the Corporation. The Directors elected at any such special meeting shall hold office until the next annual meeting of the shareholders or special meeting held in place thereof. In case any vacancy shall occur among the Directors elected by the holders of the Cumulative Preferred Stock, a successor shall be elected to serve until the next annual meeting of the shareholders or special meeting held in place thereof by the then remaining Director elected by the holders of the Cumulative Preferred Stock or the successor of such remaining Director.

In any case in which the holders of Cumulative Preferred Stock or any series thereof shall be entitled to vote pursuant to the provisions of the Certificate of Incorporation or pursuant to law, each holder of Cumulative Preferred Stock or of such series, as the case may be, shall be entitled to one vote for each share thereof held.

8. In the event of any liquidation, dissolution or winding up of the Corporation, the holders of the Cumulative Preferred Stock of each series shall be entitled to receive out of the assets of the Corporation, before any distribution or payment shall be made to the holders of any junior stock, (i) if such liquidation, dissolution or winding up shall be involuntary, the amount fixed by the Board of Directors in accordance with subdivision 1 but not less than \$1.00, and (ii) if such liquidation, dissolution or winding up shall be voluntary, the amount per share fixed by the Board of Directors in accordance with the provisions of subdivision 1 in the case of any series of Cumulative Preferred Stock, in effect at the time thereof, together with, in each case, all accrued and unpaid dividends thereon to the date fixed for the payment of such distributive amounts; and the holders of the junior stock shall be entitled, to the exclusion of the holders of the Cumulative Preferred Stock of any and all series, to share ratably in all the remaining assets of the Corporation in accordance with their respective rights. As provided in paragraph (c) of subdivision 1, if upon any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the assets available for distribution shall be insufficient to pay the holders of all outstanding shares of Cumulative Preferred Stock the full amounts to which they respectively shall be entitled, the holders of shares of Cumulative Preferred Stock of all series shall share ratably in any distribution of assets in accordance with the sums which would be payable on such distribution if all sums payable were discharged in full. Neither the consolidation or merger of the Corporation with or into any other corporation, nor any sale, lease or conveyance of all or any part of the property or business of the Corporation, shall be deemed to be a liquidation, dissolution or winding up of the Corporation within the meaning of this subdivision 8.

9. Except as otherwise expressly provided in the Certificate of Incorporation and except as otherwise provided by law, voting rights upon any and all matters shall be vested exclusively in the holders of the Common Stock and the Class B Stock (each share of Common Stock and of Class B Stock having one vote).

10. No holder of Common Stock, Cumulative Preferred Stock or Class B Stock shall be entitled as such, as a matter of right, to subscribe for or purchase any part of any new or additional issue of stock of any class whatsoever, or of any obligations or other securities convertible into, or exchangeable for, any stock of any class whatsoever, whether now or hereafter authorized and whether issued for cash or other consideration or by way of dividend.

11. The holders of Common Stock and of Class B Stock shall possess equal voting rights and rights as to dividends or distributions, and in the event of any liquidation, dissolution or winding up of the Corporation. No dividend, distribution, split-up, combination, reclassification, or other change in the shares of Common Stock shall be made without the same being made with respect to the Class B Stock.

12. For all purposes of the Certificate of Incorporation:

The term "accrued and unpaid dividends" when used with reference to any share of any series of the Cumulative Preferred Stock shall mean an amount computed at the annual dividend rate for the shares of such series from the date on which dividends on such share became cumulative to and including the date to which such dividends are to be accrued, less the aggregate amount of all dividends theretofore paid on such share; but no interest shall be payable upon any arrearages.

The term "Certificate of Incorporation" shall mean the certificate of incorporation of the Corporation as amended and supplemented by any certificate heretofore or hereafter filed pursuant to law, including any certificate filed pursuant to law with respect to, and providing for the issue of, any series of Cumulative Preferred Stock.

The term "junior stock", when used with reference to the Cumulative Preferred Stock, shall mean the Common Stock, the Class B Stock and any other stock of the Corporation, now or hereafter authorized, over which the Cumulative Preferred Stock has preference or priority either in the payment of dividends or in the distribution of assets upon any liquidation, dissolution or winding up of the Corporation.

The term "sinking fund", as applied to any series of preferred stock, shall mean any fund or requirement for the periodic redemption, retirement or purchase of shares of such series.

The term "stock ranking prior to the Cumulative Preferred Stock" shall mean any stock of the Corporation, now or hereafter authorized, which has preference over the Cumulative Preferred Stock either in the payment of dividends or in any liquidation, dissolution or winding up of the Corporation.

#### THE SERIES A CUMULATIVE PREFERRED STOCK

13. (a) The distinctive serial designation of the second series of Cumulative Preferred Stock is "Series A Cumulative Preferred Stock" (hereinafter called "Series A Preferred Stock").

(b) The number of shares constituting the Series A Preferred Stock is 1,500,000 shares.

(c) The quarterly dividend rate for the Series A Preferred Stock is an amount per share (rounded to the nearest cent) equal to the greater of (i) \$10.00 or (ii) subject to the provision for adjustment hereinafter set forth, 100 times the aggregate per share amount of all cash dividends, and 100 times the aggregate per share amount (payable in kind) of all noncash dividends or other distributions other than a dividend payable in shares of Common Stock or Class B Stock or a subdivision of the outstanding shares of Common Stock or Class B Stock (by reclassification or otherwise), declared on the Common Stock or Class B Stock of the Corporation since the immediately preceding quarterly dividend payment date, or, with respect to the first quarterly dividend payment date, since the first

issuance of any share or fraction of a share of Series A Preferred Stock. In the event the Corporation shall at any time after April 16, 1987 declare or pay any dividend on Common Stock or Class B Stock payable in shares of Common Stock or Class B Stock, or effect a subdivision or combination or consolidation of the outstanding shares of Common Stock or Class B Stock (by reclassification or otherwise than by payment of a dividend in shares of Common Stock or Class B Stock) into a greater or lesser number of shares of Common Stock or Class B Stock, then in each such case the amount to which holders of Series A Preferred Stock were entitled immediately prior to such event under clause (ii) of the preceding sentence shall be adjusted by multiplying such amount by a fraction, the numerator of which is the number of shares of Common Stock or Class B Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock or Class B Stock that were outstanding immediately prior to such event.

The Corporation shall declare a dividend or distribution on the Series A Preferred Stock as provided in this paragraph (c) immediately after it declares a dividend or distribution on the Common Stock or Class B Stock; provided that, in the event no dividend or distribution shall have been declared on the Common Stock or Class B Stock during the period between any quarterly dividend payment date and the next subsequent quarterly dividend payment date, a dividend of \$10.00 per share on the Series A Preferred Stock shall nevertheless be payable on such subsequent quarterly dividend payment date.

Dividends shall begin to accrue and be cumulative on outstanding Series A Preferred Stock from the date of issue of such shares of Series A Preferred Stock.

(d) Except as prescribed by law and in addition to the rights provided for in Section 7 of Article FOURTH of the Certificate of Incorporation of the Corporation and in paragraph (i) of this Section 13, and subject to the provision for adjustment hereinafter set forth, the holders of the Series A Preferred Stock shall be entitled to one vote for each share held and shall be entitled to exercise such voting rights with the holders of Common Stock and Class B Stock, without distinction as to class, at any annual or special meeting of shareholders for the election of directors and on any other matter coming before such meeting.

(e) Any Series A Preferred Stock purchased or otherwise acquired by the Corporation in any manner whatsoever shall be retired and cancelled promptly after the acquisition thereof. All such shares shall upon their cancellation become authorized but unissued Cumulative Preferred Stock and may be reissued as part of a new series of Cumulative Preferred Stock to be created by resolution or resolutions of the Board of Directors, subject to the conditions and restrictions on issuance set forth herein.

(f)(i) Upon any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, no distribution shall be made to the holders of junior stock unless, prior thereto, the holders of Series A Preferred Stock shall have received the greater of (i) \$100.00 per share, plus an amount equal to accrued and unpaid dividends and distributions thereon, whether or not declared, to the date of such payment, or (ii) an amount per share which shall be determined by (A) dividing (1) the value of the assets of the Corporation available for distribution to shareholders, less the amount to be paid upon liquidation, dissolution, or winding up to the holders of all other series of stock ranking on a parity with the Series A Preferred Stock, by (2) the sum of the number of one-hundredths shares of Series A Preferred Stock outstanding as of the date of such event plus the number of shares of Common Stock and Class B Stock, as adjusted by multiplying such number of shares of Common Stock and Class B

Stock outstanding as of the date of such event by the Adjustment Number (as defined below), and (B) multiplying the result obtained in clause (A) by 100, (the "Series A Preferred Stock Liquidation Preference"). Following the payment of the full amount of the Series A Preferred Stock Liquidation Preference, no additional distributions shall be made to the holders of shares of Series A Preferred Stock. Following the payment of the full amount of the Series A Preferred Stock Liquidation Preference in respect of all outstanding shares of Series A Preferred Stock holders of Common Stock and Class B Stock shall receive their ratable and proportionate share of the remaining assets to be distributed, on a per share basis.

(ii) In the event, however, that there are not sufficient assets available to permit payment in full of the Series A Preferred Stock Liquidation Preference and the liquidation preferences of all other series of stock ranking on a parity upon liquidation, dissolution or winding up with the Series A Preferred Stock, then such remaining assets shall be distributed ratably to the holders of the Series A Preferred Stock and such other series of parity stock in proportion to the total amounts to which the holders of all such shares are entitled upon liquidation, dissolution or winding up.

(iii) The Adjustment Number as of the date of this Certificate of Amendment shall be one (1). In the event the Corporation shall at any time after April 16, 1987 declare or pay any dividend on Common Stock payable in shares of Common Stock or Class B Stock, or effect a subdivision or combination or consolidation of the outstanding shares of Common Stock or Class B Stock (by reclassification or otherwise than by payment of a dividend in shares of Common Stock or Class B Stock) into a greater or lesser number of shares of Common Stock or Class B Stock, then in each such case the Adjustment Number in effect immediately prior to such event shall be adjusted by multiplying such Adjustment Number by a fraction, the numerator of which is the number of shares of Common Stock and Class B Stock outstanding immediately prior to such event and the denominator of which is the number of shares of Common Stock and Class B Stock that were outstanding immediately after such event.

(iv) The merger or consolidation of the Corporation with or into any other corporation or the merger or consolidation of any other corporation with or into the Corporation, or the sale, transfer, exchange or conveyance by the Corporation of all or substantially all the assets of the Corporation, as an entirety, shall not be deemed to be a liquidation for purposes of paragraph (f) of this Section 13.

(g) In case the Corporation shall enter into any consolidation, merger, combination or other transaction in which the shares of Common Stock or Class B Stock are exchanged for or changed into other stock or securities, cash and/or any other property, then in any such case the Series A Preferred Stock shall at the same time be similarly exchanged or changed in an amount per share (subject to the provision for adjustment hereinafter set forth) equal to 100 times the aggregate amount of stock, securities, cash and/or any other property (payable in kind), as the case may be, into which or for which each share of Common Stock or Class B Stock is changed or exchanged. In the event the Corporation shall at any time after April 16, 1987 declare or pay any dividend on Common Stock or Class B Stock payable in shares of Common Stock or Class B Stock, or effect a subdivision or combination or consolidation of the outstanding shares of Common Stock or Class B Stock (by reclassification or otherwise than by payment of a dividend in shares of Common Stock or Class B Stock) into a greater or lesser number of

shares of Common Stock or Class B Stock, then in each such case the amount set forth in the preceding sentence with respect to the exchange or change of Series A Preferred Stock shall be adjusted by multiplying such amount by a fraction the numerator of which is the number of shares of Common Stock and Class B Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock and Class B Stock that were outstanding immediately prior to such event.

(h) The Series A Preferred Stock shall not be redeemable.

(i) Series A Preferred Stock may be issued in fractions of a share which shall entitle the holder, in proportion to such holder's fractional shares, to exercise voting rights, receive dividends, participate in liquidating distributions and to have the benefit of all other rights of holders of Series A Preferred Stock.

(j) The Series A Preferred Stock is not convertible into, or exchangeable for, shares of stock of any other class.

#### THE 6.25% SERIES C MANDATORY CONVERTIBLE PREFERRED STOCK

14. (a) *Designation and Ranking.* The distinctive serial designation of the sixth series of Cumulative Preferred Stock shall be called the "6.25% Series C Mandatory Convertible Preferred Stock" and is hereinafter referred to as the "Series C Mandatory Convertible Preferred Stock"; and the number of shares constituting the Series C Mandatory Convertible Preferred Stock shall be 9,200,000 shares. The Series C Mandatory Convertible Preferred Stock shall rank, with respect to dividend distributions and distributions upon the dissolution, liquidation and winding-up of the Corporation, (i) senior to the common stock, par value \$1.00 per share, of the Corporation (the "*Common Stock*") and the class B common stock, par value \$1.00 per share, of the Corporation (the "*Class B Common Stock*") and to each other class or series of stock of the Corporation (including any series of Cumulative Preferred Stock established after June 25, 2003 by the Board of Directors), now or hereafter existing, the terms of which do not expressly provide that such class or series will rank senior to or *pari passu* with the Series C Senior Mandatory Convertible Preferred Stock as to dividend distributions and distributions upon the liquidation, dissolution or winding-up of the Company (collectively referred to as "*Junior Securities*"); (ii) *pari passu* with the Corporation's Series B Convertible Preferred Stock (the "*Series B Convertible Preferred Stock*") and together, with the "*Series C Mandatory Convertible Preferred Stock*," the "*Cumulative Preferred Stock*") and with each other class or series of stock of the Corporation, now or hereafter existing, the terms of which expressly provide that such class or series will rank *pari passu* with the Series C Mandatory Convertible Preferred Stock as to dividend distributions and distributions upon liquidation, dissolution or winding-up of the Corporation (collectively referred to as "*Parity Securities*"); and (iii) junior to each other class or series of stock of the Corporation, now or hereafter existing, the terms of which expressly provide that such class or series will rank senior to the Series C Mandatory Convertible Preferred Stock as to dividend distributions and distributions upon liquidation, dissolution or winding-up of the Corporation (collectively referred to as "*Senior Securities*").

(b) *Dividends.*

(i) *General.* Dividends on the Series C Mandatory Convertible Preferred Stock shall be payable quarterly, when, as and if declared by the Board of Directors or a duly authorized committee thereof, out of the assets of the Corporation legally

available therefor, on the first calendar day (or the following Business Day if the first calendar day is not a Business Day) of January, April, July and October of each year (each such date being referred to herein as a "*Dividend Payment Date*") at the annual rate of \$6.25 per share subject to adjustment as provided in Section 18(l)(ii). The initial dividend on the Series C Mandatory Convertible Preferred Stock for the dividend period commencing on June 25, 2003, to but excluding October 1, 2003, will be \$1.6667, and shall be payable, when, as and if declared, on October 1, 2003. The dividend on the Series C Mandatory Convertible Preferred Stock for each subsequent dividend period shall be \$1.5625 per share. The amount of dividends payable on each share of Series C Mandatory Convertible Preferred Stock for each full quarterly period thereafter shall be computed by dividing the annual dividend rate by four. The amount of dividends payable for any other period that is shorter or longer than a full quarterly dividend period will be computed on the basis of a 360-day year consisting of twelve 30-day months.

A dividend period with respect to a Dividend Payment Date is the period commencing on the preceding Dividend Payment Date or, if none, the date of issue and ending on the day immediately prior to the next Dividend Payment Date. Dividends payable, when, as and if declared, on a Dividend Payment Date shall be payable to Holders (as defined below) of record on the date not exceeding forty calendar days preceding the relevant Dividend Payment Date, fixed by the Board of Directors in advance of payment of the relevant dividend (each, a "*Dividend Record Date*").

Dividends on the Series C Mandatory Convertible Preferred Stock shall be cumulative if the Corporation fails to declare one or more dividends on the Series C Mandatory Convertible Preferred Stock in any amount, whether or not there are assets of the Corporation legally available for the payment of such dividends in whole or in part.

The Corporation may pay dividends, at its sole option, (a) in cash, (b) by delivering shares of Common Stock to the Transfer Agent (as defined below) on behalf of the Holders, to be sold on the Holders' behalf for cash or (c) in any combination thereof. By and upon acquiring the Series C Mandatory Convertible Preferred Stock each Holder is deemed to appoint the Transfer Agent as such Holder's agent for any such sale, and the Transfer Agent shall serve as a designated agent of the Holders in making any such sales. To pay dividends in shares of Common Stock, the Corporation must deliver to the Transfer Agent a number of shares of Common Stock which, when sold by the Transfer Agent on the Holders' behalf, will result in net cash proceeds to be distributed to the Holders in an amount equal to the cash dividend otherwise payable to the Holders.

If the Corporation pays dividends in shares of Common Stock by delivering them to the Transfer Agent, those shares shall be owned beneficially by the Holders upon delivery to the Transfer Agent, and the Transfer Agent shall hold those shares and the net cash proceeds from the sale of those shares up to the amount of such dividends for the exclusive benefit of the Holders until the Dividend Payment Date, or such other date as is fixed by the Board of Directors pursuant to the terms and conditions set forth in the last paragraph of this Section 18(b)(i), at which time the portion of such net cash proceeds equal to the non-cash component of the declared dividend on the Series C Mandatory Convertible Preferred Stock shall be distributed to the Holders entitled thereto with any remainder to be returned to the Company.

Holders shall not be entitled to any dividend, whether payable in cash, property or stock, in excess of the then applicable full dividends calculated pursuant to this Section 15(b)(i) (including accrued dividends, if any) on shares of Series C Mandatory Convertible Preferred Stock. No interest or sum of money in lieu of interest shall be payable in respect of any dividend or payment which may be in arrears.

(ii) In order to pay dividends on any Dividend Payment Date, or such other date as is fixed by the Board of Directors or a duly authorized committee thereof pursuant to the terms and conditions set forth in the last paragraph of Section 15(b)(i) hereof, in shares of Common Stock, (A) the shares of Common Stock delivered to the Transfer Agent shall have been duly authorized, (B) the Corporation shall have provided to the Transfer Agent an effective registration statement under the Securities Act of 1933, as amended, and the rules and regulations thereunder (the "Securities Act") permitting the immediate sale of the shares of Common Stock in the public market, (C) the shares of Common Stock, once purchased by the purchasers thereof, shall be validly issued, fully paid and non-assessable and (D) such shares shall have been registered under the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder, if required, and shall be listed or admitted for trading on each United States securities exchange on which the Common Stock is then listed.

(c) *Liquidation Preference.* In the event of any voluntary or involuntary liquidation, dissolution or winding-up of the Corporation, the Holders shall be entitled to receive out of the assets of the Corporation available for distribution to shareholders, before any distribution or payment of assets is made on any Junior Securities, \$100.00 per share, subject to adjustment as provided in Section 15(l)(ii) hereof, plus an amount equal to the sum of all accrued and unpaid dividends (whether or not declared) for the then-current dividend period and all dividend periods prior thereto.

Neither the sale, lease or conveyance of all or substantially all of the property or business of the Corporation (other than in connection with the voluntary or involuntary liquidation, dissolution or winding-up of the Corporation), nor the consolidation, or merger of the Corporation into or with any other Person, shall constitute a voluntary or involuntary liquidation, dissolution or winding-up of the Corporation for the purposes of the foregoing paragraph.

In the event the assets of the Corporation available for distribution to the holders of Cumulative Preferred Stock upon any voluntary or involuntary liquidation, dissolution or winding-up of the Corporation shall be insufficient to pay in full all amounts to which such holders are entitled as provided above, the holders of shares of the Cumulative Preferred Stock, including the Series C Mandatory Convertible Preferred Stock, shall share ratably in any distribution of assets of the Corporation based on the relative aggregate liquidation preference of the outstanding shares of each series.

After the payment to the Holders of the full preferential amounts provided above, the Holders will have no right or claim to any remaining assets of the Corporation.

(d) *Voting Rights.*

(i) The Holders shall have no voting rights, except as otherwise set forth in the Certificate of Incorporation of the Corporation or as expressly required by applicable state law. In exercising any such vote, each outstanding share of Series C Mandatory Convertible Preferred Stock shall be entitled to one vote.

(ii) Unless the consent of the holders of a greater number of shares shall then be required by law, the consent of the holders of at least two-thirds of the shares of Cumulative Preferred Stock, including the Series C Mandatory Convertible Preferred Stock, at the time outstanding, given in person or by proxy, either in writing or at any special or annual meeting called for the purpose, at which the Cumulative Preferred Stock, including the Series C Mandatory Convertible Preferred Stock, shall vote separately as a class, shall be necessary to permit, effect or validate any one or more of the following:

(1) The authorization of, or any increase in the authorized amount of any class of stock ranking prior to the Cumulative Preferred Stock, including the Series C Mandatory Convertible Preferred Stock.

(2) The amendment, alteration or repeal of any of the provisions of the Certificate of Incorporation, or of the By-Laws of the Corporation, in either case by way of merger, consolidation or otherwise, which would affect adversely any right, preference, privilege or voting power of the Cumulative Preferred Stock, including the Series C Mandatory Convertible Preferred Stock, or the holders thereof; *provided, however*, that if any such amendment, alteration or repeal would affect adversely any right, preference, privilege or voting power of one or more, but not all, of the series of Cumulative Preferred Stock, including the Series C Mandatory Convertible Preferred Stock, at the time outstanding, the consent of the holders of at least two-thirds of the outstanding shares of each such series so affected, similarly given, shall be required in lieu of (or if such consent is required by law, in addition to) the consent of the holders of two-thirds of the shares of the Cumulative Preferred Stock, including the Series C Mandatory Convertible Preferred Stock, as a class; or

(3) The voluntary liquidation, dissolution or winding up of the Corporation, or the sale, lease or conveyance (other than by mortgage) of all or substantially all the property or business of the Corporation, or the consolidation or merger of the Corporation with or into any other corporation, except any such consolidation or merger wherein none of the rights, preferences, privileges or voting powers of any series of the Cumulative Preferred Stock or the holders thereof are adversely affected.

(e) *Automatic Conversion.* Each share of Series C Mandatory Convertible Preferred Stock will automatically convert (unless previously converted at the option of the Corporation in accordance with Section 15(f) or at the option of the Holder in accordance with Section 15(g), or a Merger Early Conversion has occurred in accordance with Section

15(h)), on July 1, 2006 (the “Automatic Conversion Date”), into a number of newly issued shares of Common Stock equal to the number of shares of Common Stock resulting from the application of the Conversion Rate (as defined in Section 18(i) below). The Holders on the Automatic Conversion Date shall have the right to receive a dividend payment of cash, shares of Common Stock, or any combination thereof, as the Corporation determines in its sole discretion, in an amount equal to any accrued and unpaid dividends on the Series C Mandatory Convertible Preferred Stock as of the Automatic Conversion Date (other than previously declared dividends on the Series C Mandatory Convertible Preferred Stock payable to a Holder of record as of a prior date), whether or not declared, out of legally available assets of the Corporation. To the extent the Corporation pays some or all of such dividend in shares of Common Stock, the number of shares of Common Stock issuable to a Holder in respect of such accrued and unpaid dividends shall equal the amount of accrued and unpaid dividends on the Series C Mandatory Convertible Preferred Stock on the Automatic Conversion Date that the Corporation determines to pay in shares of Common Stock divided by the 5-Day Average Market Price (as defined below).

Dividends on the shares of Series C Mandatory Convertible Preferred Stock shall cease to accrue and such shares of Series C Mandatory Convertible Preferred Stock shall cease to be outstanding on the Automatic Conversion Date. The Corporation shall make such arrangements as it deems appropriate for the issuance of certificates, if any, representing shares of Common Stock (both for purposes of the automatic conversion of shares of Series C Mandatory Convertible Preferred Stock and for purposes of any dividend payment by the Corporation of shares of Common Stock in respect of accrued and unpaid dividends on the Series C Mandatory Convertible Preferred Stock), and for any payment of cash in respect of accrued and unpaid dividends on the Series C Mandatory Convertible Preferred Stock or cash in lieu of fractional shares, if any, in exchange for and contingent upon the surrender of certificates representing the shares of Series C Mandatory Convertible Preferred Stock (if such shares are held in certificated form), and the Corporation may defer the payment of dividends on such shares of Common Stock and the voting thereof until, and make such payment and voting contingent upon, the surrender of such certificates representing the shares of Series C Mandatory Convertible Preferred Stock, *provided, however*, that the Corporation shall give the Holders such notice of any such actions as the Corporation deems appropriate and upon such surrender such Holders shall be entitled to receive such dividends declared and paid on such shares of Common Stock subsequent to the Automatic Conversion Date. Amounts payable in cash in respect of the shares of Series C Mandatory Convertible Preferred Stock or in respect of such shares of Common Stock shall not bear interest.

(f) *Provisional Conversion at the Option of the Corporation.*

(i) Prior to the Automatic Conversion Date, the Corporation may, at its option, cause the conversion of all, but not less than all, the shares of Series C Mandatory Convertible Preferred Stock then outstanding into shares of Common Stock at a rate of 8.1301 shares of Common Stock for each share of Series C Mandatory Convertible Preferred Stock (the “Provisional Conversion Rate”), subject to adjustment as set forth in Section 15(i)(ii) below (as though references in Section 15(i)(ii) to the Conversion Rate were replaced with references to the Provisional Conversion Rate); *provided, however*, that the Closing Price of the Common Stock has exceeded 150% of the Threshold Appreciation Price (as defined below) for at least 20 Trading Days (as defined below) within a period of 30 consecutive Trading Days ending on the Trading Day prior to the date on which the Corporation notifies the Holders (pursuant to Section 15(f)(ii)) that it is exercising its option to cause the conversion

of the Series C Mandatory Convertible Preferred Stock pursuant to this Section 15(f) (the "*Provisional Conversion Notice Date*"). The Corporation shall be able to cause this conversion only if, in addition to issuing the Holders shares of Common Stock, the Corporation pays the Holders in cash (a) an amount equal to any accrued and unpaid dividends on the shares of Series C Mandatory Convertible Preferred Stock then outstanding, whether or not declared, and (b) the present value of all remaining dividend payments on the shares of Series C Mandatory Convertible Preferred Stock then outstanding, through and including July 1, 2006, in each case, out of legally available assets of the Corporation. The present value of the remaining dividend payments will be computed using a discount rate equal to the Treasury Yield.

(ii) A written notice (the "*Provisional Conversion Notice*") shall be sent by or on behalf of the Corporation, by first class mail, postage prepaid, to the Holders of record as they appear on the stock register of the Corporation on the Provisional Conversion Notice Date (a) notifying such Holders of the election of the Corporation to convert and of the Provisional Conversion Date (as defined below), which date shall not be less than 30 days nor be more than 60 days after the Provisional Conversion Notice Date, and (b) stating the Corporate Trust Office of the Transfer Agent at which the shares of Series C Mandatory Convertible Preferred Stock called for conversion shall, upon presentation and surrender of the certificate(s) (if such shares are held in certificated form) evidencing such shares, be converted, and the Provisional Conversion Rate to be applied thereto.

(iii) The Corporation shall deliver to the Transfer Agent irrevocable written instructions authorizing the Transfer Agent, on behalf and at the expense of the Corporation, to cause the Provisional Conversion Notice to be duly mailed as soon as practicable after receipt of such irrevocable instructions from the Corporation and in accordance with the above provisions. The shares of Common Stock to be issued upon conversion of the Series C Mandatory Convertible Preferred Stock pursuant to this Section 15(f) and all funds necessary for the payment in cash of (1) any accrued and unpaid dividends on the shares of Series C Mandatory Convertible Preferred Stock then outstanding, whether or not declared, and (2) the present value of all remaining dividend payments on the shares of Series C Mandatory Convertible Preferred Stock then outstanding through and including July 1, 2006, shall be deposited with the Transfer Agent in trust at least one Business Day prior to the Provisional Conversion Date, for the *pro rata* benefit of the Holders of record as they appear on the stock register of the Corporation, so as to be and continue to be available therefor. Neither failure to mail such Provisional Conversion Notice to one or more such Holders nor any defect in such Provisional Conversion Notice shall affect the sufficiency of the proceedings for conversion as to other Holders.

(iv) If a Provisional Conversion Notice shall have been given as hereinbefore provided, then each Holder shall be entitled to all preferences and relative, participating, optional and other special rights accorded by this certificate until and including the Provisional Conversion Date. From and after the Provisional Conversion Date, upon delivery by the Corporation of the Common Stock and payment of the funds to the Transfer Agent as described in paragraph (iii) above, the Series C Mandatory Convertible Preferred Stock shall no longer be deemed to be outstanding, and all rights of such Holders shall cease and terminate, except the right of the Holders, upon surrender of certificates therefor, to receive Common Stock and any amounts to be paid hereunder.

(v) The deposit of monies in trust with the Transfer Agent up to the amount necessary for the Provisional Conversion shall be irrevocable except that the Corporation shall be entitled to receive from the Transfer Agent the interest or other earnings, if any, earned on any monies so deposited in trust, and the Holders of the shares converted shall have no claim to such interest or other earnings, and any balance of monies so deposited by the Corporation and unclaimed by the Holders entitled thereto at the expiration of two years from the Provisional Conversion Date shall be repaid, together with any interest or other earnings thereon, to the Corporation, and after any such repayment, the Holders of the shares entitled to the funds so repaid to the Corporation shall look only to the Corporation for such payment without interest.

(g) *Early Conversion at the Option of the Holder.*

(i) Shares of Series C Mandatory Convertible Preferred Stock are convertible, in whole or in part, at the option of the Holders thereof ("*Optional Conversion*"), at any time prior to the Automatic Conversion Date, into shares of Common Stock at a rate of 8.1301 shares of Common Stock for each share of Series C Mandatory Convertible Preferred Stock (the "*Optional Conversion Rate*"), subject to adjustment as set forth in Section 15(i)(ii) below (as though references in Section 15(i)(ii) to the Conversion Rate were replaced with references to the *Optional Conversion Rate*).

(ii) Optional Conversion of shares of Series C Mandatory Convertible Preferred Stock may be effected by delivering certificates evidencing such shares (if such shares are held in certificated form), together with written notice of conversion and a proper assignment of such certificates to the Corporation or in blank (and, if applicable, payment of an amount equal to the dividend payable on such shares pursuant to paragraph (iii) below), to the Corporate Trust Office of the Transfer Agent for the Series C Mandatory Convertible Preferred Stock or to any other office or agency maintained by the Corporation for that purpose. Each Optional Conversion shall be deemed to have been effected immediately prior to the close of business on the date on which the foregoing requirements shall have been satisfied.

(iii) Holders of shares of Series C Mandatory Convertible Preferred Stock at the close of business on a Dividend Record Date shall be entitled to receive the dividend payable on such shares on the corresponding Dividend Payment Date (if such dividend has been declared) notwithstanding the Optional Conversion of such shares following such Dividend Record Date and prior to such Dividend Payment Date. However, shares of Series C Mandatory Convertible Preferred Stock surrendered for Optional Conversion after the close of business on a Dividend Record Date and before the opening of business on the corresponding Dividend Payment Date must be accompanied by payment in cash of an amount equal to the dividend payable on such shares on such Dividend Payment Date. Except as provided above, upon any Optional Conversion of shares of Series C Mandatory Convertible Preferred Stock, the Corporation shall make no payment or allowance for unpaid preferred dividends, whether or not in arrears, on such shares of Series C Mandatory Convertible Preferred Stock as to which Optional Conversion has been effected or for dividends or distributions on the shares of Common Stock issued upon such Optional Conversion.

*(h) Early Conversion upon Cash Merger.*

(i) In the event of a merger or consolidation of the Corporation of the type described in Section 15(i)(iii)(1) in which the Common Stock outstanding immediately prior to such merger or consolidation is exchanged for consideration consisting of at least 30% cash or cash equivalents (any such event a "Cash Merger"), then the Corporation (or the successor to the Corporation hereunder) shall be required to offer all Holders of shares of Series C Mandatory Convertible Preferred Stock that remain outstanding after the Cash Merger (if any) the right to convert their shares of Series C Mandatory Convertible Preferred Stock prior to the Automatic Conversion Date ("*Merger Early Conversion*") as provided herein.

On or before the fifth Business Day after the consummation of a Cash Merger, the Corporation or, at the request and expense of the Corporation, the Transfer Agent shall give all Holders notice of the occurrence of the Cash Merger and of the right of Merger Early Conversion arising as a result thereof. The Corporation shall also deliver a copy of such notice to the Transfer Agent. Each such notice shall contain:

(1) the date, which shall be not less than 20 nor more than 30 calendar days after the date of such notice, on which the Merger Early Conversion will be effected (the "*Merger Early Conversion Date*");

(2) the date, which shall be on or one Business Day prior to the Merger Early Conversion Date, by which the Merger Early Conversion right must be exercised;

(3) the Conversion Rate (as adjusted pursuant to Section 15(i)(ii)) in effect immediately before such Cash Merger and the kind and amount of securities, cash and other property receivable by the Holder upon conversion of its shares of Series C Mandatory Convertible Preferred Stock pursuant to Section 15(i)(iii); and

(4) the instructions a Holder must follow to exercise the Merger Early Conversion right.

(ii) To exercise a Merger Early Conversion right, a Holder shall deliver to the Transfer Agent at the Corporate Trust Office (as defined below) by 5:00 p.m., New York City time, on or before the date by which the Merger Settlement right must be exercised as specified in the notice, the certificate(s) (if such shares are held in certificated form) evidencing the shares of Series C Mandatory Convertible Preferred Stock with respect to which the Merger Early Conversion right is being exercised duly endorsed for transfer to the Corporation or in blank with a written notice to the Corporation stating the Holder's intention to convert early in connection with the Cash Merger and providing the Corporation with payment instructions.

(iii) On the Merger Early Conversion Date, the Corporation shall deliver or cause to be delivered the cash, securities and other property to be received by such exercising Holder determined by assuming the Holder had converted the shares of Series C Mandatory Convertible Preferred Stock for which such Merger Early Conversion right was exercised into Common Stock immediately before the Cash Merger at the Conversion Rate (as adjusted pursuant to Section 15(i)(ii)).

(iv) Upon a Merger Early Conversion, the Transfer Agent shall, in accordance with the instructions provided by the Holder thereof on the notice provided to the Corporation as set forth in paragraph (ii) above, deliver to the Holder such cash, securities or other property issuable upon such Merger Early Conversion together with payment in lieu of any fractional shares, as provided herein.

(v) In the event that Merger Early Conversion is effected with respect to shares of Series C Mandatory Convertible Preferred Stock representing less than all the shares of Series C Mandatory Convertible Preferred Stock held by a Holder, upon such Merger Early Conversion the Corporation (or the successor to the Corporation hereunder) shall execute and the Transfer Agent shall authenticate, countersign and deliver to the Holder thereof, at the expense of the Corporation, a certificate evidencing the shares as to which Merger Early Conversion was not effected.

(i) *Definition of Conversion Rate; Anti-dilution Adjustments.*

(i) Subject to the immediately following sentence, the "Conversion Rate" is equal to:

(1) if the 20-Day Average Market Price is greater than or equal to \$12.30 (the "*Threshold Appreciation Price*"), 8.1301 shares of Common Stock per share of Series C Mandatory Convertible Preferred Stock;

(2) if the 20-Day Average Market Price is less than the Threshold Appreciation Price, but is greater than \$10.25, the number of shares of Common Stock per share of Series C Mandatory Convertible Preferred Stock equal to \$100.00 (the "*Stated Amount*") divided by the 20-Day Average Market Price; and

(3) if the 20-Day Average Market Price is equal to or less than \$10.25, 9.7561 shares of Common Stock per share of Series C Mandatory Convertible Preferred Stock,

in each case subject to adjustment as provided in Section 15(i)(ii) (and in each case rounded upward or downward to the nearest 1/10,000th of a share). In each of the clauses in the immediately preceding sentence, the number of newly issued shares of Common Stock issuable upon conversion of each share of the Series C Mandatory Convertible Preferred Stock on the Automatic Conversion Date in respect of a conversion pursuant to Section 18(e) shall be increased by an amount equal to any accrued and unpaid dividends on the Series C Mandatory Convertible Preferred Stock on the Automatic Conversion Date (taking into account any payment of such dividends on the Automatic Conversion Date) divided by the 20-Day Average Market Price.

(ii) In connection with the Conversion Rate as set forth in Section 15(i)(i), the formula for determining the Conversion Rate and the number of shares of Common Stock to be delivered on any conversion date on an early conversion as set forth in Section 15(f), (g) or (h) shall be subject to the following adjustments:

(1) *Stock Dividends.* In case the Corporation shall pay or make a dividend or other distribution on the Common Stock or Class B Common Stock in Common Stock or Class B Common Stock, the Conversion Rate, as in effect

at the opening of business on the day following the date fixed for the determination of shareholders entitled to receive such dividend or other distribution, shall be increased by dividing such Conversion Rate by a fraction of which the numerator shall be the number of shares of Common Stock and Class B Common Stock outstanding at the close of business on the date fixed for such determination and the denominator shall be the sum of such number of shares and the total number of shares constituting such dividend or other distribution, such increase to become effective immediately after the opening of business on the day following the date fixed for such determination.

(2) *Stock Purchase Rights.* In case the Corporation shall issue to all holders of its Common Stock and/or Class B Common Stock (such issuance not being available on an equivalent basis to Holders of the shares of Series C Mandatory Convertible Preferred Stock upon conversion) (1) rights, options or warrants entitling them to subscribe for or purchase shares of Common Stock or Class B Common Stock, or (2) securities convertible or exchangeable into shares of Common Stock or Class B Common Stock or rights, options or warrants to purchase or acquire securities convertible or exchangeable into shares of Common Stock or Class B Common Stock, in each case at a price per share of Common Stock or Class B Common Stock, as applicable, less than the Current Market Price on the date fixed for the determination of shareholders entitled to receive such rights, options, warrants or securities (other than pursuant to a dividend reinvestment, share purchase or similar plan), the Conversion Rate in effect at the opening of business on the day following the date fixed for such determination shall be increased by dividing such Conversion Rate by a fraction, the numerator of which shall be the number of shares of Common Stock and Class B Common Stock outstanding at the close of business on the date fixed for such determination plus the number of shares of Common Stock and Class B Common Stock, as applicable, which the aggregate consideration expected to be received by the Corporation upon the exercise, conversion or exchange of such rights, options, warrants or securities (as determined in good faith by the Board of Directors, whose determination shall be conclusive and described in a Board Resolution) would purchase at such Current Market Price and the denominator of which shall be the number of shares of Common Stock and Class B Common Stock outstanding at the close of business on the date fixed for such determination plus the number of shares of Common Stock or Class B Common Stock, as applicable, so offered for subscription or purchase, either directly or indirectly, or into which such securities are convertible or exchangeable, such increase to become effective immediately after the opening of business on the day following the date fixed for such determination.

(3) *Stock Subdivisions, Splits, Reclassifications and Combinations.* In case outstanding shares of Common Stock and/or Class B Common Stock shall be subdivided, split or reclassified into a greater number of shares of Common Stock or Class B Common Stock, respectively, the Conversion Rate in effect at the opening of business on the day following the day upon which such subdivision, split or reclassification becomes effective shall be proportionately increased, and, conversely, in case outstanding shares of Common Stock and/or Class B Common Stock shall each be combined or reclassified into a smaller number of shares of Common Stock or Class B Common Stock, respectively,

the Conversion Rate in effect at the opening of business on the day following the day upon which such combination or reclassification becomes effective shall be proportionately reduced, such increase or reduction, as the case may be, to become effective immediately after the opening of business on the day following the day upon which such subdivision, split, reclassification or combination becomes effective.

*(4) Debt, Asset or Security Distributions.*

(A) In case the Corporation shall, by dividend or otherwise, distribute to all holders of its Common Stock and/or Class B Common Stock evidences of its indebtedness, assets or securities (but excluding (w) any rights, options, warrants or securities referred to in Section 15(i)(ii)(2), (x) any dividend or distribution paid exclusively in cash, (y) any dividend, shares of capital stock of any class or series, or similar equity interests, of or relating to a subsidiary or other business unit in the case of a Spin-Off referred to in Section 15(i)(ii)(4)(B), or (z) any dividend or distribution referred to in Section 15(i)(ii)(1)), the Conversion Rate shall be increased by dividing the Conversion Rate in effect immediately prior to the close of business on the date fixed for the determination of shareholders entitled to receive such distribution by a fraction, the numerator of which shall be the Current Market Price on the date fixed for such determination less the then fair market value (as determined in good faith by the Board of Directors, whose determination shall be conclusive and described in a Board Resolution) of the portion of the assets or evidences of indebtedness so distributed applicable to one share of Common Stock or Class B Common Stock, as the case may be, and the denominator of which shall be such Current Market Price, such adjustment to become effective immediately prior to the opening of business on the day following the date fixed for the determination of shareholders entitled to receive such distribution. In any case in which this Section 15(i)(ii)(4)(A) is applicable, Section 15(i)(ii)(4)(B) shall not be applicable.

(B) In the case of a Spin-Off, the Conversion Rate in effect immediately before the close of business on the record date fixed for determination of shareholders entitled to receive that distribution will be increased by multiplying the Conversion Rate by a fraction, the numerator of which is the Current Market Price plus the Fair Market Value (as defined below) of the portion of those shares of Capital Stock or similar equity interests so distributed applicable to one share of Common Stock or Class B Common Stock, as the case may be, and the denominator of which is the Current Market Price. Any adjustment to the Conversion Rate under this Section 15(i)(ii)(4)(B) will occur at the earlier of (A) the tenth Trading Day from, and including, the effective date of the Spin-Off and (B) the date of the securities being offered in the Initial Public Offering of the Spin-Off, if that Initial Public Offering is effected simultaneously with the Spin-Off.

*(5) Cash Distributions.* In case the Corporation shall (A) by dividend or otherwise, distribute to all holders of its Common Stock and/or Class B Common Stock, cash (excluding (x) any cash that is distributed in a Reorganization Event to which Section 15(i)(iii) applies or as part of a distribution referred to in

Section 15(i)(ii)(4)) in an aggregate amount that, combined together with (B) the aggregate amount of any other distributions to all holders of Common Stock and/or Class B Common Stock made exclusively in cash within the 12 months preceding the date of payment of such distribution and in respect of which no adjustment pursuant to this Section 15(i)(ii)(5) or (6) has been made and (C) the aggregate of any cash plus the fair market value, as of the date of the expiration of the tender or exchange offer referred to below (as determined in good faith by the Board of Directors, whose determination shall be conclusive and described in a Board Resolution), of the consideration payable in respect of any tender or exchange offer by the Corporation or any of its subsidiaries for all or any portion of the Common Stock and/or Class B Common Stock concluded within the 12 months preceding the date of payment of the distribution described in clause (A) of this Section 15(i)(ii)(5) and in respect of which no adjustment pursuant to this Section 15(i)(ii)(5) or (6) has been made, exceeds 10% of the product of the Current Market Price on the date for the determination of shareholders entitled to receive such distribution times the number of shares of Common Stock and Class B Common Stock outstanding on such date, then, and in each such case, immediately after the close of business on such date for determination, the Conversion Rate shall be increased by dividing the Conversion Rate in effect immediately prior to the close of business on the date fixed for determination of the shareholders entitled to receive such distribution by a fraction (A) the numerator of which shall be equal to the Current Market Price on the date fixed for such determination less an amount equal to the quotient of (x) the combined amount distributed or payable in the transactions described in clauses (A), (B) and (C) of this Section 15(i)(ii)(5) and (y) the number of shares of Common Stock and Class B Common Stock outstanding on the date fixed for such determination and (B) the denominator of which shall be equal to the Current Market Price on the date fixed for such determination.

(6) *Tender Offers*. In case (A) a tender or exchange offer made by the Corporation or any subsidiary of the Corporation for all or any portion of the Common Stock and/or Class B Common Stock shall expire and such tender or exchange offer (as amended through the expiration thereof) shall require the payment to shareholders (based on the acceptance (up to any maximum specified in the terms of the tender or exchange offer) of Purchased Shares (as defined below)) of an aggregate consideration having a fair market value (as determined in good faith by the Board of Directors, whose determination shall be conclusive and described in a Board Resolution) that combined together with (B) the aggregate of the cash plus the fair market value (as determined in good faith by the Board of Directors, whose determination shall be conclusive and described in a Board Resolution), as of the expiration of such tender or exchange offer, of consideration payable in respect of any other tender or exchange offer by the Corporation or any subsidiary of the Corporation for all or any portion of the Common Stock and/or Class B Common Stock expiring within the 12 months preceding the expiration of such tender or exchange offer and in respect of which no adjustment pursuant to Section 15(i)(ii)(5) or (6) has been made and (C) the aggregate amount of any distributions to all holders of shares of Common Stock and/or Class B Common Stock made exclusively in cash within the 12 months preceding the expiration of such tender or exchange offer and in respect of which no adjustment pursuant

to Section 15(i)(ii)(5) or (6) has been made, exceeds 10% of the product of the Current Market Price as of the last time (the "Expiration Time") tenders could have been made pursuant to such tender or exchange offer (as amended through the expiration thereof) times the number of shares of Common Stock and Class B Common Stock outstanding (including any tendered shares) at the Expiration Time, then, and in each such case, immediately prior to the opening of business on the day after the date of the Expiration Time, the Conversion Rate shall be increased by dividing the Conversion Rate immediately prior to the close of business on the date of the Expiration Time by a fraction (A) the numerator of which shall be equal to (x) the product of (I) the Current Market Price on the date of the Expiration Time and (II) the number of shares of Common Stock and Class B Common Stock outstanding (including any tendered shares) on the date of the Expiration Time less (y) the amount of cash plus the fair market value (determined as aforesaid) of the aggregate consideration payable to shareholders based on the transactions described in clauses (A), (B) and (C) of this Section 15(i)(ii)(6) (assuming in the case of clause (A) the acceptance, up to any maximum specified in the terms of the tender or exchange offer, of Purchased Shares), and (B) the denominator of which shall be equal to the product of (x) the Current Market Price on the date of the Expiration Time and (y) the number of shares of Common Stock and Class B Common Stock outstanding (including any tendered shares) on the date of the Expiration Time less the number of all shares validly tendered, not withdrawn and accepted for payment on the date of the Expiration Time (such validly tendered shares, up to any such maximum, being referred to as the "Purchased Shares").

(7) *Calculation of Adjustments.* All adjustments to the Conversion Rate shall be calculated to the nearest 1/10,000th of a share of Common Stock (or if there is not a nearest 1/10,000th of a share to the next lower 1/10,000th of a share). No adjustment in the Conversion Rate shall be required unless such adjustment would require an increase or decrease of at least one percent therein; *provided*, that any adjustments which by reason of this subparagraph are not required to be made shall be carried forward and taken into account in any subsequent adjustment. If an adjustment is made to the Conversion Rate pursuant to Section 15(i)(ii)(1), (2), (3), (4), (5), (6) or (7), an adjustment shall also be made to the 20-Day Average Market Price solely to determine which of clauses (1), (2) or (3) of the definition of Conversion Rate will apply on the Automatic Conversion Date. Such adjustment shall be made by multiplying the 20-Day Average Market Price by a fraction, the numerator of which shall be the Conversion Rate immediately before such adjustment and the denominator of which shall be the Conversion Rate immediately after such adjustment pursuant to Section 15(i)(ii)(1), (2), (3), (4), (5), (6) or (7); *provided, however*, that if such adjustment to the Conversion Rate is required to be made pursuant to the occurrence of any of the events contemplated Section 15(i)(ii)(1), (2), (3), (4), (5), (6) or (7) during the period taken into consideration for determining the 20-Day Average Market Price, appropriate and customary adjustments shall be made to the Conversion Rate.

(8) *Increase of Conversion Rate.* The Corporation may make such increases in the Conversion Rate, in addition to those required by this Section 15(i)(ii), as it considers to be advisable in order to avoid or diminish any income

tax to any holders of shares of Common Stock resulting from any dividend or distribution of stock or issuance of rights or warrants to purchase or subscribe for stock or from any event treated as such for income tax purposes or for any other reasons.

(9) *Notice of Adjustment.* Whenever the Conversion Rate is adjusted in accordance with this Section 15(i)(ii), the Corporation shall: (A) forthwith compute the Conversion Rate in accordance with this Section 15(i)(ii) and prepare and transmit to the Transfer Agent an Officer's Certificate setting forth the Conversion Rate, the method of calculation thereof in reasonable detail, and the facts requiring such adjustment and upon which such adjustment is based; and (B) as soon as practicable following the occurrence of an event that requires an adjustment to the Conversion Rate pursuant to this Section 15(i)(ii) (or if the Corporation is not aware of such occurrence, as soon as practicable after becoming so aware), provide a written notice to the Holders of the occurrence of such event and a statement setting forth in reasonable detail the method by which the adjustment to the Conversion Rate was determined and setting forth the adjusted Conversion Rate.

(iii) In the event of:

(1) any consolidation or merger of the Corporation with or into another Person or of another Person with or into the Corporation; or

(2) any sale, transfer, lease or conveyance to another Person of the property of the Corporation as an entirety or substantially as an entirety; or

(3) any reclassification (other than a reclassification to which Section 15(i)(ii)(3) applies),

(any such event, a "*Reorganization Event*"), each share of Series C Mandatory Convertible Preferred Stock prior to such Reorganization Event shall, after such Reorganization Event, be converted into the right to receive the kind and amount of securities, cash and other property receivable in such Reorganization Event (without any interest thereon, and without any right to dividends or distributions thereon which have a record date that is prior to the date of the Reorganization Event) per share of Series C Mandatory Convertible Preferred Stock by a holder of Common Stock that (A) is not a Person with which the Corporation consolidated or into which the Corporation merged or which merged into the Corporation or to which such sale or transfer was made, as the case may be (any such Person, a "*Constituent Person*"), or an Affiliate (as defined below) of a Constituent Person to the extent such Reorganization Event provides for different treatment of Common Stock held by Affiliates of the Corporation and non-Affiliates, and (B) has failed to exercise the rights of election, if any, as to the kind or amount of securities, cash and other property receivable upon such Reorganization Event (provided that if the kind or amount of securities, cash and other property receivable upon such Reorganization Event is not the same for each share of Common Stock held immediately prior to such Reorganization Event by other than a Constituent Person or an Affiliate thereof and in respect of which such rights of election shall not have been exercised ("*Non-electing Share*"), then for the purpose of this Section 15(i)(iii) the kind and amount of securities, cash and other property receivable upon such Reorganization Event by each Non-electing Share shall be deemed to be the kind and amount so receivable per share by a plurality

of the Non-electing Shares). On the Automatic Conversion Date, the Conversion Rate then in effect shall be applied to the value or amount on the Automatic Conversion Date of such securities, cash or other property.

On the occurrence of such a Reorganization Event, the Person formed by such consolidation or merger or the Person which acquires the assets of the Corporation shall execute and deliver to the Transfer Agent an agreement supplemental hereto providing that the Holder of each share of Series C Mandatory Convertible Preferred Stock that remains outstanding after the Reorganization Event (if any) shall have the rights provided by this Section 15(i)(iii). Such supplemental agreement shall provide for adjustments which, for events subsequent to the effective date of such supplemental agreement, shall be as nearly equivalent as may be practicable to the adjustments provided for in this Section 15(i). The above provisions of this Section 15(i)(iii) shall similarly apply to successive Reorganization Events.

(j) *Definitions.*

(i) "*5-Day Average Market Price*" as of any date means the arithmetic average of the volume-weighted average price per share of the Common Stock for each of the five Trading Days ending on the earlier of the day preceding the date in question and the day before the "ex date" with respect to the issuance or distribution requiring such computation, as reported by Bloomberg Professional Service accessed using the reference "XRX Equity VAP" for the period beginning at 9:30 am, New York City time, and ending at 4:00 pm, New York City time. If such day is not a Trading Day, the five Trading Days will end on the last Trading Day prior to such day. For purposes of this paragraph, the term "Ex Date," when used with respect to any such issuance or distribution, means the first date on which the Common Stock trades without the right to receive such issuance or distribution. If, on any trading day no volume-weighted average price is reported for the Common Stock by Bloomberg Professional Service, the Closing Price of a share of the Common Stock will be substituted for the volume-weighted average price for such day.

(ii) "*20-Day Average Market Price*" as of any conversion date means the arithmetic average of the volume-weighted average price per share of the Common Stock for each of the 20 Trading Days ending on the third business day prior to the applicable conversion date, as reported by Bloomberg Professional Service accessed using the reference "XRX Equity VAP" for the period beginning at 9:30 am, New York City time, and ending at 4:00 pm, New York City time. If the third business day prior to such conversion date is not a Trading Day, the 20 Trading Days will end on the last trading day prior to the third business day prior to such conversion date. For purposes of this definition, the term "ex date," when used with respect to any such issuance or distribution, means the first date on which the Common Stock trades without the right to receive such issuance or distribution. If, on any Trading Day no volume-weighted average price is reported for the Common Stock by Bloomberg Professional Service, the Closing Price of a share of the Common Stock will be substituted for the volume-weighted average price for such day.

(iii) "*Affiliate*" has the same meaning as given to that term in Rule 405 of the Securities Act or any successor rule thereunder.

(iv) "*Board Resolution*" means a copy of a resolution certified by the Secretary or any Assistant Secretary of the Corporation to have been duly adopted by the Board of Directors or any authorized committee thereof and to be in full force and effect and filed with the Transfer Agent.

(v) "*Business Day*" means any day other than a Saturday or Sunday or any other day on which banks in The City of New York are authorized or required by law or executive order to close.

(vi) "*Capital Stock*" of any Person means any and all shares, interests, participations or other equivalents however designated of corporate stock or other equity participations, including partnership interests, whether general or limited, of such Person and any rights (other than debt securities convertible or exchangeable into an equity interest), warrants or options to acquire an equity interest in such Person.

(vii) The "*Closing Price*" of the Common Stock or any securities distributed in a Spin-Off, as the case may be, on any date of determination means the closing sale price (or, if no closing sale price is reported, the last reported sale price) per share on the New York Stock Exchange (the "NYSE") on such date or, if such security is not listed for trading on NYSE on any such date, as reported in the composite transactions for the principal United States securities exchange on which such security is so listed or quoted or, if such security is not so listed or quoted on a United States national or regional securities exchange, as reported by the Nasdaq stock market or, if such security is not so reported, the last quoted bid price for such security in the over-the-counter market as reported by the National Quotation Bureau or similar organization or, if such bid price is not available, the market value of such security on such date as determined by a nationally recognized independent investment banking firm retained for this purpose by the Corporation.

(viii) "*Corporate Trust Office*" means the principal corporate trust office of the Transfer Agent at which, at any particular time, its corporate trust business shall be administered.

(ix) "*Current Market Price*" means (1) on any day the average of the Closing Prices of the Common Stock for the five consecutive Trading Days preceding the earlier of the day preceding the day in question and the day before the "ex date" with respect to the issuance or distribution requiring computation, (2) in the case of any Spin-Off that is effected simultaneously with an Initial Public Offering of the securities being distributed in the Spin-Off, the Closing Price of the Common Stock on the Trading Day on which the initial public offering price of the securities being distributed in the Spin-Off is determined, and (3) in the case of any other Spin-Off, the average of the Closing Prices of the Common Stock over the first 10 Trading Days after the effective date of such Spin-Off. For purposes of this paragraph, the term "ex date," when used with respect to any issuance or distribution, shall mean the first date on which the Common Stock trades in a regular way on such exchange or in such market without the right to receive such issuance or distribution.

(x) "*Fair Market Value*" means (1) in the case of any Spin-Off that is effected simultaneously with an Initial Public Offering of the securities being distributed in the Spin-Off, the initial public offering price of those securities, and (2) in the case of any other Spin-Off, the average of the Closing Prices of the securities being distributed in the Spin-Off over the first 10 Trading Days after the effective date of such Spin-Off.

- (xi) "*Holder*" means the Person in whose name a share of Series C Mandatory Convertible Preferred Stock is registered.
- (xii) "*Initial Public Offering*" means the first time securities of the same class or type as the securities being distributed in the Spin-Off are offered to the public for cash.
- (xiii) "*Officer*" means the Chairman of the Board, the Chief Executive Officer, the Chief Financial Officer, the President, any Vice President, the Treasurer or the Secretary of the Corporation.
- (xiv) "*Officer's Certificate*" means a certificate signed by two Officers.
- (xv) "*Person*" means any individual, corporation, limited liability corporation, partnership, joint venture, trust, unincorporated organization or government or any agency or political subdivision thereof.
- (xvi) "*Provisional Conversion Date*" means the date fixed for conversion of shares of Series C Mandatory Convertible Preferred Stock into shares of Common Stock pursuant to Section 15(f) above or, if the Corporation shall default in the cash payment of (1) an amount equal to any accrued and unpaid dividends on the shares of Series C Mandatory Convertible Preferred Stock then outstanding, whether or not declared, and (2) the present value of all remaining dividend payments on the shares of Series C Mandatory Convertible Preferred Stock then outstanding, through and including July 1, 2006, in connection with such conversion on such date, the date the Corporation actually makes such payment.
- (xvii) "*Spin-Off*" means a dividend or other distribution of shares of capital stock of any class or series, or similar equity interests, of or relating to a subsidiary or other business unit of the Corporation.
- (xviii) "*Subsidiary*" means, with respect to any Person, (1) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person (or a combination thereof) and (2) any partnership (A) the sole general partner or the managing general partner of which is such Person or a Subsidiary of such Person or (B) the only general partners of which are such Person or one or more Subsidiaries of such Person (or any combination thereof).
- (xix) "*Trading Day*" means a day on which the Common Stock or any security distributed in a Spin-Off, as the case may be, (1) is not suspended from trading on any national or regional securities exchange or association or over-the-counter market at the close of business and (2) has traded at least once on the national or regional securities exchange or association or over-the-counter market that is the primary market for the trading of such security.
- (xx) "*Treasury Yield*" means the yield to maturity at the time of computation of U.S. Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) which has become publicly available at least two Business Days prior to the Provisional Conversion Date (or, if such Statistical Release is no longer published, any publicly available source

for similar market data)) most nearly equal to the then remaining term to July 1, 2006; *provided, however*, that if the then remaining term to July 1, 2006 is not equal to the constant maturity of a U.S. Treasury security for which a weekly average yield is given, the Treasury Yield shall be obtained by linear interpolation (calculated to the nearest one-twelfth of a year) from the weekly average yields of U.S. Treasury securities for which such yields are given, except that if the then remaining term to July 1, 2006 is less than one year, the weekly average yield on actually traded U.S. Treasury securities adjusted to a constant maturity of one year shall be used.

(xxi) “*Transfer Agent*” means the Equiserve Trust Company, N.A. unless and until a successor is selected by the Corporation, and then such successor.

(k) *Fractional Shares.*

No fractional shares of Common Stock shall be issued to Holders. In lieu of any fraction of a share of Common Stock which would otherwise be issuable in respect of the aggregate number of shares of the Series C Mandatory Convertible Preferred Stock surrendered by the same Holder upon a conversion as described in Section 15(e), (f)(i), (g)(ii) or (h)(i) or which would otherwise be issuable in respect of a stock dividend payment upon a conversion as described in Section 18(e), such Holder shall have the right to receive an amount in cash (computed to the nearest cent) equal to the same fraction of (i) in the case of Section 15(e), the 5-Day Average Market Price or (b) in the case of Section 6(a), 7(b) or 8(c), the Closing Price of the Common Stock determined as of the second Trading Day immediately preceding the effective date of conversion. If more than one share of Series C Mandatory Convertible Preferred Stock shall be surrendered for conversion at one time by or for the same Holder, the number of full shares of Common Stock issuable upon conversion thereof shall be computed on the basis of the aggregate number of shares of the Series C Mandatory Convertible Preferred Stock so surrendered.

(l) *Miscellaneous.*

(i) Procedures for conversion of shares of Series C Mandatory Convertible Preferred Stock, in accordance with Section 15(e), (f), (g) or (h), not held in certificated form will be governed by arrangements among the depository of the shares of Series C Mandatory Convertible Preferred Stock, its participants and persons that may hold beneficial interests through such participants designed to permit settlement without the physical movement of certificates. Payments, transfers, deliveries, exchanges and other matters relating to beneficial interests in global security certificates may be subject to various policies and procedures adopted by the depository from time to time.

(ii) The Liquidation Preference and the annual dividend rate set forth in this Section 15 each shall be subject to equitable adjustment whenever there shall occur a stock split, combination, reclassification or other similar event involving the Series C Mandatory Convertible Preferred Stock. Such adjustments shall be determined in good faith by the Board of Directors and submitted by the Board of Directors to the Transfer Agent.

(iii) For the purposes of Section 15(i), the number of shares of Common Stock at any time outstanding shall not include shares held in the treasury of the Corporation but shall include shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock.

(iv) If the Corporation shall take any action affecting the Common Stock, other than any action described in Section 15(i), that in the opinion of the Board of Directors would materially adversely affect the conversion rights of the Holders, then the Conversion Rate, the Provisional Conversion Rate and/or the Optional Conversion Rate for the Series C Mandatory Convertible Preferred Stock may be adjusted, to the extent permitted by law, in such manner, and at such time, as the Board of Directors may determine to be equitable in the circumstances.

(v) The Corporation covenants that it will at all times reserve and keep available, free from preemptive rights, out of the aggregate of its authorized but unissued shares of Common Stock for the purpose of effecting conversion of the Series C Mandatory Convertible Preferred Stock, the full number of shares of Common Stock deliverable upon the conversion of all outstanding shares of Series C Mandatory Convertible Preferred Stock not theretofore converted. For purposes of this Section 15(l)(v), the number of shares of Common Stock that shall be deliverable upon the conversion of all outstanding shares of Series C Mandatory Convertible Preferred Stock shall be computed as if at the time of computation all such outstanding shares were held by a single Holder.

(vi) The Corporation covenants that any shares of Common Stock issued upon conversion of the Series C Mandatory Convertible Preferred Stock or issued in respect of a stock dividend payment upon a conversion described in Section 15(e) shall be validly issued, fully paid and non-assessable.

(vii) The Corporation shall use its best efforts to list the shares of Common Stock required to be delivered upon conversion of the Series C Mandatory Convertible Preferred Stock or upon issuance in respect of a stock dividend payment upon a conversion described in Section 18(e), prior to such delivery, upon each national securities exchange or quotation system, if any, upon which the outstanding Common Stock is listed at the time of such delivery.

(viii) Prior to the delivery of any securities that the Corporation shall be obligated to deliver upon conversion of the Series C Mandatory Convertible Preferred Stock or upon issuance in respect of a stock dividend payment upon a conversion described in Section 15(e), the Corporation shall use its best efforts to comply with all federal and state laws and regulations thereunder requiring the registration of such securities with, or any approval of or consent to the delivery thereof by, any governmental authority.

(ix) The Corporation shall pay any and all documentary, stamp or similar issue or transfer taxes payable in respect of the issue or delivery of shares of Common Stock or other securities or property upon conversion of the Series C Mandatory Convertible Preferred Stock pursuant thereto or upon issuance in respect of a stock dividend payment upon a conversion described in Section 15(e); *provided, however*, that the Corporation shall not be required to pay any tax that may be payable in respect of any transfer involved in the issue or delivery of shares of Common Stock or other securities or property in a name other than that of the Holder of the Series C Mandatory Convertible Preferred Stock to be converted and no such issue or delivery shall be made unless and until the person requesting such issue or delivery has paid to the Corporation the amount of any such tax or established, to the reasonable satisfaction of the Corporation, that such tax has been paid or is not applicable.

(x) The Series C Senior Mandatory Convertible Preferred Stock is not redeemable.

(xi) The Series C Senior Mandatory Convertible Preferred Stock is not entitled to any preemptive or subscription rights in respect of any securities of the Corporation.

(xii) Whenever possible, each provision hereof shall be interpreted in a manner as to be effective and valid under applicable law, but if any provision hereof is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating or otherwise adversely affecting the remaining provisions hereof. If a court of competent jurisdiction should determine that a provision hereof would be valid or enforceable if a period of time were extended or shortened or a particular percentage were increased or decreased, then such court may make such change as shall be necessary to render the provision in question effective and valid under applicable law.

(xiii) Series C Mandatory Convertible Preferred Stock may be issued in fractions of a share which shall entitle the Holder, in proportion to such Holder's fractional shares, to exercise voting rights, receive dividends, participate in distributions and have the benefit of all other rights of Holders of Series C Mandatory Convertible Preferred Stock.

(xiv) Subject to applicable escheat laws, any monies set aside by the Corporation in respect of any payment with respect to shares of the Series C Mandatory Convertible Preferred Stock, or dividends thereon, and unclaimed at the end of two years from the date upon which such payment is due and payable shall revert to the general funds of the Corporation, after which reversion the Holders of such shares shall look only to the general funds of the Corporation for the payment thereof. Any interest accrued on funds so deposited shall be paid to the Corporation from time to time.

(xv) Except as may otherwise be required by law, the shares of Series C Mandatory Convertible Preferred Stock shall not have any voting powers, preferences and relative, participating, optional or other special rights, other than those specifically set forth in this Certificate of Incorporation.

(xvi) The headings of the various subdivisions hereof are for convenience of reference only and shall not affect the interpretation of any of the provisions hereof.

(xvii) If any of the voting powers, preferences and relative, participating, optional and other special rights of the Series C Mandatory Convertible Preferred Stock and qualifications, limitations and restrictions thereof set forth herein is invalid, unlawful or incapable of being enforced by reason of any rule of law or public policy, all other voting powers, preferences and relative, participating, optional and other special rights of the Series C Mandatory Convertible Preferred Stock and qualifications, limitations and restrictions thereof set forth herein which can be given effect without the invalid, unlawful or unenforceable voting powers, preferences and relative, participating, optional and other special rights of the Series C Mandatory Convertible Preferred Stock and qualifications, limitations and restrictions thereof shall, nevertheless, remain in full force and effect, and no voting powers, preferences and relative, participating, optional or other special rights of the Series C Mandatory

Convertible Preferred Stock and qualifications, limitations and restrictions thereof herein set forth shall be deemed dependent upon any other such voting powers, preferences and relative, participating, optional or other special rights of the Series C Mandatory Convertible Preferred Stock and qualifications, limitations and restrictions thereof unless so expressed herein.

(xviii) Shares of Series C Mandatory Convertible Preferred Stock that (a) have not been issued on or before August 1, 2003 or (b) have been issued and reacquired in any manner, including shares purchased or redeemed or exchanged or converted, shall (upon compliance with any applicable provisions of the laws of New York) have the status of authorized but unissued shares of Cumulative Preferred Stock of the Corporation undesignated as to series and may be designated or redesignated and issued or reissued, as the case may be, as part of any series of preferred stock of the Corporation; *provided, however*, that any issuance of such shares as Series C Mandatory Convertible Preferred Stock must be in compliance with the terms hereof.

(xix) If any of the Series C Mandatory Convertible Preferred Stock certificates shall be mutilated, lost, stolen or destroyed, the Corporation shall issue, in exchange and in substitution for and upon cancellation of the mutilated Series C Mandatory Convertible Preferred Stock certificate, or in lieu of and substitution for the Series C Mandatory Convertible Preferred Stock certificate lost, stolen or destroyed, a new Series C Mandatory Convertible Preferred Stock certificate of like tenor and representing an equivalent number of shares of Series C Mandatory Convertible Preferred Stock, but only upon receipt of evidence of such loss, theft or destruction of such Series C Mandatory Convertible Preferred Stock certificate and indemnity, if requested, satisfactory to the Corporation and the Transfer Agent. The Corporation is not required to issue any certificates representing Series C Mandatory Convertible Preferred Stock on or after the Automatic Conversion Date. In place of the delivery of a replacement certificate following the Automatic Conversion Date, the Transfer Agent, upon delivery of the evidence and indemnity described above, will deliver the shares of Common Stock pursuant to the terms of the Series C Mandatory Convertible Preferred Stock evidenced by the certificate.

FIFTH: The Secretary of State of the State of New York is hereby designated as the agent of the Corporation upon whom process in any action or proceeding against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against it served on him is:

XEROX CORPORATION  
800 Long Ridge Road  
P.O. Box 1600  
Stamford, CT 06904-1600  
Attention: General Counsel

SIXTH: Its duration is to be perpetual.

SEVENTH: The number of directors shall be not less than five (5) nor more than twenty-one (21) as determined in the manner prescribed by the By-Laws.

EIGHTH: The Corporation may purchase, acquire, hold and dispose of the stocks, bonds and other evidences of indebtedness of any corporation, domestic or foreign, and may issue in exchange therefor, its stock, bonds or other obligations.

NINTH: A person who is or was a director of the Corporation shall not be personally liable to the Corporation or its shareholders for damages for any breach of duty in such capacity, except to the extent that the Business Corporation Law of the State of New York as in effect from time to time expressly provides that the foregoing provisions shall not eliminate or limit such personal liability. Nothing in this Article shall directly or indirectly increase the liability of any such person based upon acts or omissions occurring before the adoption hereof. No amendment, modification or repeal of this Article shall adversely affect any right or protection of any director that exists at the time of such change.

IN WITNESS WHEREOF, this Certificate has been signed on the 6th day of November, 2003 and the statements contained therein are affirmed as true under penalties of perjury.

/s/ Anne M. Mulcahy

Anne M. Mulcahy  
Chairman of the Board

/s/ Leslie F. Varon

Leslie F. Varon  
Secretary

**Certificate of Change  
of  
Xerox Corporation**

**Under Section 805-A of the Business Corporation Law**

The undersigned, Don H. Liu, Senior Vice President and Secretary of Xerox Corporation (the "Corporation"), hereby certifies that:

1. The name of the Corporation is "XEROX CORPORATION". The name under which the Corporation was formed is "THE HALOID COMPANY".

2. The Certificate of Incorporation was filed by the Department of State on April 18, 1906 under the name The Haloid Company.

3. This Certificate of Change is being filed pursuant to Section 805-A of the Business Corporation Law to change the post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him.

4. Article FIFTH of the Certificate of Incorporation of the Corporation is hereby changed to read in its entirety as follows:

"FIFTH: The Secretary of State of the State of New York is hereby designated as the agent of the Corporation upon whom process in any action or proceeding against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against it served on him is:

XEROX CORPORATION  
45 Glover Avenue  
P. O. Box 4505  
Norwalk, CT 06850-4505  
Attention: General Counsel"

5. The foregoing change to the Certificate of Incorporation of the Corporation was authorized by the Board of Directors of the Corporation at a meeting duly called and held on October 11, 2007.

IN WITNESS WHEREOF, the undersigned has signed this Certificate under penalty of perjury on the date set forth.

Date: October 24, 2007

/s/ Don H. Liu

Name: Don H. Liu

Title: Senior Vice President and Secretary

## BY-LAWS

of

## XEROX CORPORATION

May 24, 2007

## ARTICLE I

## MEETINGS OF STOCKHOLDERS

SECTION 1. *Annual Meetings*: A meeting of shareholders entitled to vote shall be held for the election of Directors and the transaction of other business each year in such month and on such day (except a Saturday, Sunday, or holiday) as determined by the Board of Directors.

SECTION 2. *Special Meetings*: Special Meetings of the shareholders may be called at any time by the Chairman of the Board or the Board of Directors.

SECTION 3. *Place of Meetings*: Meetings of shareholders shall be held at the principal office of the Company or at such other place, within or without the State of New York, as may be fixed by the Board of Directors.

SECTION 4. *Notice of Meetings*:

(a) Notice of each meeting of shareholders shall be in writing and shall state the place, date and hour of the meeting. Notice of a Special Meeting shall state the purpose or purposes for which it is being called and shall also indicate that it is being issued by or at the direction of the person or persons calling the meeting. If, at any meeting, action is proposed to be taken which would, if taken, entitle shareholders, fulfilling the requirements of Section 623 of the Business Corporation Law to receive payment for their shares, the notice of such meeting shall include a statement of that purpose and to that effect.

(b) A copy of the notice of any meeting shall be given, personally, electronically or by mail, not less than ten nor more than sixty days before the date of the meeting, to each shareholder entitled to vote at such meeting. If mailed, such notice is given when deposited in the United States mail, with postage thereon prepaid, directed to the shareholder at his or her address as it appears on the record of shareholders, or, if he or she shall have filed with the Secretary a written request that notices to him or her be mailed to some other address, then directed to him or her at such other address.

(c) Notice of meeting need not be given to any shareholder who submits a signed waiver of notice, in person or by proxy, whether before or after the meeting. The attendance of any shareholder at a meeting, in person or by proxy, without protesting prior to the conclusion of the meeting the lack of notice of such meeting, shall constitute a waiver of notice by him or her.

SECTION 5. *Quorum and Adjourned Meetings:*

(a) At any Annual or Special Meeting the holders of a majority of the votes of shares entitled to vote thereat, present in person or by proxy, shall constitute a quorum for the transaction of any business, provided that when a specified item of business is required to be voted on by a class or series, voting as a class, the holders of a majority of the votes of shares of such class or series shall constitute a quorum for the transaction of such specified item of business. When a quorum is once present to organize a meeting, it is not broken by the subsequent withdrawal of any shareholders.

(b) Despite the absence of a quorum, the shareholders present may adjourn the meeting to another time and place, and it shall not be necessary to give any notice of the adjourned meeting if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken. At the adjourned meeting any business may be transacted that might have been transacted on the original date of the meeting. If after the adjournment, however, the Board of Directors fixes a new record date for the adjourned meeting, a notice of the adjourned meeting shall be given to each shareholder on the new record date entitled to notice under Section 4 of this Article I of the By-Laws.

SECTION 6. *Nominations and Business at Meetings:*

At any annual meeting of shareholders, only persons who are nominated or business which is proposed in accordance with the procedures set forth in this Section 6 shall be eligible for election as Directors or considered for action by shareholders. Nominations of persons for election to the Board of Directors of the Company may be made or business proposed at a meeting of shareholders (i) by or at the direction of the Board of Directors or (ii) by any shareholder of the Company entitled to vote at the meeting who complies with the notice and other procedures set forth in this Section 6. Such nominations or business proposals, other than those made by or at the direction of the Board of Directors, shall be made pursuant to timely notice in writing to the Secretary of the Company and such business proposals must, under applicable law, be a proper matter for shareholder action. To be timely, a shareholder's notice shall be delivered to or mailed and received at the principal executive offices of the Company not less than 120 days nor more than 150 days in advance of the date which is the anniversary of the date the Company's proxy statement was released to security holders in connection with the previous year's annual meeting; provided, that, if the Company did not hold such previous year's annual meeting or if the anniversary date of the current year's annual meeting has been changed by more than 30 days from the date of the previous year's annual meeting, then such shareholder's notice shall be so delivered or mailed and received within a reasonable time before the Company begins to print and mail its proxy statement.

Such shareholder's notice shall set forth (a) as to each person whom such shareholder proposes to nominate for election or reelection as a Director, all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors, or is otherwise required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (including such person's written consent to being named in the proxy statement as a nominee and to serving as a Director if elected); (b) as to any other business that the shareholder proposes to bring before the meeting, a brief description of the business desired to be brought before the annual meeting, the reasons for conducting such business at

the annual meeting and any material interest in such business of such person on whose behalf such proposal is made; and (c) as to the shareholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made, (i) the name and address of such shareholder, as they appear on the Company's books and (ii) the class and number of shares of the Company which are beneficially owned by such shareholder. No person shall be eligible for election as a Director of the Company and no business shall be conducted at the annual meeting of shareholders unless nominated or proposed in accordance with the procedures set forth in this Section 6. The Chairman of the meeting may, if the facts warrant, determine and declare to the meeting that a nomination or proposal was not made in accordance with the provisions of this Section 6 and, if he or she should so determine, he or she shall so declare to the meeting and the defective nomination or proposal shall be disregarded.

**SECTION 7. *Organization:*** At every meeting of the shareholders, the Chairman of the Board, or in his or her absence, the President, or in his or her absence, an Executive Vice President designated by the Chairman of the Board, or in the absence of such officers, a person selected by the meeting, shall act as chairman of the meeting. The Secretary or, in his or her absence, an Assistant Secretary shall act as secretary of the meeting, and in the absence of both the Secretary and an Assistant Secretary, a person selected by the meeting shall act as secretary of the meeting.

**SECTION 8. *Voting:***

(a) Whenever any corporate action, other than the election of Directors, is to be taken by vote of the shareholders, it shall, except as otherwise required by law or by the Certificate of Incorporation be authorized by a majority of the votes cast in favor of or against such action at a meeting of shareholders by the holders of shares entitled to vote thereon. An abstention shall not constitute a vote cast.

(b) Directors shall, except as otherwise required by law, be elected by a plurality of the votes cast at a meeting of shareholders by holders of shares entitled to vote in the election.

**SECTION 9. *Qualification of Voters:***

(a) Every shareholder of record of Common Stock and Series B Convertible Preferred Stock of the Company shall be entitled at every meeting of such shareholders to one vote for every share of Common Stock and Series B Convertible Preferred Stock, respectively, standing in his or her name on the record of shareholders.

(b) Shares of stock belonging to the Company and shares held by another domestic or foreign corporation of any type or kind, if a majority of the shares entitled to vote in the election of directors of such other corporation is held by the Company, shall not be shares entitled to vote or to be counted in determining the total number of outstanding shares.

(c) Shares held by an administrator, executor, guardian, conservator, committee, or other fiduciary, except a trustee, may be voted by him or her, either in person or by proxy, without transfer of such shares into his or her name. Shares held by a trustee may be voted by him or her, either in person or by proxy, only after the shares have been transferred into his or her name as trustee or into the name of his or her nominee.

(d) Shares standing in the name of another domestic or foreign corporation of any type or kind may be voted by such officer, agent or proxy as the By-Laws of such corporation may provide, or in the absence of such provision, as the Board of Directors of such corporation may provide.

SECTION 10. *Proxies:*

(a) Every shareholder entitled to vote at a meeting of shareholders or to express consent or dissent without a meeting may authorize another person or persons to act for him or her by proxy.

(b) No proxy shall be valid after the expiration of eleven months from the date thereof unless otherwise provided in the proxy. Every proxy shall be revocable at the pleasure of the shareholder executing it, except as otherwise provided by law.

(c) The authority of the holder of a proxy to act shall not be revoked by the incompetence or death of the shareholder who executed the proxy unless, before the authority is exercised, written notice of an adjudication of such incompetence or of such death is received by the Secretary or an Assistant Secretary.

(d) Without limiting the manner in which a shareholder may authorize another person or persons to act for him or her as proxy pursuant to paragraph (a) of this Section, the following shall constitute a valid means by which a shareholder may grant such authority:

(1) A shareholder may execute a writing authorizing another person or persons to act for him or her as proxy. Execution may be accomplished by the shareholder or the shareholder's authorized officer, director, employee or agent signing such writing or causing his or her signature to be affixed to such writing by any reasonable means including, but not limited to, by facsimile signature.

(2) A shareholder may authorize another person or persons to act for the shareholder as proxy by transmitting or authorizing the transmission of a telegram, cablegram or other means of electronic transmission to the person who will be the holder of the proxy or to a proxy solicitation firm, proxy support service organization or like agent duly authorized by the person who will be the holder of the proxy to receive such transmission, provided that such telegram, cablegram or other means of electronic transmission must either set forth or be submitted with information from which it can be reasonably determined that the telegram, cablegram or other electronic transmission was authorized by the shareholder. If it is determined that such telegrams, cablegrams or other electronic transmissions are valid, the inspectors shall specify the nature of the information upon which they relied.

(e) Any copy, facsimile telecommunication or other reliable reproduction of the writing or transmission created pursuant to paragraph (d) of this Section may be substituted or used in lieu of the original writing or transmission for any and all purposes for which the original writing or transmission could be used, provided that such copy, facsimile, telecommunication or other reproduction shall be a complete reproduction of the entire original writing or transmission.

SECTION 11. *Inspectors of Election:*

(a) The Board of Directors, in advance of any shareholders' meeting, shall appoint one or more inspectors to act at the meeting or any adjournment thereof. The Board of Directors

may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate has been appointed, or if such persons are unable to act at a meeting of shareholders, the person presiding at a shareholders' meeting shall appoint one or more inspectors. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath faithfully to execute the duties of inspector at such meeting with strict impartiality and according to the best of his or her ability.

(b) The inspectors shall determine the number of shares outstanding and the voting power of each, the shares represented at the meeting, the existence of a quorum, the validity and effect of proxies, and shall receive votes, ballots or consents, hear and determine all challenges and questions arising in connection with the right to vote, count and tabulate all votes, ballots or consents, determine the result, and do such acts as are proper to conduct the election or vote with fairness to all shareholders. On request of the person presiding at the meeting or any shareholder entitled to vote thereat, the inspectors shall make a report in writing of any challenge, question or matter determined by them and execute a certificate of any fact found by them. Any report or certificate made by them shall be prima facie evidence of the facts stated and of the vote as certified by them.

SECTION 12. *List of Shareholders at Meetings*: A list of shareholders as of the record date, certified by the Secretary or by the transfer agent, shall be produced at any meeting of shareholders upon the request thereat or prior thereto of any shareholder. If the right to vote at any meeting is challenged, the inspectors of election, or person presiding thereat shall require such list of shareholders to be produced as evidence of the right of the persons challenged to vote at such meeting, and all persons who appear from such list to be shareholders entitled to vote thereat may vote at such meeting.

## ARTICLE II

### BOARD OF DIRECTORS

SECTION 1. *Power of Board and Qualification of Directors*: The business of the Company shall be managed under the direction of the Board of Directors, each of whom shall be at least eighteen years of age.

SECTION 2. *Number, Term of Office and Classification*:

(a) The Board of Directors shall consist of not less than five nor more than twenty-one members. The number of Directors shall be determined from time to time by resolution of a majority of the entire Board of Directors then in office, provided that no decrease in the number of Directors shall shorten the term of any incumbent Director. At each Annual Meeting of shareholders Directors shall be elected to hold office until the next annual meeting.

(b) If and whenever six full quarter-yearly dividends (whether or not consecutive) payable on the Cumulative Preferred Stock of any series shall be in arrears, in whole or in part, the number of Directors then constituting the Board of Directors shall be increased by two and the holders of the Cumulative Preferred Stock, voting separately as a class, regardless of series, shall be entitled to elect the two additional Directors at any annual meeting of shareholders or special meeting held in place thereof, or at a special meeting of the holders of the Cumulative Preferred Stock called as hereinafter provided. Whenever all arrears in dividends on the Cumulative Preferred Stock then outstanding shall have been paid and dividends thereon for the current quarter-yearly dividend period shall have been paid or

declared and set apart for payment, then the right of the holders of the Cumulative Preferred Stock to elect such additional two Directors shall cease (but subject always to the same provisions for the vesting of such voting rights in the case of any similar future arrearages in dividends), and the terms of office of all persons elected as Directors by the holders of the Cumulative Preferred Stock shall forthwith terminate and the number of the Board of Directors shall be reduced accordingly. At any time after such voting power shall have been so vested in the Cumulative Preferred Stock, the Secretary of the Company may, and upon the written request of any holder of the Cumulative Preferred Stock (addressed to the Secretary at the principal office of the Company) shall, call a special meeting of the holders of the Cumulative Preferred Stock for the election of the two Directors to be elected by them as herein provided, such call to be made by notice similar to that provided in the By-Laws for a special meeting of the shareholders or as required by law. If any such special meeting required to be called as above provided shall not be called by the Secretary within twenty days after receipt of any such request, then any holder of Cumulative Preferred Stock may call such meeting, upon the notice above provided, and for that purpose shall have access to the stock books of the Company. The Directors elected at any such special meeting shall hold office until the next annual meeting of the shareholders or special meeting held in place thereof. In case any vacancy shall occur among the Directors elected by the holders of the Cumulative Preferred Stock, a successor shall be elected to serve until the next annual meeting of the shareholders or special meeting held in place thereof by the then remaining Director elected by the holders of the Cumulative Preferred Stock or the successor of such remaining Director.

(c) All Directors shall have equal voting power.

SECTION 3. *Organization*: At each meeting of the Board of Directors, the Chairman of the Board, or in his or her absence, if the President is a Director, the President, or if the President is not a Director or in his or her absence, a chairman chosen by a majority of the Directors present shall preside. The Secretary shall act as secretary of the Board of Directors. In the event the Secretary shall be absent from any meeting of the Board of Directors, the meeting shall select its secretary.

SECTION 4. *Resignations*: Any Director of the Company may resign at any time by giving written notice to the Chairman of the Board or to the Secretary of the Company. Such resignation shall take effect at the time specified therein or, if no time be specified, then on delivery.

SECTION 5. *Vacancies*: Newly created directorships resulting from an increase in the number of Directors and vacancies occurring in the Board of Directors for any reason except the removal of Directors without cause may be filled by a vote of a majority of the Directors then in office, although less than a quorum exists. A Director elected to fill a vacancy shall hold office until the next annual meeting.

SECTION 6. *Place of Meeting*: The Board of Directors may hold its meetings at such place or places within or without the State of New York as the Board of Directors may from time to time by resolution determine.

SECTION 7. *First Meeting*: On the day of each annual election of Directors, the Board of Directors shall meet for the purpose of organization and the transaction of other business. Notice of such meeting need not be given. Such first meeting may be held at any other time which shall be specified in a notice given as hereinafter provided for special meetings of the Board of Directors.

SECTION 8. *Regular Meetings*: Regular meetings of the Board of Directors may be held at such times as may be fixed from time to time by resolution of the Board of Directors without notice.

SECTION 9. *Special Meetings*: Special meetings of the Board of Directors shall be held whenever called by the Chairman of the Board, or by any two of the Directors. Oral, telegraphic, electronic or written notice shall be given, sent, transmitted or mailed not less than one day before the meeting and shall state, in addition to the purposes, the date, place and hour of such meeting.

SECTION 10. *Waivers of Notice*: Notice of a meeting need not be given to any Director who submits a signed waiver of notice whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to him or her.

SECTION 11. *Quorum and Manner of Acting*:

(a) If the number of Directors is twelve or more, seven Directors shall constitute a quorum for the transaction of business or any specified item of business. If the number of Directors is less than twelve, a majority of the entire Board of Directors shall constitute a quorum.

(b) A majority of the Directors present, whether or not a quorum is present, may adjourn any meeting to another time and place without notice to any Director.

SECTION 12. *Written Consents*: Any action required or permitted to be taken by the Board of Directors or any committee thereof may be taken without a meeting if all members of the Board or the committee consent in writing to the adoption of a resolution authorizing the action. The resolution and the written consents thereto by the members of the Board or committee shall be filed with the minutes of the proceedings of the Board or committee.

SECTION 13. *Participation At Meetings By Telephone*: Any one or more members of the Board of Directors or any committee thereof may participate in a meeting of such Board or committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

SECTION 14. *Compensation*: The Board of Directors shall have authority to fix the compensation of Directors for services in any capacity.

SECTION 15. *Interested Directors*:

(a) No contract or other transaction between the Company and one or more of its Directors, or between the Company and any other corporation, firm, association or other entity in which one or more of its Directors are directors or officers, or are financially interested, shall be either void or voidable for this reason alone or by reason alone that such Director or Directors are present at the meeting of the Board of Directors, or of a committee thereof, which approves such contract or transaction, or that his or her or their votes are counted for such purpose, provided that the parties to the contract or transaction establish affirmatively that it was fair and reasonable as to the Company at the time it was approved by the Board, a committee, or the shareholders.

(b) Any such contract or transaction may not be avoided by the Company for the reasons set forth in (a) if

(1) the material facts as to such Director's interest in such contract or transaction and as to any such common directorship, officership or financial interest are disclosed in good faith or known to the Board or committee, and the Board or committee approves such contract or transaction by a vote sufficient for such purpose without counting the vote of such interested Director or, if the votes of the disinterested Directors are insufficient for such purpose, by unanimous vote of the disinterested Directors (although common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board or of a committee which approves such contract or transactions), or

(2) the material facts as to such Director's interest in such contract or transaction and as to any such common directorship, officership or financial interest are disclosed in good faith or known to the shareholders entitled to vote thereon, and such contract or transaction is approved by vote of such shareholders.

SECTION 16. *Loans to Directors*: The Company may not lend money to or guarantee the obligation of a Director of the Company unless the particular loan or guarantee is approved by the shareholders, with the holders of a majority of the shares entitled to vote thereon constituting a quorum, but shares held of record or beneficially by Directors who are benefited by such loan or guarantee shall not be entitled to vote or to be included in the determination of a quorum.

### ARTICLE III

#### COMMITTEES

SECTION 1. *How Constituted and Powers*: The Board of Directors by resolution adopted by a majority of the entire Board may designate from among its members committees of the Board, each of which shall consist of one or more Directors and shall have such authority as provided in the resolution designating the committee, except such committees shall have no authority as to the following matters:

- (a) The submission to shareholders of any action that needs shareholders' authorization.
- (b) The filling of vacancies in the Board or in any committee.
- (c) The fixing of compensation of the Directors for serving on the Board or on any committee.
- (d) The amendment or repeal of the By-Laws, or the adoption of new By-Laws.
- (e) The amendment or repeal of any resolution of the Board which, by its terms, shall not be so amendable or repealable.
- (f) The declaration of dividends.

SECTION 2. *Quorum and Manner of Acting*: Unless otherwise provided by resolution of the Board of Directors, a majority of each committee of the Board shall constitute a quorum for the transaction of business and the act of a majority of all of the members of the committee, whether present or not, shall be the act of the committee. The members of the committee shall act only as a committee. The procedure of the committee and its manner of acting shall be subject at all times to the directions of the Board of Directors.

SECTION 3. *Alternate Members*: The Board of Directors may designate one or more eligible Directors as alternate members of any committee of the Board who may replace any absent or disqualified member or members at any meeting of any such committee.

## ARTICLE IV

### OFFICERS

SECTION 1. *Number*: The officers of the Company shall be a Chairman of the Board, a President, one or more Vice Presidents, a Treasurer, a Secretary, and such other officers as the Board of Directors may in its discretion elect. Any two or more offices may be held by the same person.

SECTION 2. *Term of Offices and Qualifications*: Those officers whose titles are specifically mentioned in Section 1 of this Article IV shall be chosen by the Board of Directors on the day of the Annual Meeting. Unless a shorter term is provided in the resolution of the Board electing such officer, the term of office of such officer shall extend to and expire at the meeting of the Board held on the day of the next Annual Meeting. The Chairman of the Board shall be chosen from among the Directors.

SECTION 3. *Additional Officers*: Additional officers other than those whose titles are specifically mentioned in Section 1 of this Article IV shall be elected for such period, have such authority and perform such duties, either in an administrative or subordinate capacity, as the Board of Directors may from time to time determine.

SECTION 4. *Removal of Officers*: Any officer may be removed by the Board of Directors with or without cause, at any time. Removal of an officer without cause shall be without prejudice to his or her contract rights, if any, but his or her election as an officer shall not of itself create contract rights.

SECTION 5. *Resignation*: Any officer may resign at any time by giving written notice to the Board of Directors, or to the Chairman of the Board or to the Secretary. Any such resignation shall take effect at the time specified therein, or if no time be specified, then upon delivery.

SECTION 6. *Vacancies*: A vacancy in any office shall be filled by the Board of Directors.

SECTION 7. *Chairman of the Board*: The Chairman of the Board shall preside at all meetings of the shareholders at which he or she is present, unless at such meetings the shareholders shall appoint a chairman other than the Chairman of the Board. The Chairman of the Board shall preside at all meetings of the Directors at which he or she is present. The Chairman shall act as the Chief Executive Officer of the Company and it shall be his or her duty

to supervise generally the management of the business of the Company with responsibility direct to the Board and subject to the control of the Board. The Chairman of the Board shall have such powers and perform such other duties as may be assigned to him or her by the Board.

SECTION 8. *President*: The President shall, in the absence of the Chairman of the Board, preside at all meetings of the shareholders and, if he or she is also a Director, meetings of Directors at which he or she is present. The President shall have such powers and perform such other duties as may be assigned to him or her by the Board.

SECTION 9. *The Vice Presidents*: Each Vice President shall have such powers and shall perform such duties as may be assigned to him or her by the Board of Directors or the Chairman of the Board. With respect to seniority of Vice Presidents, unless the Board determines otherwise, Executive Vice Presidents shall be first in order of priority, Senior Vice Presidents shall be second in order of priority and Vice Presidents shall be third in order of priority.

SECTION 10. *The Treasurer*: The Treasurer shall, if required by the Board of Directors, give a bond for the faithful discharge of his or her duties, in such sum and with such sureties as the Board of Directors shall require. He or she shall have charge and custody of, and be responsible for, all funds and securities of the Company, and deposit all such funds in the name of and to the credit of the Company in such banks, trust companies, or other depositories as shall be selected by the Board of Directors. The Treasurer may sign certificates for stock of the Company authorized by the Board of Directors. He or she shall also perform all other duties customarily incident to the office of Treasurer and such other duties as from time to time may be assigned to him or her by the Board of Directors.

SECTION 11. *The Secretary*: It shall be the duty of the Secretary to act as secretary of all meetings of the Board of Directors, and of the shareholders, and to keep the minutes of all such meetings at which he or she shall so act in a proper book or books to be provided for that purpose; he or she shall see that all notices required to be given by the Company are duly given and served; he or she may sign and execute in the name of the Company certificates for the stock of the Company, deeds, mortgages, bonds, contracts or other instruments authorized by the Board of Directors; he or she shall prepare, or cause to be prepared, for use at meetings of shareholders the list of shareholders as of the record date referred to in Article I, Section 12 of these By-Laws and shall certify, or cause the transfer agent to certify, such list; he or she shall keep a current list of the Company's Directors and officers and their residence addresses; he or she shall be custodian of the seal of the Company and shall affix the seal, or cause it to be affixed, to all agreements, documents and other papers requiring the same. The Secretary shall have custody of the Minute Book containing the minutes of all meetings of shareholders, Directors, and the committees of the Board which may keep minutes, and of all other contracts and documents which are not in the custody of the Treasurer of the Company, or in the custody of some other person authorized by the Board of Directors to have such custody.

SECTION 12. *Appointed Officers*: The Board of Directors may delegate to any officer or committee the power to appoint and to remove any subordinate officer, agent or employee.

SECTION 13. *Assignment and Transfer of Stocks, Bonds, and Other Securities*: The Chairman of the Board, the Treasurer, the Secretary, any Assistant Secretary, any Assistant Treasurer, and each of them, shall have power to assign, or to endorse for transfer, under the corporate seal, and to deliver, any stock, bonds, subscription rights, or other securities, or any beneficial interest therein, held or owned by the Company.

## ARTICLE V

### CONTRACTS, CHECKS, DRAFTS AND BANK ACCOUNTS

SECTION 1. *Execution of Contracts*: The Board of Directors, except as in these By-Laws otherwise provided, may authorize any officer or officers, agent, or agents, in the name of and on behalf of the Company to enter into any contract or execute and deliver any instrument, and such authority may be general or confined to specific instances; but, unless so authorized by the Board of Directors, or expressly authorized by these By-Laws, no officer, agent or employee shall have any power or authority to bind the Company by any contract or engagement or to pledge its credit or to render it liable pecuniarily in any amount for any purpose.

SECTION 2. *Loans*: No loans shall be contracted on behalf of the Company, and no negotiable paper shall be issued in its name unless specifically authorized by the Board of Directors.

SECTION 3. *Checks, Drafts, etc.*: All checks, drafts, and other orders for the payment of money out of the funds of the Company, and all notes or other evidences of indebtedness of the Company, shall be signed on behalf of the Company in such manner as shall from time to time be determined by resolution of the Board of Directors.

SECTION 4. *Deposits*: All funds of the Company not otherwise employed shall be deposited from time to time to the credit of the Company in such banks, trust companies or other depositories as the Board of Directors may select.

## ARTICLE VI

### STOCKS AND DIVIDENDS

SECTION 1. *Shares of Stock*: Shares of stock of the Company shall be represented by certificates except to the extent that the Board of Directors of the Company shall provide by resolution that some or all of any or all classes and series of the Company's shares shall be uncertificated shares, provided that such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the Company. Except as otherwise expressly provided by law, the rights and obligations of holders of uncertificated shares and the rights and obligations of the holders of certificates representing shares of the same class and series shall be identical.

SECTION 2. *Certificates For Shares*: To the extent that shares of stock of the Company are to be represented by certificates, the certificates therefor shall be in such form as shall be approved by the Board of Directors. The certificates of stock shall be numbered in order of their issue, shall be signed by the Chairman of the Board, the President or a Vice President, and the Secretary or an Assistant Secretary, or the Treasurer or an Assistant Treasurer. The signature of the officers upon a certificate may be facsimiles if the certificate is countersigned by a transfer agent or registered by a registrar other than the Company itself or its employee. In case any officer who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer before such certificate is issued, it may be issued by the Company with the same effect as if he or she were an officer at the date of issue.

SECTION 3. *Transfer of Stock*: Transfers of stock of the Company shall be made only on the books of the Company by the holder thereof, or by his or her duly authorized attorney, on surrender of the certificate or certificates for stock represented by certificates, properly endorsed, or in the case of shares of stock not represented by certificates, on delivery to the Company of proper transfer instructions. Within a reasonable time after the issuance or transfer of uncertificated stock, the Company shall send to the registered owner thereof a written notice containing the information required to be set forth or stated on certificates pursuant to the Business Corporation Law of the State of New York. Every certificate surrendered to the Company shall be marked "Canceled", with the date of cancellation, and no new certificate shall be issued in exchange therefor until the old certificate has been surrendered and canceled. A person in whose name stock of the Company stands on the books of the Company shall be deemed the owner thereof as regards the Company; provided that, whenever any transfer of stock shall be made for collateral security, and not absolutely, such fact, if known to the Secretary of the Company, or to its transfer agent shall be so expressed in the entry of the transfer. No transfer of stock shall be valid as against the Company, or its shareholders for any purpose, until it shall have been entered in the stock records of the Company as specified in these By-Laws by an entry showing from and to whom transferred.

SECTION 4. *Transfer and Registry Agents*: The Company may, from time to time, maintain one or more transfer offices or agencies and/or registry offices at such place or places as may be determined from time to time by the Board of Directors; and the Board of Directors may, from time to time, define the duties of such transfer agents and registrars and make such rules and regulations as it may deem expedient, not inconsistent with these By-Laws, concerning the issue, transfer and registration of certificates for stock or uncertificated stock of the Company.

SECTION 5. *Lost, Destroyed and Mutilated Certificates*: The holder of any certificated stock of the Company shall immediately notify the Company of any loss, destruction or mutilation of the certificate therefor. The Company may issue a new certificate or uncertificated stock in place of the lost or destroyed certificate, but as a condition to such issue, the holder of such certificate must make satisfactory proof of the loss or destruction thereof, and must give to the Company a bond of indemnity in form and amount and with one or more sureties satisfactory to the Treasurer, the Secretary or any Assistant Treasurer or Assistant Secretary. Such bond of indemnity shall also name as obligee each of the transfer agents and registrars for the stock the certificate for which has been lost or destroyed.

SECTION 6. *Record Dates for Certain Purposes*: The Board of Directors of the Company shall fix a day and hour not more than sixty days preceding the date of any meeting of shareholders, or the date for payment of any cash or stock dividend, or the date for the allotment of any rights of subscription, or the date when any change or conversion or exchange of capital stock shall go into effect, as a record date for the determination of the shareholders entitled to notice of, and to vote at, any such meeting and any adjournment thereof, or entitled to receive payment of any such dividend, or entitled to receive any such allotment of rights of subscription, or entitled to exercise rights in respect of any such change, conversion or exchange of capital stock, and in such case, such shareholders and only such shareholders as shall be shareholders of record on the day and hour so fixed shall be entitled to such notice of, and to vote at, such meeting or any adjournment thereof, or to receive payment of such dividend, or to receive such allotment of rights of subscription, or to exercise rights in connection

with such change or conversion or exchange of capital stock, as the case may be, notwithstanding any transfer of any stock on the books of the Company after such day and hour fixed as aforesaid.

SECTION 7. *Dividends and Surplus*: Subject to the limitations prescribed by law, the Board of Directors (1) may declare dividends on the stock of the Company whenever and in such amounts as, in its opinion, the condition of the affairs of the Company shall render it advisable, (2) may use and apply, in its discretion, any part or all of the surplus of the Company in purchasing or acquiring any of the shares of stock of the Company, and (3) may set aside from time to time out of such surplus or net profits such sum or sums as it in its absolute discretion, may think proper as a reserve fund to meet contingencies or for equalizing dividends, or for the purpose of maintaining or increasing the property or business of the Company, or for any other purpose it may think conducive to the best interest of the Company.

## ARTICLE VII

### OFFICES AND BOOKS

SECTION 1. *Offices*: The Company shall maintain an office at such place in the County of Monroe, State of New York, as the Board of Directors may determine. The Board of Directors may from time to time and at any time establish other offices of the Company or branches of its business at whatever place or places seem to it expedient.

#### SECTION 2. *Books and Records*:

(a) There shall be kept at one or more offices of the Company (1) correct and complete books and records of account, (2) minutes of the proceedings of the shareholders, Board of Directors and the committees of the Board, (3) a current list of the Directors and officers of the Company and their residence addresses, and (4) a copy of these By-Laws.

(b) The stock records may be kept either at the office of the Company or at the office of its transfer agent or registrar in the State of New York, if any, and shall contain the names and addresses of all shareholders, the number and class of shares held by each and the dates when they respectively became the owners of record thereof.

## ARTICLE VIII

### GENERAL

SECTION 1. *Seal*: The corporate seal shall be in the form of a circle and shall bear the full name of the Company and the words and figures "Incorporated 1906, Rochester, N. Y."

SECTION 2. *Indemnification of Directors and Officers*: Except to the extent expressly prohibited by law, the Company shall indemnify any person, made or threatened to be made, a party in any civil or criminal action or proceeding, including an action or proceeding by or in the right of the Company to procure a judgment in its favor or by or in the right of any other corporation of any type or kind, domestic or foreign, or any partnership, joint venture, trust, employee benefit plan or other enterprise, which any Director or officer of the Company served in any capacity at the request of the Company, by reason of the fact that he or she, his or her testator or intestate is or was a Director or officer of the Company or serves or served such other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, in

any capacity, against judgments, fines, penalties, amounts paid in settlement and reasonable expenses, including attorneys' fees, incurred in connection with such action or proceeding, or any appeal therein, provided that no such indemnification shall be required with respect to any settlement unless the Company shall have given its prior approval thereto. Such indemnification shall include the right to be paid advances of any expenses incurred by such person in connection with such action, suit or proceeding, consistent with the provisions of applicable law. In addition to the foregoing, the Company is authorized to extend rights to indemnification and advancement of expenses to such persons by i) resolution of the shareholders, ii) resolution of the Directors or iii) an agreement, to the extent not expressly prohibited by law.

## **ARTICLE IX**

### **FISCAL YEAR**

SECTION 1. *Fiscal Year*: The fiscal year of the Company shall end on the 31st day of December in each year.

## **ARTICLE X**

### **AMENDMENTS**

SECTION 1. *Amendments*: By-Laws of the Company may be amended, repealed or adopted by a majority of the votes of the shares at the time entitled to vote in the election of any Directors. If, at any meeting of shareholders, action is proposed to be taken to amend, repeal or adopt By-Laws, the notice of such meeting shall include a brief statement or summary of the proposed action. The By-Laws may also be amended, repealed or adopted by the Board of Directors, but any By-Law adopted by the Board may be amended or repealed by shareholders entitled to vote thereon as hereinabove provided. If any By-Law regulating an impending election of Directors is adopted, amended or repealed by the Board of Directors, there shall be set forth in the notice of the next meeting of shareholders for the election of Directors the By-Law so adopted, amended or repealed, together with a concise statement of the changes made.

## XEROX CORPORATION

The ratio of earnings to fixed charges, the ratio of earnings to combined fixed charges and preferred stock dividends, as well as any deficiency of earnings are determined using the following applicable factors:

**Earnings available for fixed charges** are calculated first, by determining the sum of: (a) income from continuing operations before income taxes, (b) distributed equity income, (c) fixed charges, as defined below and (d) amortization of capitalized interest, if any. From this total, we subtract capitalized interest, if any.

**Fixed charges** are calculated as the sum of (a) interest costs (both expensed and capitalized), (b) amortization of debt expense and discount or premium relating to any indebtedness and (c) that portion of rental expense that is representative of the interest factor.

**Preferred stock dividends** used in the ratio of earnings to combined fixed charges and preferred stock dividends consist of the amount of pre-tax earnings required to cover dividends paid on our Series C mandatory convertible preferred stock. Series C mandatory convertible preferred stock was redeemed and converted to common stock as of July 3, 2006 and as such, there were no dividends beyond such date.

## Computation of Ratio of Earnings to Fixed Charges

(in millions)	Three Months Ended September 30,		Nine Months Ended September 30,	
	2007	2006	2007	2006
<b>Fixed charges:</b>				
Interest expense	\$ 154	\$ 138	\$ 439	\$ 404
Portion of rental expense which represents interest factor	24	22	69	67
Total fixed charges	<u>\$ 178</u>	<u>\$ 160</u>	<u>\$ 508</u>	<u>\$ 471</u>
<b>Earnings available for fixed charges:</b>				
Earnings	\$ 351	\$ 120	\$ 1,028	\$ 649
(Undistributed) equity in income of affiliated companies	(25)	(27)	(43)	(61)
Fixed charges	178	160	508	471
Total earnings available for fixed charges	<u>\$ 504</u>	<u>\$ 253</u>	<u>\$ 1,493</u>	<u>\$ 1,059</u>
Ratio of earnings to fixed charges	<u>2.83</u>	<u>1.58</u>	<u>2.94</u>	<u>2.25</u>

## Computation of Ratio of Earnings to Combined Fixed Charges and Preferred Stock Dividends

(in millions)	Three Months Ended September 30,		Nine Months Ended September 30,	
	2007	2006	2007	2006
<b>Fixed charges:</b>				
Interest expense	\$ 154	\$ 138	\$ 439	\$ 404
Portion of rental expense which represents interest factor	24	22	69	67
Total fixed charges	178	160	508	471
Preferred stock dividends pre-tax income requirements	—	—	—	48
Total combined fixed charges and preferred stock dividends	<u>\$ 178</u>	<u>\$ 160</u>	<u>\$ 508</u>	<u>\$ 519</u>
<b>Earnings available for fixed charges:</b>				
Earnings	\$ 351	\$ 120	\$ 1,028	\$ 649
(Undistributed) equity in income of affiliated companies	(25)	(27)	(43)	(61)
Fixed charges before preferred stock dividends	178	160	508	471
Total earnings available for fixed charges and preferred stock dividends	<u>\$ 504</u>	<u>\$ 253</u>	<u>\$ 1,493</u>	<u>\$ 1,059</u>
Ratio of earnings to combined fixed charges and preferred stock dividends	<u>2.83</u>	<u>1.58</u>	<u>2.94</u>	<u>2.04</u>

## CEO CERTIFICATIONS

I, Anne M. Mulcahy, Chairman of the Board and Chief Executive Officer, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Xerox Corporation;
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 control 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 control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, 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;
  - (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.

October 26, 2007

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/s/ ANNE M. MULCAHY  
Anne M. Mulcahy  
Principal Executive Officer

## CFO CERTIFICATIONS

I, Lawrence A. Zimmerman, Executive Vice President and Chief Financial Officer, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Xerox Corporation;
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 control 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 control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, 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;
  - (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.

October 26, 2007

/s/ LAWRENCE A. ZIMMERMAN

Lawrence A. Zimmerman  
Principal Financial Officer

**CERTIFICATION OF CEO AND CFO PURSUANT TO  
18 U.S.C. § 1350,  
AS ADOPTED PURSUANT TO  
§ 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Form 10-Q of Xerox Corporation, a New York corporation (the "Company"), for the quarter ending September 30, 2007, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), Anne M. Mulcahy, Chairman of the Board and Chief Executive Officer of the Company, and Lawrence A. Zimmerman, Executive Vice President and Chief Financial Officer of the Company, each hereby certifies, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, to the best of his/her knowledge, that:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ ANNE M. MULCAHY

\_\_\_\_\_  
Anne M. Mulcahy  
Chief Executive Officer  
October 26, 2007

/s/ LAWRENCE A. ZIMMERMAN

\_\_\_\_\_  
Lawrence A. Zimmerman  
Chief Financial Officer  
October 26, 2007

This certification accompanies this Report pursuant to § 906 of the Sarbanes-Oxley Act of 2002 and shall not, except to the extent required by the Sarbanes-Oxley Act of 2002, be deemed filed by the Company for purposes of § 18 of the Securities Exchange Act of 1934, as amended.

A signed original of this written statement required by § 906 has been provided to Xerox Corporation and will be retained by Xerox Corporation and furnished to the Securities and Exchange Commission or its staff upon request.