

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 MARCH 31, 1995

OR

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

FOR THE TRANSITION PERIOD FROM _____ TO _____

Commission File Number 0-9781

CONTINENTAL AIRLINES, INC.
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation or organization)

74-2099724
(I.R.S. Employer
Identification No.)

2929 Allen Parkway
Houston, Texas 77019
(Address of principal executive office)
(Zip Code)

713-834-5000
(Registrant's telephone number including area code)

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

Indicate by check mark whether the registrant has filed all documents and reports required to be filed by Sections 12, 13 or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by a court. Yes No

As of April 30, 1995, 6,301,056 shares of Class A common stock and 20,636,065 shares of Class B common stock were outstanding.

PART I - FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

CONTINENTAL AIRLINES, INC.
CONSOLIDATED STATEMENTS OF OPERATIONS
(In thousands of dollars, except per share data)

	Three Months Ended March 31, 1995 (Unaudited)	Three Months Ended March 31, 1994 (Unaudited)
Operating Revenues:		
Passenger.	\$1,239,913	\$1,205,463
Cargo, mail and other.	168,430	151,036
	1,408,343	1,356,499

Operating Expenses:		
Wages, salaries and related costs	366,088	372,814
Rentals and landing fees	215,019	204,539
Aircraft fuel	168,473	174,567
Commissions	119,172	121,229
Maintenance, materials and repairs	97,438	135,024
Depreciation and amortization	63,904	61,848
Other	350,735	341,677
	1,380,829	1,411,698
Operating Income (Loss)	27,514	(55,199)
Nonoperating Income (Expense):		
Interest expense	(53,367)	(62,483)
Interest capitalized	1,145	3,116
Interest income	5,564	5,379
Gain on disposition of property, equipment and other assets, net	768	2,705
Other, net	(10,026)	(7,152)
	(55,916)	(58,435)
Loss before Income Taxes and Minority Interest	(28,402)	(113,634)
Income Tax Benefit	-	42,847
Loss before Minority Interest	(28,402)	(70,787)
Minority Interest	(1,754)	(795)
Net Loss	(30,156)	(71,582)
Preferred Dividend Requirements and Accretion to Liquidation Value		
	(1,514)	(1,364)
Loss Applicable to Common Shares	\$ (31,670)	\$ (72,946)
Primary and Fully Diluted Loss per Common Share		
	\$ (1.21)	\$ (2.86)

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

CONTINENTAL AIRLINES, INC.
CONSOLIDATED BALANCE SHEETS
(In thousands of dollars)

ASSETS	March 31, 1995 (Unaudited)	December 31, 1994
Current Assets:		
Cash and cash equivalents, including restricted cash and cash equivalents of \$115,153 and \$118,732, respectively	\$ 416,767	\$ 396,298
Accounts receivable, net	446,110	375,621
Spare parts and supplies, net	140,988	141,781
Prepayments and other	75,064	76,260
Total current assets	1,078,929	989,960
Property and Equipment:		
Owned property and equipment:		
Flight equipment	1,014,989	1,004,337
Other	290,364	281,605
	1,305,353	1,285,942
Less: Accumulated depreciation	232,876	207,206
	1,072,477	1,078,736
Purchase deposits for flight equipment	107,732	166,052
Capital leases:		
Flight equipment	399,941	400,037
Other	26,493	17,045

	426,434	417,082
Less: Accumulated amortization	81,800	69,103
	344,634	347,979
Total property and equipment	1,524,843	1,592,767
Other Assets:		
Routes, gates and slots, net	1,576,469	1,591,140
Reorganization value in excess of amounts allocable to identifiable assets, net	313,867	318,206
Other assets, net.	111,112	109,109
Total other assets	2,001,448	2,018,455
Total Assets	\$4,605,220	\$4,601,182

(continued on next page)

CONTINENTAL AIRLINES, INC.
CONSOLIDATED BALANCE SHEETS
(In thousands of dollars, except for share data)

LIABILITIES AND STOCKHOLDERS' EQUITY	March 31, 1995 (Unaudited)	December 31, 1994
Current Liabilities:		
Debt and capital lease obligations in default.	\$ 616,403	\$ 489,865
Current maturities of long-term debt	88,897	126,186
Current maturities of capital leases	24,638	25,788
Accounts payable	604,514	629,939
Air traffic liability.	653,844	584,108
Accrued payroll and pensions	168,059	178,648
Accrued other liabilities.	382,311	373,273
Total current liabilities	2,538,666	2,407,807
Long-Term Debt.	939,957	1,038,165
Capital Leases.	166,501	164,349
Deferred Credits and Other Long-Term Liabilities:		
Deferred income taxes	28,100	28,100
Deferred credit - operating leases.	131,121	137,606
Accruals for aircraft retirements and excess facilities.	391,298	391,947
Other	251,682	251,118
Total deferred credits and other long-term liabilities	802,201	808,771
Commitments and Contingencies		
Minority Interest	27,554	25,800
Redeemable Preferred Stock (aggregate redemption value - \$57,420 and \$55,966, respectively).	54,120	52,606
Common Stockholders' Equity:		
Class A common stock - \$.01 par, 50,000,000 shares authorized; 6,301,056 shares issued and outstanding.	63	63

Class B common stock - \$.01 par, 100,000,000 shares authorized; 20,521,581 and 20,403,512 shares issued	205	204
Additional paid-in capital	777,764	778,382
Accumulated deficit	(682,047)	(651,891)
Unvested portion of restricted stock	(12,553)	(13,872)
Additional minimum pension liability	(6,549)	(6,549)
Unrealized loss on marketable equity securities	(45)	(2,218)
Treasury stock - 50,000 and 30,000 shares	(617)	(435)
Total common stockholders' equity	76,221	103,684
Total Liabilities and Stockholders' Equity	\$4,605,220	\$4,601,182

The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

CONTINENTAL AIRLINES, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands of dollars)

	Three Months Ended March 31, 1995 (Unaudited)	Three Months Ended March 31, 1994 (Unaudited)
Net Cash Provided by Operating Activities	\$ 52,136	\$ 11,169
Cash Flows from Investing Activities:		
Proceeds from disposition of property, equipment and other assets	2,870	2,115
Capital expenditures	(18,368)	(68,569)
Purchase deposits refunded	29,613	-
Net cash provided (used) by investing activities	14,115	(66,454)
Cash Flows from Financing Activities:		
Proceeds from issuance of long-term debt, net	5,694	9,713
Payments on long-term debt and capital lease obligations	(52,620)	(52,348)
Proceeds from issuance of common stock	1,144	-
Net cash used by financing activities	(45,782)	(42,635)
Net Increase (Decrease) in Cash and Cash Equivalents	20,469	(97,920)
Cash and Cash Equivalents-Beginning of Period	396,298	721,038
Cash and Cash Equivalents-End of Period	\$416,767	\$623,118
Supplemental Cash Flow Information:		
Interest paid	\$ 29,794	\$ 41,817
Financing Activities Not Affecting Cash:		
Reclassification of accrued rent and interest to long-term debt	\$ 8,678	\$ 13,526
Capital lease obligations incurred	\$ 8,415	\$ 1,209
Property and equipment acquired through the issuance of debt	\$ -	\$ 7,031
Financed purchase deposits for flight equipment	\$ -	\$ 8,509
Return of financed purchase deposits	\$ 10,028	\$ -
Reclassification of accrued management fees to long-term debt	\$ 21,304	\$ -

The accompanying Notes to Consolidated Financial Statements are an integral

part of these statements.

CONTINENTAL AIRLINES, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)

In the opinion of management, the unaudited financial statements included herein contain all adjustments necessary to present fairly the financial position, results of operations and cash flows for the periods indicated. Such adjustments are of a normal recurring nature. Certain reclassifications have been made to the prior year's financial statements to conform to the 1995 presentation. The accompanying consolidated financial statements should be read in conjunction with the consolidated financial statements and the notes thereto contained in the Annual Report of Continental Airlines, Inc. (the "Company" or "Continental") on Form 10-K for the year ended December 31, 1994.

NOTE 1 - LIQUIDITY

Continental is continuing negotiations with certain creditors and lessors regarding the modification of contractual obligations. Certain long-term debt and capital lease obligations were in default or cross default as of May 11, 1995. In accordance with generally accepted accounting principles, such defaulted obligations have been classified as current liabilities as of March 31, 1995. However, the Company does not believe it probable that it will be required to fund such defaulted obligations in the next 12 months. In addition, certain operating leases were in default or cross default as of May 11, 1995. The Company received a notice of lease termination dated April 18, 1995 from one lessor relating to one A300 aircraft, and such lessor sued the Company and certain other persons on May 2, 1995. The notice of lease termination resulted in additional cross defaults as of March 31, 1995. See Item 2. "Management's Discussion and Analysis of Financial Condition and Results of Operations".

NOTE 2 - EARNINGS (LOSS) PER SHARE

Earnings (loss) per common share computations are based upon earnings (loss) applicable to common shares and the average number of shares of common stock and dilutive common stock equivalents (stock options, warrants and restricted stock) outstanding. The number of shares used in the computations for the three months ended March 31, 1995 and March 31, 1994 was 26,330,102 and 25,522,568, respectively. Preferred stock dividend requirements (including additional dividends on unpaid dividends) and accretion to redemption value on preferred stock increased the net loss for this computation by approximately \$1.5 million and \$1.4 million for the three months ended March 31, 1995 and 1994, respectively.

NOTE 3 - PREFERRED STOCK

As of March 31, 1995 and December 31, 1994, the Company had approximately \$10.3 million and \$8.9 million, respectively, of dividends on its preferred stock in arrears. The Company has agreed with its principal lender to cause dividends payable on such preferred stock during the period from March 1, 1995 to February 28, 1997 to be paid only in additional shares of such preferred stock.

NOTE 4 - INCOME TAXES

A provision (benefit) was not recorded for the three months ended March 31, 1995 due to the fact that utilization of the net operating loss for the period is not assured. The income tax benefit for the three months ended March 31, 1994 is based on the estimated annual effective tax rate which differs from the federal statutory rate of 35%, principally due to state income taxes and certain nondeductible expenses.

NOTE 5 - COMMITMENTS AND CONTINGENCIES

Denver. In 1992, the Company agreed to lease (i) 20 gates at the new Denver International Airport ("DIA") for a period of five years from the date DIA opened, (ii) four of such gates for an additional five years and (iii) a substantial amount of operational space in connection with the gates and for the terms set forth in the agreement. During 1994, the Company significantly reduced its Denver operations. The City and County

of Denver (the "City") filed a complaint on February 22, 1995 against the Company in the United States District Court for the District of Colorado seeking a determination that the Company materially breached and repudiated the lease and a March 1994 agreement to pay certain costs associated with the delays in opening DIA. In addition, the City sought a judgment declaring the City's rights and the Company's obligations and the award of an injunction that the Company perform such obligations. The City also sought attorneys fees and costs relating to its suit.

The Company, the City and certain other parties have entered into an agreement ("Settlement") that was approved by the Denver City Council on April 10, 1995. The Settlement provides for the release of certain claims and the settlement of certain litigation filed by the City against the Company and reduces (i) the full term of the lease to five years, subject to certain rights of renewal granted to Continental, (ii) the number of gates leased from 20 to 10 and (iii) the amount of leased operational and other space by approximately 70%. The reduced gates and operational space exceed Continental's current needs at the airport, and the Company is negotiating with America West Airlines, Inc. and Frontier Airlines, Inc. to sublease up to five of its remaining gates and certain operational space. The Company will attempt to sublease additional facilities and operational space as well. To the extent Continental is able to sublease any of its gates and operational space, its costs under the lease will be reduced.

The Settlement may still be challenged by certain parties, including by other air carriers, and the Company cannot predict what the outcome of any such challenge will be. Certain air carriers have challenged the Settlement, taking the position that less than the required number of carriers have approved the changes to the airline rates and charges methodology at DIA that result from the Settlement. In the event the Settlement of the suit is successfully challenged, the Company believes it has defenses against the City, as well as claims against the City that justify rescission of the lease or, if rescission were not awarded by the court, a substantial reduction in the Company's obligations thereunder. Nevertheless, failure to implement the Settlement could reduce or eliminate the Company's estimated savings at DIA.

NOTE 6 - SUBSEQUENT EVENT

Continental CRS Interests, Inc. In 1991, System One Information Management, Inc. ("System One"), a wholly owned subsidiary of the Company, signed a 10-year systems management agreement with Electronic Data Systems Corporation ("EDS"). The agreement provided for EDS to manage the data processing and telecommunications facilities and services used by System One.

Effective April 27, 1995, Continental and System One completed a series of transactions whereby the existing systems management agreement between System One and EDS was terminated and a substantial portion of the assets (including the travel agent subscriber base and travel-related information management products and services ("IMS") software) and certain liabilities of System One were transferred to a newly formed limited liability company, System One Information Management, L.L.C. ("LLC"). In connection with these transactions, System One changed its name to Continental CRS Interests, Inc. ("CRS Interests"). LLC is owned equally by CRS Interests, a subsidiary of Continental, EDS and AMADEUS, a European computerized reservation system ("CRS"). Substantially all of System One's remaining assets (including the CRS software) and liabilities were transferred to AMADEUS. The transaction resulted in CRS Interests retaining a one-third interest in LLC, receiving cash proceeds of approximately \$40 million and receiving a 12.4% equity interest in Amadeus. LLC will market the AMADEUS CRS and will continue to develop, market and distribute travel-related IMS. The Company anticipates that it will recognize a substantial gain relating to the transaction in the second quarter.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS.

An analysis of statistical information for Continental's jet operations is as follows:

Three Months Ended

Net

	1995	March 31, 1994	Increase/ (Decrease)
Revenue passengers (thousands)	9,141	9,348	(2.2) %
Revenue passenger miles (millions) (a)	9,561	9,303	2.8 %
Available seat miles (millions) (b) .	16,003	15,284	4.7 %
Passenger load factor (c)	59.7%	60.9%	(1.2) pts.
Breakeven passenger load factor (d) .	58.2%	63.1%	(4.9) pts.
Passenger revenue per available seat mile (cents) (e)	7.37	7.42	(0.7) %
Operating cost per available seat mile (cents) (f)	7.90	8.38	(5.7) %
Average yield per revenue passenger mile (cents) (g)	12.34	12.19	1.2 %
Average fare per revenue passenger . .	\$129.10	\$121.33	6.4 %
Average length of aircraft flight (miles)	803	764	5.1 %
Average daily utilization of each aircraft (h)	9:34	9:35	(0.2) %
Actual aircraft in fleet at end of period	324	319	1.6 %

- (a) The number of scheduled miles flown by revenue passengers.
- (b) The number of seats available for passengers, multiplied by the number of scheduled miles those seats are flown.
- (c) Revenue passenger miles divided by available seat miles.
- (d) The percentage of seats that must be occupied by revenue passengers in order for the airline to break even on an income before income taxes basis, excluding nonrecurring charges, nonoperating items and other special items.
- (e) Passenger revenues divided by available seat miles.
- (f) Operating expenses divided by available seat miles.
- (g) The average revenue received for each mile a revenue passenger is carried.
- (h) The average block hours flown per day in revenue service per aircraft.

Due to the greater demand for air travel during the summer months, revenues in the airline industry in the third quarter of the year are generally significantly greater than revenues in the first quarter of the year and moderately greater than revenues in the second and fourth quarters of the year for the majority of air carriers. Continental's results of operations usually have reflected this seasonality, but have also been impacted by numerous other factors that are not necessarily seasonal, including the general state of the United States and Japanese economies and fare actions taken by Continental and its competitors.

RESULTS OF OPERATIONS

The following discussion provides an analysis of the Company's results of operations and reasons for material changes therein for the three-month period ended March 31, 1995 as compared to the three-month period ended March 31, 1994.

The Company recorded a consolidated net loss of \$30.2 million for the three months ended March 31, 1995 as compared to a consolidated net loss of \$71.6 million for the three months ended March 31, 1994.

Passenger revenues of \$1.2 billion for the first three months of 1995 increased 2.9%, \$34.5 million, as compared to the same period in 1994, due primarily to a 1.2% increase in Continental's jet yield and a 2.8% increase in jet revenue passenger miles.

Cargo, mail and other revenues increased 11.5%, \$17.4 million, in the first three months of 1995 compared to the same period in the prior year principally as a result of increased fees for worldwide travel-related services performed by System One.

Wages, salaries and related costs decreased 1.8%, \$6.7 million, during the first three months of 1995 compared to the same period in 1994 primarily due to a decrease in the number of full-time equivalent employees from approximately 40,300 as of March 31, 1994 to approximately 35,000 as of March 31, 1995. Such decrease was partially offset by the impact of wage restorations resulting from an average 10.0% wage reduction implemented by the Company in July 1992, which reduction was restored in equal increments

in December 1992, April 1993, April 1994 and July 1994.

Rentals and landing fees increased 5.1%, \$10.5 million, for the first three months of 1995 compared to the same period in 1994. Rent expense increased primarily as a result of the delivery of new Boeing 737 and 757 aircraft during 1994 and early 1995. Such increase was partially offset by retirements and groundings of leased aircraft and reduced facility rentals and landing fees resulting from downsizing operations.

Aircraft fuel expense decreased 3.5%, \$6.1 million, in the first three months of 1995 compared to the same period in 1994. The average price per gallon decreased 2.0%, from 53.67 cents in 1994 to 52.61 cents in 1995. The quantity of jet fuel used also decreased from 316.6 million gallons used in 1994 to 312.4 million gallons used in 1995.

Maintenance, materials and repairs costs decreased 27.8%, \$37.6 million, during the first three months of 1995 compared to the same period in 1994 principally due to (i) the replacement of older aircraft with new aircraft, (ii) the closure of maintenance facilities in Los Angeles and Denver and (iii) the shift of scheduled maintenance work to outside suppliers who can support the Company's flight operations at a lower cost and at locations more convenient to its primary routes.

Other operating expense increased 2.7%, \$9.1 million, in the first three months of 1995 compared to the same period in 1994 primarily as a result of increases in reservations and sales expense, aircraft servicing expense and other miscellaneous expenses, partially offset by decreases in advertising expense and catering expense.

Interest expense decreased 14.6%, \$9.1 million, during the first three months of 1995 compared to the same period in 1994 principally due to principal reductions of long-term debt and capital lease obligations.

Interest capitalized decreased 63.3%, \$2 million, in the first three months of 1995 compared to the same period in 1994 primarily due to a decrease in the average balance of purchase deposits for flight equipment.

Interest income remained relatively constant in the first three months of 1995 compared to the same period in 1994 principally due to an increase in the average interest rate, offset by a decrease in the average balance of cash and cash equivalents.

The Company's other nonoperating income (expense) in the first three months of 1995 primarily included foreign exchange and other losses of \$9.6 million (related to the Japanese yen and Mexican peso). Other nonoperating income (expense) in the first three months of 1994 included foreign exchange and other losses of \$4.9 million (related to Japanese yen-denominated transactions) and charges totaling approximately \$2.3 million relating to the closing of certain airport stations.

LIQUIDITY AND CAPITAL COMMITMENTS

During the fourth quarter of 1994, the Company determined that a new strategic plan, the Go Forward Plan, was needed to return the Company to profitability and strengthen its balance sheet. As part of the Company's Go Forward Plan, in January 1995 the Company commenced a series of initiatives designed to improve liquidity in 1995 and 1996. The major liquidity elements of this plan include (i) rescheduling principal amortization under the Company's loan agreements with its primary secured lenders (representing approximately \$599.4 million of the Company's outstanding long-term debt at December 31, 1994), (ii) restructuring the Company's commitments to purchase new Boeing aircraft and related engines, (iii) deferring or reducing cash requirements associated with certain existing aircraft, (iv) reducing the Company's lease commitments at DIA and (v) evaluating the potential disposition of non-core assets. As discussed below, under agreements in principle and binding agreements reached through May 11, 1995, the Company has improved its liquidity by an estimated \$256 million in 1995 and \$240 million in 1996. This achieves roughly 82% of the Go Forward Plan liquidity goal.

On March 31, 1995 the Company signed agreements with The Boeing Company ("Boeing") and certain engine manufacturers to defer substantially all aircraft deliveries that had been scheduled for 1996 and 1997. Five Boeing 767 aircraft that had been scheduled for delivery to Continental in 1995 have been sold to a third party. They have been replaced by five Boeing

767's of which Continental will take delivery starting in 1998. Options to purchase additional aircraft have been canceled. On March 30, 1995, Continental amended its principal secured loan agreements with General Electric Capital Corporation and affiliates (collectively, "GE Capital") and General Electric Company (collectively, the "Lenders") to defer 1995 and 1996 principal payments, and amended certain of its operating lease agreements with one of the Lenders to defer 1995 rental obligations. Continental agreed, among other things, to obtain concessions from certain aircraft lessors. Continuing deferrals of these principal and operating lease payments will be suspended if specified portions of such concessions are not obtained by May 31 and June 30, 1995 or if other covenants are not complied with. If the required concessions are obtained at a later date, the deferrals will resume. As discussed below, the Company has reached agreements or agreements in principle with some of these lessors and continues in negotiations with the remaining lessors. The Company anticipates that it will be successful in timely obtaining the required concessions. These agreements with Boeing, the engine manufacturers and the Lenders will improve the Company's 1995 and 1996 liquidity by approximately \$167 million and \$161 million, respectively.

In connection with the Go Forward Plan, the Company is retiring from service 24 less efficient widebody aircraft during 1995. In February 1995, the Company began paying market rentals, which are significantly less than contractual rentals on these aircraft, and began ceasing all rental payments as the aircraft are removed from service. In addition, in February 1995, Continental reduced its rental payments on an additional 11 widebody aircraft leased at significantly above-market rates. The Company began negotiations in February 1995 with the relevant lessors of the 35 widebody aircraft to amend the lease repayment schedules and provide, effective February 1, 1995, alternative compensation, which will include debt securities convertible into equity, in lieu of current cash payments. As of May 11, 1995, the Company had entered into agreements or agreements in principle with lessors of 26 of these aircraft that, when consummated, are expected to improve the Company's liquidity by an estimated \$69 million and \$59 million in 1995 and 1996, respectively.

On April 10, 1995, the Denver City Council approved an agreement among the City, the Company and certain signatory airlines amending the Company's lease of facilities at DIA by reducing the Company's lease term to five years, reducing to 10 the number of gates (and reducing associated space) leased by the Company and making certain changes in the rates and charges under the lease. The agreement also provides for the release of certain claims and the settlement of certain litigation filed by the City against the Company. The agreement is expected to result in annual reduction in costs to the Company of approximately \$20 million over the life of the lease.

As part of its plan to dispose of non-core assets, effective April 27, 1995, Continental and System One completed a series of transactions whereby the existing systems management agreement between System One and EDS was terminated and a substantial portion of the assets (including the travel agent subscriber base and IMS software) and certain liabilities of System One were transferred to a newly formed limited liability company (LLC). In connection with these transactions, System One changed its name to Continental CRS Interests, Inc. ("CRS Interests"). LLC is owned equally by CRS Interests, a subsidiary of Continental, EDS and AMADEUS, a European CRS. Substantially all of System One's remaining assets (including the CRS software) and liabilities were transferred to AMADEUS. The transaction resulted in CRS Interests retaining a one-third interest in LLC, receiving cash proceeds of approximately \$40 million and receiving a 12.4% equity interest in Amadeus. LLC will market the AMADEUS CRS and will continue to develop, market and distribute travel-related IMS. The Company anticipates that it will recognize a substantial gain relating to the transaction in the second quarter.

Continental's failure to make required payments to the Lenders, the City and certain aircraft lessors as described above constituted events of default under the respective agreements with such parties. The agreements reached through May 11, 1995 with the Lenders, the City and two aircraft lessors have cured defaults under their respective agreements. As of May 11, 1995, defaults under the remaining widebody aircraft leases were continuing due to the nonpayment of rents, which could entitle the lessors to pursue contractual remedies, including seeking to take possession of the leased aircraft. Additionally, the Company received a notice of lease termination dated April 18, 1995 from one lessor relating to one A300

aircraft, and such lessor sued the Company and certain other persons on May 2, 1995. The notice of lease termination resulted in additional cross defaults and accordingly, such defaulted debt and capital lease obligations have been classified as current liabilities as of March 31, 1995 in accordance with generally accepted accounting principles. As of May 11, 1995, the Company is in negotiations with these remaining lessors and has received proposals from lessors representing a majority of the Company's agreements currently in default. The Company believes it will be able to successfully conclude the remaining negotiations and thus avoid any material adverse effect on the Company.

In addition, under "cross default" provisions, the payment defaults and the notice of lease termination from a lessor of one A300 aircraft create defaults under a significant number of Continental's other lease and debt agreements, and the Company's obligations under the agreements subject to such cross defaults are also eligible to be declared in default. However, in the opinion of the Company, it is unlikely that lessors or creditors will exercise remedies under cross default provisions because (i) the Company is making all required contractual payments under the applicable agreements, (ii) the contractual payments on a substantial majority of aircraft leases are at current market rates, (iii) taking possession of the aircraft would cause the lessors or lenders to incur remarketing costs, and (iv) exercise of remedies could expose lessors and lenders to "lender liability" litigation. Additionally, the Company has made substantial progress in negotiations with lenders and lessors to cure the defaults and expects to complete substantially all such negotiations by June 30, 1995. The Company does not believe that any events of default or cross default that remain after June 30, 1995 will have a material adverse effect on the Company.

As a result of a Federal Aviation Administration Airworthiness Directive, which forced the partial grounding of the Company's ATR commuter fleet in late 1994 and early 1995, the Company withheld January and February lease payments totaling \$7 million on those ATR aircraft leased by the manufacturer. The Company's non-payment of rentals may have resulted in an event of default under the related lease agreements with ATR. As of May 11, 1995, the Company was engaged in discussions with ATR concerning compensation, if any, to be received by the Company as a result of the grounding, and the Company had received a proposal from ATR that, if accepted, would cure the payment default. In addition, the Company is in default under the debt agreement relating to the financing of the Company's Los Angeles International Airport ("LAX") maintenance facility. At March 31, 1995, the principal balance of the applicable obligation was approximately \$64 million, and at May 11, 1995, the Company was in negotiations with the creditor. As a result of the current status of the ATR and LAX maintenance facility negotiations, the Company does not anticipate that the foregoing matters will have a material adverse effect on the Company.

The Company has no current plans to take other actions in the future that would constitute additional events of default.

As a result of the defaults and cross-defaults described above that were continuing at May 11, 1995, approximately \$616.4 million of the Company's long-term debt and capital lease obligations were classified as debt and capital lease obligations in default within current liabilities as of March 31, 1995. While the Company does not believe it is probable that it will be required to fund such defaulted obligations in the next 12 months, generally accepted accounting principles require that such defaulted obligations be classified as current liabilities at March 31, 1995. In addition, certain operating leases with remaining aggregate rentals of \$2.6 billion as of March 31, 1995 were in default or cross default at May 11, 1995.

Continental has firm commitments to take delivery of 22 new 737 and five new 757 aircraft in 1995, one new 757 aircraft in 1996 and 43 new jet aircraft during the years 1998 through 2002. As of May 11, 1995, 12 new 737 and two new 757 aircraft had been delivered. The estimated aggregate cost of these aircraft is approximately \$3.4 billion. In December 1994, Continental Express, Inc. ("Express"), a wholly owned subsidiary, contracted with Beech Acceptance Corporation ("Beech") for the purchase and financing of 25 Beech 1900-D aircraft at an estimated aggregate cost of \$104 million, excluding price escalations. Deliveries of the Beech aircraft are scheduled in 1995 and 1996. As of December 31, 1994, Continental had made deposits on jet and turboprop aircraft orders of

approximately \$166.1 million, of which \$29.6 million was refunded in January 1995 and \$22.6 million was refunded in April 1995 in connection with the rescheduling of aircraft deliveries. The Company currently anticipates that the firm financing commitments available to it with respect to its acquisition of new Boeing and Beech aircraft will be sufficient to fund all deliveries scheduled during the years 1995 and 1996.

Continental expects its 1995 capital expenditures, exclusive of aircraft, to aggregate approximately \$83 million primarily relating to aircraft modifications, passenger terminal facility improvements and office, maintenance, telecommunications and ground equipment.

As of March 31, 1995, the Company had approximately \$416.8 million in cash and cash equivalents as compared to \$396.3 million as of December 31, 1994. Net cash provided by operating activities increased by approximately \$41 million during the three months ended March 31, 1995 compared to the same period in the prior year principally due to earnings improvement. In addition, net cash provided by investing activities increased by approximately \$80.6 million primarily due to higher capital expenditures during 1994 relating to purchase deposits on turboprop and jet aircraft and expenditures for Continental Lite.

Continental does not have general lines of credit, and substantially all of its assets, including the stock of its subsidiaries, are encumbered.

Approximately \$115.2 million and \$118.7 million of cash and cash equivalents at March 31, 1995 and December 31, 1994, respectively, were held in restricted arrangements relating primarily to workers' compensation claims and in accordance with the terms of certain other agreements. In addition, Continental Micronesia, Inc. ("CMI"), a 91.0%-owned subsidiary, is required by its loan agreement with GE Capital to maintain certain minimum cash balances and net worth levels, which effectively restrict the amount of cash available to Continental from CMI. As of March 31, 1995, CMI had a minimum cash balance requirement of \$25 million.

Continental currently believes that its cash on hand, together with cash expected to be generated from operations, cash anticipated to be generated from disposition of non-strategic assets and available aircraft financing will be sufficient to fund its operations, fleet commitments and expected capital expenditures for fiscal 1995.

PART II - OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS.

None.

ITEM 2. CHANGES IN SECURITIES.

The Company's loan agreements with GE Capital prohibit Continental from paying cash dividends to common stockholders through February 28, 1997 and thereafter only on preferred stock currently outstanding to Air Canada and GE Capital.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES.

As more fully discussed in Item 2. "Management's Discussion and Analysis of Financial Condition and Results of Operations - Liquidity and Capital Commitments", Continental is in default and cross-default on certain long-term debt and capital and operating lease obligations.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS.

None.

ITEM 5. OTHER INFORMATION.

None.

ITEM 6. EXHIBITS AND REPORTS ON FORM 8-K.

(a) Exhibits:

3 By-laws of Continental, as amended to date -- filed
herewith.

(b) Reports on Form 8-K:

- (i) Report dated January 26, 1995 reporting an Item 5. "Other Event". No financial statements were filed with the report, which announced a preliminary unaudited loss for fiscal year 1994 and adoption of the Go Forward Plan, the Company's new corporate strategy.
- (ii) Report dated March 31, 1995 reporting an Item 5. "Other Event". No financial statements were filed with the report, which announced a postponement in the filing of the Company's annual report on Form 10-K.

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.

CONTINENTAL AIRLINES, INC.

(Registrant)

Date: May 11, 1995

by: /s/ Daniel P. Garton

Daniel P. Garton
Senior Vice President and
Chief Financial Officer
(On behalf of Registrant)

Date: May 11, 1995

by: /s/ Michael P. Bonds

Michael P. Bonds
Staff Vice President and Controller
(Principal Accounting Officer)

INDEX TO EXHIBITS
OF
CONTINENTAL AIRLINES, INC.

3 By-laws of Continental, as amended to date -- filed herewith.

BY-LAWS
OF
CONTINENTAL AIRLINES, INC.

Including all amendments through April 27, 1995

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BY-LAWS

OF

CONTINENTAL AIRLINES, INC.

Incorporated under the Laws of the State of Delaware

ARTICLE I

Stockholders

Section 1.1 Annual Meeting. The annual meeting of stockholders of the Corporation for the election of Directors and for the transaction of any other proper business shall be held at such time and date in each year as the Board of Directors may determine from time to time. The annual meeting in each year shall be held at such place within or without the State of Delaware as may be fixed by the Board of Directors, or if not so fixed, at the principal business office of the Corporation.

Section 1.2 Special Meetings. Subject to the rights of the holders of any class or series of preferred stock of the Corporation, or any other series or class of stock as set forth in the Restated Certificate of Incorporation of the Corporation (the "Restated Certificate of Incorporation") to elect additional Directors under specified circumstances, special meetings of the stockholders may be called only by (i) stockholders holding Common Stock constituting more than 50% of the voting power of the outstanding shares of Common Stock, (ii) the Chief Executive Officer or (iii) the Board of Directors.

Section 1.3 Place of Meeting. The Board of Directors may designate the place of meeting for any meeting of the stockholders. If no designation is made by the Board of Directors, the place of meeting shall be the principal executive offices of the Corporation.

Section 1.4 Notice of Meetings. Whenever stockholders are required or permitted to take any action at a meeting, unless notice is waived in writing by all stockholders entitled to vote at the meeting, a written notice of the meeting shall be given which shall state the place, date and hour of the meeting, and, in the case of a special meeting, the purpose for which the meeting is called.

Unless otherwise provided by law, and except as to any stockholder duly waiving notice, the written notice of any meeting shall be given personally or by mail, not less than ten nor more than 60 days before the date of the meeting to each stockholder entitled to vote at such meeting. If mailed, notice shall be deemed given when deposited in the mail, postage prepaid, directed to the stockholder at his or her address as it appears on the records of the Corporation.

When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting the Corporation may transact any business which might have been transacted at the original meeting. If, however, the adjournment is for more than 30 days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

Section 1.5 Quorum. Except as otherwise provided by law, by the Restated Certificate of Incorporation, or by these By-Laws in respect of the vote required for a specified action, at any meeting of stockholders the holders of a majority of the aggregate voting power of the outstanding stock entitled to vote thereat, either present or represented by proxy, shall constitute a quorum for the transaction of any business, but the stockholders present, although less than a quorum, may adjourn the meeting to another time or place and, except as provided in the last paragraph of Section 1.4, notice need not be given of the adjourned meeting.

Section 1.6 Voting. Except as otherwise provided by the Restated Certificate of Incorporation or these By-Laws, whenever Directors are to be elected at a meeting, they shall be elected by a plurality of the votes cast at the meeting by the holders of stock entitled to vote. Whenever any corporate action, other than the election of Directors, is to be taken by vote of stockholders at a meeting, it shall be authorized by a majority of the votes cast at the meeting by the holders of stock entitled to vote thereon, except as otherwise required by law, by the Restated Certificate of Incorporation or by these By-Laws.

Except as otherwise provided by law, or by the Restated Certificate of Incorporation or these By-Laws, each holder of record of stock of the Corporation entitled to vote on any matter at any meeting of stockholders shall be entitled to one vote for each share of such stock standing in the name of such holder on the stock ledger of the Corporation on the record date for the determination of the stockholders entitled to vote at the meeting.

Upon the demand of any stockholder entitled to vote, the vote for Directors or the vote on any other matter at a meeting shall be by written ballot, but otherwise the method of voting and the manner in which votes are counted shall be discretionary with the presiding officer at the meeting.

Section 1.7 President Officer and Secretary. At every meeting of stockholders the Chairman of the Board, or any Vice Chairman of the Board, or the Chief Executive Officer, as designated by the Board of Directors, or, if none be present, or in the absence of any such designation, the appointee of the meeting, shall preside. The Secretary, or in his or her absence an Assistant Secretary, or if none be present, the appointee of the presiding officer of the meeting, shall act as secretary of the meeting.

Section 1.8 Proxies. Each stockholder entitled to vote at a meeting of stockholders may authorize another person or persons to act for him or her by proxy executed in writing by the stockholder or as otherwise permitted by law, or by his or her duly authorized attorney-in-fact. Such proxy must be filed with the Secretary of the Corporation or his or her representative at or before the time of the meeting.

Section 1.9 List of Stockholders. The officer who has charge of the stock ledger of the Corporation shall prepare and make, at least ten days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting,

during ordinary business hours, for a period of at least ten days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where the meeting is to be held. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present.

The stock ledger shall be the only evidence as to which stockholders are the stockholders entitled to examine the stock ledger or the list required by this Section 1.9, or to vote in person or by proxy at any meeting of stockholders.

Section 1.10 Notice of Stockholder Business and Nominations.

(A) Annual Meetings of Stockholders. (1) Subject to Section 2.2 of these By-Laws, nominations of persons for election to the Board of Directors of the Corporation and the proposal of business to be considered by the stockholders may be made at an annual meeting of stockholders (a) pursuant to the Corporation's notice of meeting delivered pursuant to Section 1.4 of these By-Laws, (b) by or at the direction of the Board of Directors or (c) by any stockholder of the Corporation who is entitled to vote at the meeting, who complied with the notice procedures set forth in clauses (2) and (3) of paragraph (A) of this Section 1.10 and who was a stockholder of record at the time such notice is delivered to the Secretary of the Corporation.

(2) For nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (c) of paragraph (A) (1) of this Section 1.10, the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation. To be timely, a stockholder's notice shall be delivered to the Secretary at the principal executive offices of the Corporation not less than seventy days nor more than ninety days prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is advanced by more than twenty days, or delayed by more than seventy days, from such anniversary date, and in the case of the Corporation's first annual meeting to be held after the initial adoption of these By-Laws, notice by the stockholder to be timely must be so delivered not earlier than the ninetieth day prior to such annual meeting and not later than the close of business on the later of the seventieth day prior to such annual meeting or the tenth day following the day on which public announcement of the date of such meeting is first made. Such stockholder's notice shall set forth (a) as to each person whom the stockholder 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 (the "Exchange Act"), 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 stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and (c) as to the stockholder 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 stockholder, as they appear on the Corporation's books, and of such beneficial owner and (ii) the class and number of shares of the Corporation which are owned beneficially and of record by such stockholder and such beneficial owner.

(3)

Notwithstanding anything in the second sentence of paragraph (A) (2) of this Section 1.10 to the contrary, in the event that the number of Directors to be elected to the Board of Directors is increased and there is no public announcement naming all of the nominees for Director or specifying the size of the increased Board of Directors made by the Corporation at least eighty days prior to the first anniversary of the preceding year's annual meeting, a stockholder's notice required by this Section 1.10 shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the tenth day following the day on which such public announcement is first made by the Corporation.

(B) Special Meeting of Stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting pursuant to Section 1.4 of these By-Laws. Subject to Section 2.2 of these By-Laws, nominations of persons for election to the Board of Directors may be made

at a special meeting of stockholders at which Directors are to be elected pursuant to the Corporation's notice of meeting (i) by or at the direction of the Board of Directors or (ii) by any stockholder of the Corporation who is entitled to vote at the meeting, who complies with the notice procedures set forth in this Section 1.10 and who is a stockholder of record at the time such notice is delivered to the Secretary of the Corporation. Nominations by stockholders of persons for election to the Board of Directors may be made at such a special meeting of stockholders if the stockholder's notice as required by paragraph (A) (2) of this Section 1.10 shall be delivered to the Secretary at the principal executive offices of the Corporation not earlier than the ninetieth day prior to such special meeting and not later than the close of business on the later of the seventieth day prior to such special meeting or the tenth day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting.

(C) General. (1) Only persons who are nominated in accordance with the procedures set forth in this Section 1.10 shall be eligible to serve as Directors and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this Section 1.10. Except as otherwise provided by law, the Restated Certificate of Incorporation or these By-Laws, the chairman of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made in accordance with the procedures set forth in this Section 1.10 and, if any proposed nomination or business is not in compliance with this Section 1.10, to declare that such defective proposal or nomination shall be disregarded.

(2) For purposes of this Section 1.10, "public announcement" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act.

(3)

Notwithstanding the foregoing provisions of this Section 1.10, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 1.10. Nothing in this Section 1.10 shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

Section 1.11 Inspectors of Elections; Opening and Closing the Polls. The Board of Directors by resolution shall appoint one or more inspectors, which inspector or inspectors may include individuals who serve the Corporation in other capacities, including, without limitation, as officers, employees, agents or representatives of the Corporation, to act at the meeting and make a written report thereof. One or more persons may be designated as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate has been appointed to act, or if all inspectors or alternates who have been appointed are unable to act, at the meeting of stockholders, the Chairman of the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before discharging his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. The inspectors shall have the duties prescribed by the General Corporation Law of the State of Delaware (the "GCL").

The chairman of the meeting shall fix and announce at the meeting the time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting.

ARTICLE II

Directors

Section 2.1 Powers and Duties of Directors. The business of the Corporation shall be managed by or under the direction of the Board of Directors, which may exercise all such powers of the Corporation and do all such lawful acts and things as are not directed or required to be exercised or done by the stockholders by the Restated Certificate of Incorporation, by these By-Laws, or by law. Except as otherwise permitted by or consistent with Foreign Ownership Restrictions (as defined in the Restated Certificate of Incorporation), at no time shall more than one-third of the Directors in office be Aliens (as defined in the Restated Certificate of Incorporation). The Board of Directors shall have the principal role in the formulation of short and long-term strategic, financial, and organizational goals of the Corporation and shall oversee and supervise the performance of corporate management in carrying out the directives of the Board of Directors. The Board shall adopt the Annual Capital Expenditure

Budget and the Annual Financial Plan, both as defined in Section 3.3(a), for each fiscal year not later than the last day of the preceding fiscal year or at such later time as shall be determined by the Board by resolution adopted by the affirmative vote of that number of Directors as is required pursuant to Article Fifth, Section 2(b) of the Restated Certificate of Incorporation to approve an amendment of Articles II and III of these By-Laws. The Board of Directors shall not approve the entering into, amending, supplementing, modifying, waiving of any provisions of, waiving or enforcing of any rights under or terminating any contract (other than in accordance with its terms) between the Corporation or any of its wholly-owned subsidiaries and any air carrier, other than Air Canada or any of its Affiliates, with respect to a code-sharing or marketing alliance unless such action shall have been recommended to the Board by the Operations Committee of the Board.

Section 2.2 Election; Term; Vacancies. The Directors shall hold office until the next annual election and until their successors are elected and qualified. No Independent Director (as defined in the Restated Certificate of Incorporation) shall be nominated by the Board of Directors or by the Corporation to serve on the Board of Directors unless such Independent Director shall be satisfactory to Air Partners. The Directors shall be elected annually by the stockholders in the manner specified by the Restated Certificate of Incorporation and these By-Laws, except that if there be a vacancy in the Board of Directors by reason of death, resignation or otherwise, such vacancy may also be filled for the unexpired term by a majority affirmative vote of the Board of Directors; provided, that in the case of any AC Director or AP Director (as defined in Section 3.3) the vacancy shall be filled for the unexpired term by the remaining AC Directors or AP Directors, as the case may be, by a majority affirmative vote of such Directors; provided further, that in the event of a vacancy by reason of death, resignation or otherwise of a Director elected by the holders of Class C Common Stock or Class D Common Stock, such vacancy shall be filled for the unexpired term by the holders of Class C Common Stock or Class D Common Stock, as the case may be, voting separately as a class by a majority affirmative vote thereof.

Section 2.3 Resignation. Any Director may resign at any time upon written notice to the Corporation. Any such resignation shall take effect at the time specified therein or, if the time be not specified, upon receipt thereof, and the acceptance of such resignation, unless required by the terms thereof, shall not be necessary to make such resignation effective.

Section 2.4 Removal. Any Director may be removed at any time, with or without cause, by vote at a meeting or written consent of the holders of stock entitled to vote on the election of such Director pursuant to the Restated Certificate of Incorporation; provided, that until the Third Annual Meeting, Creditors Designees (as those terms are defined in the Restated Certificate of Incorporation) may only be removed for cause.

Section 2.5 Meetings.

(A) Annual Meeting. Immediately after each annual meeting of stockholders, the duly elected Directors shall hold an inaugural meeting for the purpose of organization, election of officers, development of an annual calendar (the "Board Calendar"), and the transaction of other business, at such place as shall be fixed by the person presiding at the meeting of stockholders at which such Directors are elected. The Board Calendar shall specify, to the extent practicable, at which meeting the Board of Directors will carry out various duties and reviews, and shall include all topics the Board of Directors deems relevant to the management of the Corporation, including, without limitation, strategic planning, capital allocation, long-range goals, performance appraisal, and personnel planning. The Board Calendar will be distributed to all Directors promptly after its approval by the Board of Directors. The place and time of the inaugural meeting of the Board may also be fixed by written consent of the Directors.

(B) Regular Meetings. Regular meetings of the Board of Directors shall be held on such dates and at such times and places as shall be designated from time to time by the Board of Directors; provided, that the Board shall hold at least four (4) regular meetings in each year; provided further, that regular meetings of the Board of Directors can be waived at the request of the Chief Executive Officer if at least a majority of the Directors agree in writing to such waiver at least seven days before the date of the meeting to be so waived except that in any event the Board shall hold at least four (4) regular meetings in each year prior to the Third Annual Meeting (as defined in the Restated Certificate of Incorporation). The Secretary shall forward to each Director, at least five days before any such regular meeting, a notice of the time and place of the meeting, together with the reports and recommendations of any

committee of the Board of Directors required to deliver periodic reports and the agenda for the meeting prepared by the Chief Executive Officer or in lieu thereof a notice of waiver if the regular meeting has been waived.

(C) Special Meetings. Special meetings of the Directors may be called by the Chairman of the Board, any Vice Chairman, the Chief Executive Officer or a majority of the Directors, at such time and place as shall be specified in the notice or waiver thereof. Notice of each special meeting, including the time and place of the meeting and the agenda therefor, shall be given by the Secretary or by the person calling the meeting to each Director by causing the same to be delivered personally or by facsimile transmission not later than the close of business on the second day next preceding the day of the meeting.

(D) Location; Methods of Participation. Meetings of the Board of Directors, regular or special, may be held at any place within or without the State of Delaware at such place as is indicated in the notice or waiver of notice thereof. Members of the Board of Directors, or of any committee designated by the Board, may participate in a meeting of the Board of Directors or such committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting by such means shall constitute presence in person at such meeting.

Section 2.6 Quorum and Voting. Two-thirds of the total number of Directors (excluding those who must recuse themselves under the terms of the Restated Certificate of Incorporation or these By-Laws, or by law) ("Recused Directors") shall constitute a quorum for the transaction of business, but, if there be less than a quorum at any meeting of the Board of Directors, a majority of the Directors present may adjourn the meeting from time to time, and no further notice thereof need be given other than announcement at the meeting which shall be so adjourned. Except as otherwise provided by law, by the Restated Certificate of Incorporation, or by these By-Laws, the affirmative vote of a majority of the Directors present at a meeting (excluding Recused Directors) at which a quorum is present shall be the act of the Board of Directors.

Section 2.7 Written Consent of Directors in Lieu of a Meeting. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting if all members of the Board or of such committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Board or committee.

Section 2.8 Compensation. Directors may receive compensation for services to the Corporation in their capacities as Directors or otherwise in such manner and in such amounts as may be fixed from time to time by the Board of Directors.

Section 2.9 Minutes of Meetings. Minutes of proceedings of the Board of Directors and each committee thereof shall be circulated to each member of the Board of Directors or committee, as the case may be, within 20 days of the date of the proceedings recorded by the minutes.

ARTICLE III

Committees of the Board of Directors

Section 3.1 Creation. In addition to the committees established under Section 3.3, the Board of Directors, by resolution or resolutions passed by a majority of the Board of Directors (except as otherwise provided in the Restated Certificate of Incorporation), may designate one or more committees, each to consist of such number of Directors of the Corporation as shall be specified in such resolution; provided, that for so long as there shall be any AC Directors (as defined in Section 3.3) or AP Directors (as defined in Section 3.3) any such committee shall include (if so requested by any AP Director or AC Director, as the case may be), to the extent consistent with applicable laws and regulations, such number of AC Directors or AP Directors as shall not be greater than the number of directors equal to the same percentage of the directors comprising such committee as the percentage of the total number of AP Directors or AC Directors, as the case may be, on the Entire Board (as defined in the Restated Certificate of Incorporation); provided further, that for so long as there shall be any AC Directors or AP Directors, any executive or other similar committee of the Board with full power to take all actions which may lawfully be taken by the Board, and any nominating committee of the Board, shall consist, to the extent consistent with applicable laws and regulations, only of a Director that is an officer of the Corporation (or his or her designee), an AP Director and an AC Director. Each such committee shall have and may exercise such powers and duties as shall be delegated to it by the Board, except that no such committee shall have the power to (a) elect Directors, (b) alter, amend or repeal these By-Laws or any resolution or resolutions of the Board relating to such committee, (c) appoint any member of such committee, (d) declare any dividend or make any

other distribution to the stockholders of the Corporation, or (e) take any other actions which may lawfully be taken only by the full Board of Directors. In the event that the Board creates an audit or similar committee prior to the Third Annual Meeting, at least one Creditors Designee (as defined in the Restated Certificate of Incorporation) shall serve on such committee until the Third Annual Meeting.

Section 3.2 Committee Procedure. Each committee of the Board of Directors shall meet at the times stated by the Board in the resolution or resolutions establishing such committee or on notice to all members given by any member of such committee. The Board by resolution or resolutions shall establish the rules of procedure to be followed by each committee, which shall include a requirement that such committee keep regular minutes of its proceedings and deliver to the Secretary the same and other reports and recommendations to be delivered to the Board of Directors in sufficient time to be distributed to the Board of Directors in connection with the regular meeting of the Board of Directors to which the committee is scheduled to report, as indicated on the Board Calendar. The affirmative vote of a majority of the members of any such committee shall constitute the act of such committee.

Section 3.3 Standing Committees.

(A) Finance Committee. There shall be a committee of the Board of Directors, which shall be the Finance Committee, comprised of the Director that is an officer of the Corporation (or a Director who is his or her designee), a Director designated or elected by Air Canada (as defined in the Restated Certificate of Incorporation) under the Shareholders Agreement (as defined in the Restated Certificate of Incorporation), elected by the holders of Class C Common Stock or elected by Directors to fill a vacancy created by the departure of any of the foregoing Directors (an "AC Director"), and a Director designated or elected by Air Partners (as defined in the Restated Certificate of Incorporation) under the Shareholders Agreement, elected by the holders of Class D Common Stock or elected by Directors to fill a vacancy created by the departure of any of the foregoing Directors (an "AP Director"). The Finance Committee shall have the authority and responsibility for developing and recommending to the Board of Directors, not later than thirty (30) days prior to the end of each fiscal year of the Corporation, a detailed annual capital expenditure budget (the "Annual Capital Expenditure Budget") and a detailed annual financial plan (the "Annual Financial Plan") of the Corporation for the next succeeding fiscal year of the Corporation.

(B) Operations Committee. There shall be a committee of the Board of Directors, which shall be the Operations Committee, comprised of the Director that is an officer of the Corporation (or a Director who is his or her designee), an AC Director and an AP Director. The Operations Committee shall have the authority and responsibility for considering and recommending to the Board of Directors the entering into, amending, supplementing, modifying, waiving of any provisions of, waiving or enforcing of any rights under or terminating any contract (other than in accordance with its terms) between the Corporation or any of its wholly-owned subsidiaries and any air carrier, other than Air Canada or any of its Affiliates, with respect to a code-sharing or marketing alliance, and shall have authority and responsibility for considering and recommending to the Board of Directors such other matters as may be designated from time to time by the Board of Directors, which matters may at the discretion of the Board include, without limitation, (a) material acquisitions and dispositions, (b) material contracts, including contracts (other than marketing and/or code sharing agreements) with airlines other than Air Canada with respect to any acquisition or disposition of assets, any joint venture, partnership or similar enterprise, and (c) commencement of material litigation.

ARTICLE IV

Officers, Agents and Employees

Section 4.1 Appointment and Term of Office. The officers of the Corporation shall include a Chairman of the Board, a Chief Executive Officer, a President, a Chief Operating Officer, a Secretary and a Treasurer, and may also include one or more Vice Chairmen of the Board, one or more Vice Presidents (who may be further classified by such descriptions as "executive", "senior", "assistant", "staff" or otherwise, as the Board of Directors shall determine), one or more Assistant Secretaries and one or more Assistant Treasurers. All such officers shall be appointed by the Board of Directors. Any number of such offices may be held by the same person, but no officer shall execute, acknowledge or verify any instrument in more than one capacity. Except as may be prescribed otherwise by the Board of Directors in a particular case, all such officers shall hold their offices at the pleasure of the Board for an unlimited term and need not be reappointed annually or at any other periodic interval. The Board of

Directors may appoint, and may delegate power to appoint, such other officers, agents and employees as it may deem necessary or proper, who shall hold their offices or positions for such terms, have such authority and perform such duties as may from time to time be determined by or pursuant to authorization of the Board of Directors.

Section 4.2 Resignation and Removal. Any officer may resign at any time upon written notice to the Corporation. Any officer, agent or employee of the Corporation may be removed by the Board of Directors with or without cause at any time. The Board of Directors may delegate such power of removal as to officers, agents and employees not appointed by the Board of Directors. Such removal shall be without prejudice to a person's contract rights, if any, but the appointment of any person as an officer, agent or employee of the Corporation shall not of itself create contract rights.

Section 4.3 Compensation and Bond. The compensation of the officers of the Corporation shall be fixed by the Board of Directors, but this power may be delegated to any officer by the Board of Directors. The Corporation may secure the fidelity of any or all of its officers, agents or employees by bond or otherwise.

Section 4.4 Chairman of the Board. The Chairman of the Board shall be selected from the members of the Board of Directors and shall preside at all meetings of the Board of Directors. In addition, the Chairman of the Board shall have such other powers and duties as may be delegated to him or her by the Board of Directors. The Chairman of the Board shall not be deemed to be an officer of the Corporation for purposes of Article III of these By-Laws unless he or she shall also be the Chief Executive Officer.

Section 4.5 Vice Chairman. Each Vice Chairman of the Board, in the absence of the Chairman of the Board, shall have all powers herein conferred upon the Chairman of the Board. In addition, each Vice Chairman shall have such other powers and duties as may be delegated to him or her by the Board of Directors.

Section 4.6 Chief Executive Officer. The Chief Executive Officer shall be the chief executive officer of the Corporation and, in the absence of the Chairman of the Board and the Vice Chairman of the Board (or if there be none), he or she shall preside at all meetings of the Board of Directors. The Chief Executive Officer shall prepare an agenda for each annual and regular meeting of the Board of Directors, which agenda shall include those topics scheduled to be addressed pursuant to the Board Calendar. He or she shall have general charge of the business affairs of the Corporation. He or she may employ and discharge employees and agents of the Corporation, except such as shall be appointed by the Board of Directors, and he or she may delegate these powers. The Chief Executive Officer may vote the stock or other securities of any other domestic or foreign corporation of any type or kind which may at any time be owned by the Corporation, may execute any stockholders' or other consents in respect thereof and may in his or her discretion delegate such powers by executing proxies, or otherwise, on behalf of the Corporation. The Board of Directors by resolution from time to time may confer like powers upon any other person.

Section 4.7 President. The President shall have such powers and perform such duties as the Board of Directors or the Chief Executive Officer may from time to time prescribe.

Section 4.8 Chief Operating Officer. The Chief Operating Officer of the Company shall have general charge of the operating affairs of the Corporation, and shall have such other powers and duties as the Chief Executive Officer or the Board of Directors shall delegate to him or her from time to time.

Section 4.9 Vice Presidents. Each Vice President shall have such powers and perform such duties as the Board of Directors or the Chief Executive Officer may from time to time prescribe.

Section 4.10 Treasurer. The Treasurer shall have charge of all funds and securities of the Corporation, may endorse the same for deposit or collection when necessary and deposit the same to the credit of the Corporation in such banks or depositories as the Board of Directors may authorize. He or she may endorse all commercial documents requiring endorsements for or on behalf of the Corporation and may sign all receipts and vouchers for payments made to the Corporation. He or she shall have all such further powers and duties as generally are incident to the position of Treasurer or as may be assigned to him or her by the Board of Directors or the Chief Executive Officer.

Section 4.11 Secretary. The Secretary shall distribute all materials to be distributed in connection with regular and special meetings of the Board of Directors, record all the proceedings of the meetings of the stockholders and Directors in a book to be kept for that purpose and shall also record therein all action taken by written consent of the Directors, and committees of the Board of Directors in lieu of a meeting. He or she

shall attend to the giving and serving of all notices of the Corporation. He or she shall have custody of the seal of the Corporation and shall attest the same by his or her signature whenever required. He or she shall have charge of the stock ledger and such other books and papers as the Board of Directors may direct, but he or she may delegate responsibility for maintaining the stock ledger to any transfer agent appointed by the Board of Directors. He or she shall have all such further powers and duties as generally are incident to the position of Secretary or as may be assigned to him or her by the Board of Directors or the Chief Executive Officer.

Section 4.12 Assistant Treasurers. In the absence or inability to act of the Treasurer, any Assistant Treasurer may perform all the duties and exercise all the powers of the Treasurer. The performance of any such duty shall, in respect of any other person dealing with the Corporation, be conclusive evidence of his or her power to act. An Assistant Treasurer shall also perform such other duties as the Treasurer or the Board of Directors may assign to him or her.

Section 4.13 Assistant Secretaries. In the absence or inability to act of the Secretary, any Assistant Secretary may perform all the duties and exercise all the powers of the Secretary. The performance of any such duty shall, in respect of any other person dealing with the Corporation, be conclusive evidence of his or her power to act. An Assistant Secretary shall also perform such other duties as the Secretary or the Board of Directors may assign to him or her.

Section 4.14 Delegation of Duties. In case of the absence of any officer of the Corporation, or for any other reason that the Board of Directors may deem sufficient, the Board of Directors may confer for the time being the powers or duties, or any of them, of such officer upon any other officer or upon any Director.

Section 4.15 Loans to Officers and Employees; Guaranty of Obligations of Officers and Employees. The Corporation may lend money to, or guarantee any obligation of, or otherwise assist any officer or other employee of the Corporation or any subsidiary, including any officer or employee who is a Director of the Corporation or any subsidiary, whenever, in the judgment of the Directors, such loan, guaranty or assistance may reasonably be expected to benefit the Corporation. The loan, guaranty or other assistance may be with or without interest, and may be unsecured, or secured in such manner as the Board of Directors shall approve, including, without limitation, a pledge of shares of stock of the Corporation.

ARTICLE V

Indemnification

Section 5.1 Indemnification of Directors, Officers, Employees and Agents. No Director of the Corporation shall be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a Director, except for liability (i) for any breach of the Director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the General Corporation Law of the State of Delaware (the "GCL"), or (iv) for any transaction from which the Director derived any improper personal benefit. If the GCL is amended to authorize corporate action further eliminating or limiting the personal liability of Directors, then the liability of Directors of the Corporation shall be eliminated or limited to the full extent permitted by the GCL, as so amended.

The Corporation shall indemnify to the full extent permitted by the laws of the State of Delaware as from time to time in effect any person who was or is a party or is threatened to be made a party to, or otherwise requires representation by counsel in connection with, any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (whether or not an action by or in the right of the Corporation), by reason of the fact that he or she is or was a Director or officer of the Corporation, or, while serving as a Director or officer of the Corporation, is or was serving at the request of the Corporation as a Director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, or by reason of any action alleged to have been taken or omitted in such capacity. The right to indemnification conferred by this Article V also shall include the right of such persons to be paid in advance by the Corporation for their expenses (including attorneys' fees) to the full extent permitted by the laws of the State of Delaware, as from time to time in effect. The right to indemnification conferred on such persons by this Article V shall be a contract right.

Unless otherwise determined by the Board of Directors, the Corporation shall indemnify to the full extent permitted by the laws of the State of Delaware as from time to time in effect any person who was or is a party or

is threatened to be made a party to, or otherwise requires representation by counsel in connection with, any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (whether or not an action by or in the right of the Corporation), by reason of the fact that he or she is or was an employee (other than an officer) or agent of the Corporation, or is or was serving at the request of the Corporation as a Director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, or by reason of any action alleged to have been taken or omitted in such capacity.

The rights and authority conferred in this Article V shall not be exclusive of any other right which any person seeking indemnification or advancement of expenses may have or hereafter acquire under any statute, provision of the Restated Certificate of Incorporation or these By-Laws, agreement, vote of stockholders or disinterested Directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office and shall continue as to a person who has ceased to be a Director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person. Neither the amendment or repeal of this Article V nor the adoption of any provision of the Restated Certificate of Incorporation or these By-Laws or of any statute inconsistent with this Article V shall eliminate or reduce the effect of this Article V in respect of any acts or omissions occurring prior to such amendment, repeal or adoption or an inconsistent provision.

ARTICLE VI Common Stock

Section 6.1 Certificates. Certificates for stock of the Corporation shall be in such form as shall be approved by the Board of Directors and shall be signed in the name of the Corporation by the Chairman or a Vice Chairman of the Board, if any, or the Chief Executive Officer or the President or a Vice President, and by the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary. Such certificates may be sealed with the seal of the Corporation or a facsimile thereof. Any of or all the signatures on a certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he or she were such officer, transfer agent or registrar at the date of issue.

Section 6.2 Transfers of Stock. Upon surrender to any transfer agent of the Corporation of a certificate for shares of the Corporation duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, it shall be the duty of the Corporation, provided such succession, assignment or transfer is not prohibited by the Restated Certificate of Incorporation, these By-Laws, applicable law or contractual prohibitions, to issue a new certificate to the person entitled thereto, cancel the old certificate and record the transaction upon its books.

Section 6.3 Lost, Stolen or Destroyed Certificates. The Corporation may issue a new stock certificate in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the Corporation may require the owner of the lost, stolen or destroyed certificate or his or her legal representative to give the Corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of any such new certificate. The Board of Directors may require such owner to satisfy other reasonable requirements.

Section 6.4 Stockholder Record Date. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which shall not be more than 60 nor less than ten days before the date of such meeting, nor more than 60 days prior to any other action. Only such stockholders as shall be stockholders of record on the date so fixed shall be entitled to notice of, and to vote at, such meeting and any adjournment thereof, or to give such consent, or to receive payment of such dividend or other distribution, or to exercise such rights in respect of any such change, conversion or exchange of stock, or to participate in such action, as the case may be, notwithstanding any transfer of any stock on the books of the Corporation after any record date so fixed.

If no record date is fixed by the Board of Directors, (a) the record date

for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the date on which notice is given, or, if notice is waived by all stockholders entitled to vote at the meeting, at the close of business on the day next preceding the day on which the meeting is held and (b) the record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

ARTICLE VII

Ownership by Aliens

Section 7.1 Foreign Stock Record. There shall be maintained a separate stock record, designated the "Foreign Stock Record," for the registration of Voting Stock, as defined in Section 7.2, that is Beneficially Owned (as defined in the Restated Certificate of Incorporation) by Aliens, as defined in the Restated Certificate of Incorporation ("Alien Stock"). The Beneficial Ownership by Aliens of Voting Stock shall be determined in conformity with regulations prescribed by the Board of Directors.

Section 7.2 Maximum Percentage. At no time shall ownership of shares representing more than the Maximum Percentage, as defined below, be registered in the Foreign Stock Record. As used herein, (a) "Maximum Percentage" means the maximum percentage of voting power of Voting Stock, as defined below, which may be voted by, or at the direction of, Aliens without violating Foreign Ownership Restrictions or adversely affecting the Corporation's operating certificates or authorities, and (b) "Voting Stock" means all outstanding shares of capital stock of the Corporation issued from time to time by the Corporation and Beneficially Owned by Aliens which, but for the provisions of Section 1 of Article Sixth of the Restated Certificate of Incorporation, by their terms may vote (at the time such determination is made) for the election of directors of the Corporation, except shares of Preferred Stock that are entitled to vote for the election of directors solely as a result of the failure to pay dividends by the Corporation or other breach of the terms of such Preferred Stock.

Section 7.3 Recording of Shares. If at any time there exist shares of Voting Stock that are Alien Stock but that are not registered in the Foreign Stock Record, the Beneficial Owner thereof may request, in writing, the Corporation to register ownership of such shares on the Foreign Stock Record and the Corporation shall comply with such request, subject to the limitation set forth in Section 7.2. The order in which Alien Stock shall be registered on the Foreign Stock Record shall be chronological, based on the date the Corporation received a written request to so register such shares of Alien Stock; provided, that for so long as Air Canada is an Alien, shares of Voting Stock held by Air Canada which were acquired pursuant to the Investment Agreement, dated as of November 9, 1992, as amended, among the Corporation, Air Canada and Air Partners (the "Investment Agreement"), or pursuant to Air Canada's rights under the Shareholders Agreement, or upon conversion or exchange of such securities, or as a dividend or distribution in respect of such securities (collectively, "AC Original Equity Securities") shall be registered on the Foreign Ownership Record prior to, and to the exclusion of, any other shares of Alien Stock whether or not any such other shares of Alien Stock are registered on the Foreign Stock Record at the time that Air Canada requests that shares of AC Original Equity Securities be so registered; provided further, that for so long as any transferee of Air Partners is an Alien, shares of Voting Stock held by such transferee which were originally acquired by Air Partners pursuant to the Investment Agreement or upon conversion or exchange of such securities, or as a dividend or distribution in respect of such securities (collectively "AP Original Equity Securities") shall be registered on the Foreign Ownership Record prior to, and to the exclusion of, any other shares of Alien Stock (other than shares of AC Original Equity Securities) whether or not any such other shares of Alien Stock are registered on the Foreign Stock Record at the time that any such transferee of Air Partners requests that shares of AP Original Equity Securities be so registered. If at any time the Corporation shall find that the combined voting power of Voting Stock then registered in the Foreign Stock Record exceeds the Maximum Percentage, there shall be removed from the Foreign Stock Record the registration of such number of shares so registered as is sufficient to reduce the combined voting power of the shares so registered to an amount not in excess of the Maximum Percentage. The order in which such shares shall be removed shall be reverse chronological order based upon the date the Corporation received a written request to so register such shares of Alien Stock; provided, that for so

long as Air Canada is an Alien, shares of AC Original Equity Securities shall not be removed from the Foreign Ownership Record (regardless of the date on which such shares were registered thereon) until all other outstanding shares of Alien Stock have been so removed; provided further, that for so long as any transferee of Air Partners is an Alien, shares of AP Original Equity Securities owned by such transferee shall not be removed from the Foreign Ownership Record (regardless of the date on which such shares were registered thereon) until all other outstanding shares of Alien Stock (other than shares of AC Original Equity Securities) have been so removed.

ARTICLE VIII

General Provisions

Section 8.1 Fiscal Year. The fiscal year of the Corporation shall begin the first day of January and end on the last day of December of each year.

Section 8.2 Dividends. Dividends upon the capital stock may be declared by the Board of Directors at any regular or special meeting and may be paid in cash or in property or in shares of the capital stock. Before paying any dividend or making any distribution of profits, the Directors may set apart out of any funds of the Corporation available for dividends a reserve or reserves for any proper purpose and may alter or abolish any such reserve or reserves.

Section 8.3 Checks, Notes, Drafts, Etc. Checks, notes, drafts, acceptances, bills of exchange and other orders or obligations for the payment of money shall be signed by such officer or officers or person or persons as the Board of Directors or a duly authorized committee thereof, the Chief Executive Officer or the Treasurer may from time to time designate.

Section 8.4 Corporate Seal. The seal of the Corporation shall be circular in form and shall bear, in addition to any other emblem or device approved by the Board of Directors, the name of the Corporation, the year of its incorporation and the words "Corporate Seal" and "Delaware." The seal may be used by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

Section 8.5 Waiver of Notice. Whenever notice is required to be given by statute, or under any provision of the Restated Certificate of Incorporation or these By-Laws, a written waiver thereof, signed by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. In the case of a stockholder, such waiver of notice may be signed by such stockholder's attorney or proxy duly appointed in writing. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders, Directors or members of a committee of Directors need be specified in any written waiver of notice.

ARTICLE IX

Restated Certificate of Incorporation to Govern

Section 9.1 Restated Certificate of Incorporation to Govern. Notwithstanding anything to the contrary herein, if any provisions contained herein is inconsistent with or conflicts with a provision of the Restated Certificate of Incorporation, such provision herein shall be superseded by the inconsistent provision in the Restated Certificate of Incorporation, to the extent necessary to give effect to such provision in the Restated Certificate of Incorporation.