

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

**FORM 20-F**

- REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR (g) OF THE SECURITIES EXCHANGE ACT OF 1934  
OR
- ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the fiscal year ended December 31, 2009  
OR
- TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
OR
- SHELL COMPANY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Commission file number 333-131938

Commission file number  
333-145838-02

Commission file number  
333-145838-01

**TAM S.A.**  
(Exact name of registrant as specified in its charter)

**TAM Capital Inc.**  
(Exact name of registrant as specified in its charter)

**TAM Linhas Aéreas S.A.**  
(Exact name of registrant as specified in its charter)

**Not applicable**  
(Translation of registrant name into English)

**Not applicable**  
(Translation of registrant name into English)

**TAM Airlines S.A.**  
(Translation of registrant name into English)

**The Federative Republic of Brazil**  
(State or other jurisdiction of incorporation or organization)

**Cayman Islands**  
(State or other jurisdiction of incorporation or organization)

**The Federative Republic of Brazil**  
(State or other jurisdiction of incorporation or organization)

**4512**  
(Primary Standard Industrial Classification Code Number)

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(Primary Standard Industrial Classification Code Number)

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(Primary Standard Industrial Classification Code Number)

**Not applicable**  
(I.R.S. Employer Identification Number)

**Not applicable**  
(I.R.S. Employer Identification Number)

**Not applicable**  
(I.R.S. Employer Identification Number)

**Av. Jurandir, 856, Lote 4, 1° andar  
04072-000, São Paulo, SP**

**Federative Republic of Brazil**  
(Address of principal executive offices)

Securities registered or to be registered pursuant to Section 12(b) of the Act:

Title of each class  
**Preferred Shares issued by TAM S.A., without par value**

Name of each exchange on which registered  
**New York Stock Exchange**

**American Depositary Shares (as evidenced by American Depositary Receipts), each representing one Preferred Share**

**New York Stock Exchange**

\* Not for trading purposes, but only in connection with the trading on the New York Stock Exchange of American Depositary Shares representing those Preferred Shares.

Securities registered or to be registered pursuant to Section 12(g) of the Act: **None.**

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act:

TAM Capital Inc. U.S.\$300,000,000 7.375% Senior Guaranteed Notes due 2017,  
unconditionally guaranteed by  
TAM S.A. and TAM Linhas Aéreas S.A.

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report.

**50,195,049 Common Shares**  
**100,390,098 Preferred Shares**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.  Yes  No

If this report is an annual or transition report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934.  Yes  No

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).  Yes  No

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

Large accelerated filer  Accelerated filer  Non-accelerated filer

Indicate by check mark which basis of accounting the registrant has used to prepare the financial statements included in this filing:

U.S. GAAP  IFRS  Other

If "Other" has been checked in response to the previous question, indicate by check mark which financial statement item the registrant has elected to follow.  Item 17  Item 18

If this is an annual report, indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).  Yes  No

## CONTENTS

	Page
<u>INTRODUCTION</u>	1
<u>PRESENTATION OF FINANCIAL AND OTHER DATA</u>	2
<u>FORWARD-LOOKING STATEMENTS</u>	3
<u>ITEM 1.IDENTIFY OF DIRECTORS, SENIOR MANAGEMENT AND ADVISERS</u>	4
<u>ITEM 2.OFFER STATISTICS AND EXPECTED TIMETABLE</u>	4
<u>ITEM 3.KEY INFORMATION</u>	4
<u>A.Selected Financial Data</u>	4
<u>B.Capitalization and Indebtedness</u>	8
<u>C.Reasons for the Offer and Use of Proceeds</u>	8
<u>D. Risk Factors</u>	9
<u>ITEM 4.INFORMATION ON THE COMPANY</u>	19
<u>A.History and Development of the Company</u>	19
<u>B. Business Overview</u>	21
<u>C. Organizational Structure</u>	48
<u>D.Property, Plant and Equipment</u>	49
<u>ITEM 4A. UNRESOLVED STAFF COMMENTS</u>	49
<u>ITEM 5.OPERATING AND FINANCIAL REVIEW AND PROSPECTS</u>	49
<u>A. Operating Results</u>	49
<u>B.Liquidity and Capital Resources</u>	62
<u>C.Research and Development, Patents and Licenses, etc.</u>	66
<u>D. Trend Information</u>	67
<u>E. Off-balance Sheet Arrangements</u>	67
<u>F. Tabular Disclosure of Contractual Obligations</u>	67
<u>ITEM 6.DIRECTORS, SENIOR MANAGEMENT AND EMPLOYEES</u>	68
<u>A.Directors and Senior Management</u>	68
<u>B. Compensation</u>	71
<u>C. Board Practices</u>	71
<u>D. Employees</u>	73
<u>E. Share Ownership</u>	76
<u>ITEM 7.MAJOR SHAREHOLDERS AND RELATED PARTY TRANSACTIONS</u>	76
<u>A. Major Shareholders</u>	76
<u>B.Related Party Transactions</u>	77
<u>C.Interests of Experts and Counsel</u>	78
<u>ITEM 8.FINANCIAL INFORMATION</u>	78
<u>A.Consolidated Statements and Other Financial Information</u>	78
<u>B. Significant Changes</u>	84
<u>ITEM 9.THE OFFER AND LISTING</u>	84
<u>A.Offer and Listing Details</u>	84
<u>B.Plan of Distribution</u>	85
<u>C. Markets</u>	85

<u>D. Selling Shareholders</u>	<u>92</u>
<u>E. Dilution</u>	<u>92</u>
<u>F. Expenses of the Issue</u>	<u>92</u>
<u>ITEM 10. ADDITIONAL INFORMATION</u>	<u>92</u>
<u>A. Share Capital</u>	<u>92</u>
<u>B. Memorandum and Articles of Association</u>	<u>92</u>
<u>C. Material Contracts</u>	<u>96</u>
<u>D. Exchange Controls</u>	<u>97</u>
<u>E. Taxation</u>	<u>99</u>
<u>F. Dividends and Paying Agents</u>	<u>105</u>
<u>G. Statement by Experts</u>	<u>105</u>
<u>H. Documents on Display</u>	<u>105</u>
<u>I. Subsidiary Information</u>	<u>105</u>
<u>ITEM 11. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK</u>	<u>105</u>
<u>ITEM 12. DESCRIPTION OF SECURITIES OTHER THAN EQUITY SECURITIES</u>	<u>107</u>
<u>D. American Depositary Shares</u>	<u>108</u>
<u>ITEM 13. DEFAULTS, DIVIDEND ARREARAGES AND DELINQUENCIES</u>	<u>109</u>
<u>ITEM 14. MATERIAL MODIFICATIONS TO THE RIGHTS OF SECURITY HOLDERS AND USE OF PROCEEDS</u>	<u>109</u>
<u>ITEM 15. CONTROLS AND PROCEDURES</u>	<u>109</u>
<u>ITEM 15T. CONTROLS AND PROCEDURES</u>	<u>110</u>
<u>ITEM 16A. AUDIT COMMITTEE FINANCIAL EXPERT</u>	<u>110</u>
<u>ITEM 16B. CODE OF ETHICS</u>	<u>110</u>
<u>ITEM 16C. PRINCIPAL ACCOUNTANT FEES AND SERVICES</u>	<u>110</u>
<u>ITEM 16D. EXEMPTIONS FROM THE LISTING STANDARDS FOR AUDIT COMMITTEES</u>	<u>111</u>
<u>ITEM 16E. PURCHASES OF EQUITY SECURITIES BY THE ISSUER AND AFFILIATED PURCHASERS</u>	<u>111</u>
<u>ITEM 16F. CHANGE IN REGISTRANT'S CERTIFYING ACCOUNTANT</u>	<u>111</u>
<u>ITEM 16G. CORPORATE GOVERNANCE</u>	<u>111</u>
<u>ITEM 17. FINANCIAL STATEMENTS</u>	<u>112</u>
<u>ITEM 18. FINANCIAL STATEMENTS</u>	<u>112</u>
<u>ITEM 19. EXHIBITS</u>	<u>112</u>
<u>SIGNATURES</u>	<u>113</u>

## INTRODUCTION

In this annual report (the "Annual Report"), "TAM S.A." refers to TAM S.A., a *sociedade anônima de capital aberto* organized under the laws of Brazil, "TAM Linhas Aéreas" and "TLA" refer to TAM Linhas Aéreas S.A., a *sociedade anônima de capital fechado* organized under the laws of Brazil, "TAM Viagens" refers to Fidelidade Viagens e Turismo Ltda., a *sociedade limitada* organized under the laws of Brazil, "TAM Mercosur" refers to Transportes Aéreos Del Mercosur S.A., a *sociedade anônima de capital fechado* organized under the laws of Paraguay, "TAM Capital" refers to TAM Capital Inc., "TAM Capital 2" refers to TAM Capital 2 Inc., "TAM Financial 1" refers to Tam Financial Services 1 Ltda. and "TAM Financial 2" refers to Tam Financial Services 2 Ltda., and each of TAM Capital, TAM Capital 2, TAM Financial 1 and TAM Financial 2 is an exempted company incorporated with limited liability in the Cayman Islands. The terms "we," "our" and "us" refer to TAM S.A., its consolidated subsidiaries and each of the companies mentioned above, which are its controlled subsidiaries. References to "preferred shares" and "ADSs" refer to the non-voting preferred shares of TAM S.A. and the American depositary shares representing those preferred shares, respectively, except where the context otherwise requires.

In this Annual Report, the term "Brazil" refers to the Federative Republic of Brazil and the phrase "Brazilian government" refers to the federal government of Brazil. The term "ANAC" refers to the National Civil Aviation Agency or *Agência Nacional de Aviação Civil*, the national aviation agency, which is part of the Brazilian government. The term "Central Bank" refers to the Central Bank of Brazil. The terms "U.S. dollar" and "U.S. dollars" and the symbol "U.S.\$" refer to the legal currency of the United States. The terms "*real*" and "*reais*" and the symbol "R\$" refer to the legal currency of Brazil and the term "*centavos*" means the 100th part of the *real*.

This Annual Report contains terms relating to operating performance within the airline industry that are defined as follows:

- "ASK" means available seat kilometers, or the product of the number of seats available in all aircraft multiplied by the distance the seats are flown in kilometers.
- "Average tariff" means the quotient of passenger transport revenue divided by the number of paying passengers transported.
- "BELF" means the break-even load factor (or the load factor in which revenue equals operating expenses).
- "Block hours" refers to the elapsed time between an aircraft's departure from an airport gate and arrival at its destination airport gate.
- "CASK" means cost per ASK, or the quotient of total operating expenses (excluding the fair value of fuel derivatives and revaluations of aircraft) divided by the number of available seat kilometers. The result is presented in this Annual Report in *centavos* per ASK.
- "Load factor" means the percentage of an aircraft occupied by paying passengers on a flight, or the quotient between RPK and ASK.
- "RASK" means revenue per ASK, or quotient of dividing net revenue by the number of available seat kilometers. The result is presented in this Annual Report in *centavos* per ASK.
- "RPK" means revenue passenger kilometre, which corresponds to the product of the number of paying passengers transported multiplied by the number of kilometers flown by those passengers.
- "Yield" means the average amount paid per passenger to fly one kilometer.

## PRESENTATION OF FINANCIAL AND OTHER DATA

We prepare our consolidated annual financial statements in accordance with International Financial Reporting Standards ("IFRS") as issued by the International Accounting Standards Board. The financial statements are prepared under the historical cost convention unless otherwise indicated, including, for example, in respect of revaluations of flight equipment and measurement of the fair value of derivative financial instruments and certain financial assets at fair value. Until December 31, 2007, our consolidated financial statements were prepared in accordance with Generally Accepted Accounting Principles in Brazil ("Brazilian GAAP"). Brazilian GAAP differs in certain respects from IFRS.

The last consolidated financial statements available under Brazilian GAAP which were filed with:

- the United States Securities and Exchange Commission were those for the year ended December 31, 2007; and with
- the Brazilian Securities and Exchange Commission (the "CVM") were those for the year ended December 31, 2008.

Our audited consolidated annual financial statements for the years ended December 31, 2009, 2008 and 2007, as included in this report, have been audited by our independent registered public accounting firm.

Our consolidated annual financial statements as of and for the years ended December 31, 2008 and 2007 that were filed in the Annual Report on Form 20-F for the year ended December 31, 2008 have been restated and we have filed an amended Form 20-F for the year ended December 31, 2008 on June 8, 2010. Please see Note 4.2 to our audited consolidated annual financial statements for the year ended December 31, 2009 included in this Annual Report for additional information on the restatement made to those financial statements.

We maintain our books and records in *reais*.

All references in this Annual Report to numbers of our common and preferred shares reflect a share split which took place on May 16, 2005, pursuant to which all holders of our existing shares received two shares of the same class and type for each share held.

For ease of presentation, certain financial information contained in this Annual Report has been presented in U.S. dollars. This Annual Report contains translations of various *real* amounts, before rounding, into U.S. dollars at specified rates solely for your convenience. You should not construe these translations as representations by us that the *real* amounts actually represent these U.S. dollar amounts or could be converted into U.S. dollars at the rates indicated. Unless otherwise indicated, we have translated the *real* amounts using a rate of R\$1.741 to U.S.\$1.00, the U.S. dollar selling rate published by the Central Bank on December 31, 2009. On June 18, 2010, the U.S. dollar selling rate published by the Central Bank was R\$1.7761 to U.S.\$1.00.

The information contained in this Annual Report relating to Brazil and the Brazilian economy is based on data published by the Central Bank, government agencies and other independent sources. Data and statistics regarding the Brazilian civil aviation markets are based on publicly available data published by ANAC. Data and statistics regarding the international civil aviation markets are based on publicly available data published by the International Civil Aviation Organization (ICAO) and the International Air Transport Association (IATA). We also make statements in this Annual Report about our competitive position and market share in, and the market size of, the Brazilian airline industry. We have made these statements on the basis of statistics and other information from third-party sources that we believe are reliable. Although we have no reason to believe any of this information or these reports are inaccurate in any material respect, we have not independently verified the competitive position, market share and market size or market growth data provided by third parties or by industry or general publications.

Certain figures in this document have been subject to rounding adjustments. Accordingly, figures shown as totals in certain tables may not be an arithmetic aggregation of the figures that precede them.



## FORWARD-LOOKING STATEMENTS

This Annual Report includes certain forward-looking statements (particularly in "Item 3. Key Information — D. Risk Factors," "Item 4. Information on the Company — B. Business Overview" and "Item 5. Operating and Financial Review and Prospects"). These forward-looking statements are based principally on our current expectations and on projections of future events and financial trends that currently affect or might affect our business. In addition to the items discussed in other sections of this Annual Report, there are many significant factors that could cause our financial condition and results of operations to differ materially from those set out in our forward-looking statements, including factors such as:

- economic and political developments in both Brazil and the principal international markets in which we operate;
- our management's expectations and estimates as to future financial performance, financial plans and the impact of competition on our business, including competitive pressures on pricing;
- our level of indebtedness and other payment obligations;
- our plans relating to investments and capital expenditures;
- variations in interest rates, inflation and the exchange rate relating to the *real* (with respect to both potential depreciation and appreciation of the *real*);
- existing and future regulations;
- increases in fuel expenses, maintenance expenses and insurance premiums;
- changes in market prices, consumer preferences and competitive conditions;
- cyclical and seasonal variations in our results of operations;
- defects or other mechanical problems in our aircraft;
- developments or changes in the Brazilian civil aviation infrastructure, including air traffic control, airspace and airport infrastructure;
- the implementation of our strategies and growth plans;
- our ability to obtain financing on commercially reasonable terms;
- changes in fiscal policy and tax laws; and
- other risk factors set forth in "Item 3. Key Information — D. Risk Factors."

The words "believe," "expect," "continue," "understand," "hope," "estimate," "will," "may," "might," "should," "intend" and other similar expressions are intended to identify forward-looking statements and estimates. Such statements refer only to the date on which they were expressed, and we assume no obligation to publicly update or revise any such estimates resulting from new information or any other events. As a result of the inherent risks and uncertainties involved, the forward-looking statements included in this Annual Report may not be accurate and our future results of operations and performance may differ materially from those set out in this Annual Report for a number of different reasons. No forward-looking statement in this Annual Report is a guarantee of future performance and each estimate involves risks and uncertainties.

Investors are cautioned not to place undue reliance on any forward-looking statements.



## PART I

### ITEM 1. IDENTITY OF DIRECTORS, SENIOR MANAGEMENT AND ADVISERS

Not applicable.

### ITEM 2. OFFER STATISTICS AND EXPECTED TIMETABLE

Not applicable.

### ITEM 3. KEY INFORMATION

#### A. Selected Financial Data

The information set forth in this section should be read in conjunction with our consolidated annual financial statements (including the notes thereto) set forth in "Item 18. Financial Statements" and "Presentation of Financial and Other Data" and "Item 5. Operating and Financial Review and Prospects."

The summary consolidated annual financial information as of December 31, 2007, 2008 and 2009 and for each of the three years ended December 31, 2007, 2008 and 2009, prepared in accordance with IFRS, is derived from our audited consolidated annual financial statements included elsewhere in this Annual Report, which have been audited by our independent registered public accounting firm. The summary consolidated annual financial information as of December 31, 2005 and 2006 and for each of the two years ended December 31, 2005 and 2006, prepared in accordance with Brazilian GAAP and U.S. GAAP, is derived from our audited consolidated annual financial statements included in our Annual Report on Form 20-F for the year ended December 31, 2007, filed June 25, 2008, but do not contain any reconciliation of shareholders' equity or net income from Brazilian GAAP or U.S. GAAP to IFRS. Accordingly, you may not be able to directly compare the financial information as of and for the years ended December 31, 2009, 2008 and 2007 with the financial information as of and for the years ended December 31, 2005 and 2006.

For your convenience, the following tables also contain U.S. dollar translations of the *real* amounts presented at December 31, 2009, translated using the rate of R\$1.7761 to U.S.\$1.00, the U.S. dollar selling rate at June 18, 2010 published by the Central Bank on SISBACEN, using transaction PTAX 800, option 5.

The tables below entitled "Operating Data Computed Using Financial Information Under IFRS" and "Additional Operating Data" also include unaudited operational and other data indicative of performance utilized by certain investors in evaluating companies operating in the global air transportation sector. This unaudited operational data is not included in or derived from our consolidated annual financial statements. The data corresponding to years 2005 to 2006 presented in U.S. GAAP and Brazilian GAAP were derived from our previous Form 20-Fs.

IFRS	2009 (U.S.\$ millions)	At December 31		2007
		2009	2008	
		(R\$ millions)		
<b>Balance sheet data</b>				
Cash and cash equivalents	605	1,075	672	467
Financial assets at fair value through profit and loss	569	1,011	1,242	2,140
Trade accounts receivable	632	1,122	1,157	938
Total assets	6,837	12,144	14,451	10,333
Borrowings <sup>(1)</sup>	280	497	402	1,068
Finance lease obligations <sup>(1)</sup>	2,545	4,521	6,448	2,968
Debentures <sup>(1)</sup>	626	1,111	529	532
Advance ticket sales	568	1,008	820	807
Total equity	280	498	1,327	1,909
Total liabilities and equity	6,837	12,144	14,451	10,333

(1) Refers to the total balance of current liabilities plus long-term liabilities.

Brazilian GAAP	At December 31	
	2006	2005
	(R\$ millions)	
<b>Balance sheet data</b>		
Cash and banks	123	93
Financial investments	2,331	903
Customer accounts receivable	781	763
Total assets	5,168	3,311
Debt <sup>(1)</sup>	453	270
Finance lease and operating lease liabilities <sup>(1)</sup>	162	218
Debentures <sup>(1)</sup>	569	59
Advance ticket sales	759	558
Shareholders' equity	1,443	760
Total liabilities and equity	5,168	3,311

(1) Refers to the total balance of current liabilities plus long-term liabilities.

U.S. GAAP	At December 31	
	2006	2005
	(R\$ millions)	
<b>Balance sheet data</b>		
Cash and cash equivalents	300	93
Marketable securities	2,153	903
Customer accounts receivable, net	781	763
Total assets	7,657	6,057
Debt <sup>(1)</sup>	453	270
Obligations under finance leases <sup>(1)</sup>	2,369	2,845
Debentures <sup>(1)</sup>	569	59
Advance ticket sales	759	558
Shareholders' equity	1,532	620
Total liabilities and equity	7,657	6,057

(1) Refers to the total balance of current liabilities plus long-term liabilities.

IFRS	Year Ended December 31			
	2009	2009	2008	2007
	(U.S. millions) <sup>(1)</sup>		(R\$ millions) <sup>(1)</sup>	
Revenue	5,498	9,765	10,513	8,019
Operating expenses	(5,402)	(9,595)	(9,954)	(7,698)
<b>Operating profit before movements in fair value of fuel derivatives and revaluation of aircraft</b>	<b>96</b>	<b>170</b>	<b>559</b>	<b>320</b>
Movements in fair value of fuel derivatives	178	317	(1,274)	130
Gains/(losses) on revaluation of aircraft recognized in the income statement	(680)	(1,208)	242	(225)
<b>Operating (loss)/profit</b>	<b>(406)</b>	<b>(721)</b>	<b>(472)</b>	<b>226</b>
Finance income	1,359	2,413	1,410	1,007
Finance cost	(586)	(1,041)	(3,006)	(755)
<b>Profit / (loss) before income tax and social contribution</b>	<b>366</b>	<b>650</b>	<b>(2,068)</b>	<b>478</b>
Income tax and social contribution	(120)	(213)	634	(146)
<b>Profit / (loss) after tax (all continuing operations)</b>	<b>246</b>	<b>437</b>	<b>(1,434)</b>	<b>332</b>
Attributable to				
Non-controlling interest	(1.0)	(1.7)	0.9	0.2
<b>Equity holders of TAM</b>	<b>245</b>	<b>436</b>	<b>(1,435)</b>	<b>332</b>
Number of shares outstanding at year end, excluding treasury shares (in thousands of shares): <sup>(2)</sup>				
Common shares	50,195	50,195	50,195	59,792
Preferred shares	100,390	100,390	100,390	90,793
Total	150,585	150,585	150,585	150,585
Earnings (loss) per share (common and preferred) – in R\$ <sup>(2)</sup>				
Basic	1.63	2.90	(9.54)	2.20
Diluted	1.63	2.90	(9.54)	2.19
Dividends declared per share:				
Common shares (in reais and U.S. dollars)	0.8875	1.5762	0.27	0.2093
Preferred shares (in reais and U.S. dollars)	0.8875	1.5762	0.27	0.2093
Dividends declared per ADS (in reais and U.S. dollars)	0.8875	1.5762	0.27	0.2093

(1) Except per share information and where otherwise indicated.

(2) In 2008, there was a conversion of common shares to preferred shares by a relevant shareholder.

Brazilian GAAP	Year Ended December 31	
	2006	2005
	(R\$ millions) <sup>(1)</sup>	
<b>Statement of operations data</b>		
<b>Gross operating revenue</b>	<b>7,700</b>	<b>5,910</b>
Air transportation revenues:		
Domestic	5,162	4,192
International	1,537	1,034
Cargo	487	407
Other operating revenues	514	277
Taxes and deductions	(355)	(261)
<b>Net operating revenue</b>	<b>7,345</b>	<b>5,649</b>
Operating expenses:		
Fuel	(2,130)	(1,695)
Sales and marketing	(875)	(855)
Aircraft and flight equipment leases	(719)	(627)
Personnel	(873)	(669)
Maintenance	(388)	(356)
Services rendered by third parties	(540)	(374)
Landing, take-off and navigational tariffs	(315)	(233)
Depreciation and amortization	(102)	(85)
Aircraft insurance	(35)	(40)
Other	(372)	(302)
<b>Total operating expenses</b>	<b>(6,348)</b>	<b>(5,235)</b>
<b>Gross income (loss)</b>	<b>997</b>	<b>413</b>
Financial income (expenses), net	56	(178)
Other operating income (expenses), net	(126)	(31)
<b>Operating income (loss)</b>	<b>927</b>	<b>204</b>
Non-operating income (expenses), net	11	(8)
<b>Income (loss) before income tax and social contribution</b>	<b>938</b>	<b>196</b>

Brazilian GAAP	Year Ended December 31	
	2006	2005
	(R\$ millions) <sup>(1)</sup>	
Income tax and social contribution	(325)	(75)
<b>Income (loss) before minority interest</b>	<b>613</b>	<b>122</b>
Minority interest	(1)	—
<b>Income (loss) for the year</b>	<b>612</b>	<b>122</b>
Number of shares outstanding at year end, excluding treasury shares (in thousands of shares) <sup>(2)</sup> :		
Common shares	59,792	59,816
Preferred shares	90,771	84,243
Total	150,563	144,059
<b>Net income (loss) per share (in reais and US dollars)<sup>(2)</sup></b>	<b>3.69</b>	<b>1.30</b>
<b>Net income (loss) per ADS (in reais and US dollars)<sup>(2)</sup></b>	<b>3.69</b>	<b>1.30</b>
Dividends declared per share:		
Common shares (in reais and US dollars)	0.8949	0.2041
Preferred shares (in reais and US dollars)	0.8949	0.2041
Dividends declared per ADS (in reais and US dollars)	0.8949	0.2041

(1) Except per share information and where otherwise indicated.

(2) A share split took place on May 16, 2005, pursuant to which all holders of our existing shares received two shares of the same class and type for each share held. All periods are presented considering the effects of the share split.

U.S. GAAP	Year Ended December 31	
	2006	2005
	(R\$ millions) <sup>(1)</sup>	
<b>Statement of operations data</b>		
<b>Gross operating revenue</b>	<b>7,686</b>	<b>5,895</b>
Air transportation revenues:		
Domestic	5,162	4,192
International	1,538	1,034
Cargo	487	407
Other operating revenues	499	262
Taxes and deductions	(356)	(261)
<b>Net operating revenue</b>	<b>7,330</b>	<b>5,634</b>
Operating expenses:		
Fuel	(2,130)	(1,695)
Sales and marketing	(875)	(855)
Aircraft and flight equipment leases	(381)	(300)
Personnel	(878)	(666)
Maintenance	(388)	(356)
Services rendered by third parties	(531)	(357)
Landing, take-off and navigational tariffs	(315)	(233)
Depreciation and amortization	(223)	(206)
Aircraft insurance	(35)	(40)
Other	(483)	(314)
<b>Total operating expenses</b>	<b>(6,239)</b>	<b>(5,022)</b>
Operating income	1,091	612

Financial income (expenses), net	152	32
<b>Income before income tax and social contribution</b>	<b>1,242</b>	<b>644</b>
Income tax and social contribution	(433)	(217)
<b>Net income</b>	<b>809</b>	<b>427</b>
Net income attributable to non-controlling interest	(1)	—
<b>Net income attributable to equity holders of TAM S.A.</b>	<b>808</b>	<b>427</b>

U.S. GAAP	Year Ended December 31	
	2006	2005
	(R\$ millions) <sup>(1)</sup>	
Income per share basic and diluted (weighted average) <sup>(2)</sup> :		
Common shares (in <i>reais</i> and US dollars)	5.42	3.13
Previous preferred shares (in <i>reais</i> and US dollars)	—	1.35
Current preferred shares (in <i>reais</i> and US dollars) <sup>(3)</sup>	5.42	1.90
Income per ADS basic and diluted (weighted average) (in <i>reais</i> and US dollars):	5.42	3.25

(1) Except per share information and where otherwise indicated.

(2) The data relating to both our preferred and common shares has been adjusted to reflect the share split which took place on May 16, 2005, pursuant to which all holders of our existing shares received two shares of the same class and type for each share held.

(3) The rights of preferred shareholders were altered on May 16, 2005. Previously, preferred shares had carried the rights to a dividend 10% higher than that distributed to holders of common shares. Beginning May 16, 2005, however, preferred shares carried the same dividend rights as common shares. The terms "Previous" and "Current" preferred shares used in the above table reflect this change in entitlement.

Operating Data Computed Using Financial Information Under IFRS	Year Ended December 31,			
	2009 (U.S.\$)	2009	2008 (R\$) (unaudited)	2007
<b>Operating data</b>				
RASK (cents/ <i>centavos</i> )	8.50	15.09	18.41	16.85
RASK scheduled domestic (cents/ <i>centavos</i> )	7.55	13.41	17.08	15.51
RASK scheduled international (cents/ <i>centavos</i> )	5.81	10.32	12.76	12.44
Yield scheduled domestic (cents/ <i>centavos</i> )	12.33	21.90	26.71	23.42
Yield scheduled international (cents/ <i>centavos</i> )	8.02	14.24	16.86	17.66
CASK (cents/ <i>centavos</i> )	8.35	14.83	17.44	16.17
CASK except fuel (cents/ <i>centavos</i> )	5.96	10.59	10.56	10.84
Average tariff (dollars/ <i>reais</i> )	150.95	268.11	298.07	250.04

Additional Operating Data	Year Ended December 31,				
	2009	2008	2007	2006	2005
			(unaudited)		
Paid passengers transported (thousands)	30,407	30,144	27,850	25,022	19,571
RPK (millions)	44,148	40,518	33,500	26,289	19,797
ASK (millions)	64,720	57,091	47,599	35,564	28,024
Load factor — %	68.2%	71.0%	70.4%	73.9%	70.6%
Break-even load factor (BELF) — %	65.9%	66.3%	68.1%	63.9%	65.3%
Block hours	566,006	523,114	462,380	390,839	323,729
Kilometers flown — km (thousands)	340,545	309,625	273,056	226,344	185,158
Liters of fuel	2,216,168	2,047,756	1,739,430	1,336,917	1,073,918
Number of employees	24,282	24,389	20,469	13,195	9,669
Average aircraft use during the period (hours per day)	11.8	12.5	12.6	12.66	11.36
Take-offs	285,006	274,856	261,171	245,163	209,831
Average leg (km)	1,195	1,126	1,046	923	882

## Exchange Rates

Until January 1999, there were two legal foreign exchange markets in Brazil, the commercial rate exchange market, or the Commercial Market, and the floating rate exchange market, or the Floating Market. The Commercial Market was reserved primarily for (i) foreign trade transactions and (ii) transactions that generally required prior approval from Brazilian monetary authorities, like the purchase and sale of registered investments by foreign persons and related remittances of funds abroad (including the payment of principal of, and interest on, loans, notes, bonds and other debt instruments denominated in foreign currencies and duly registered with the Central Bank). The Floating Market was for specific transactions that did not require Central Bank approval.

The Central Bank reported both the Commercial Market rate and the Floating Market rate on a daily basis. In January 1999, the Brazilian government announced the unification of the exchange rates for the Brazilian Commercial Market and the Floating Market, leading to a convergence in the pricing and liquidity of both markets.

On March 4, 2005, the *Conselho Monetário Nacional* (the "CMN") issued Resolution No. 3,265 and Resolution No. 3,266 (each of which became effective on March 14, 2005), which introduced several changes in the Brazilian foreign exchange regime, including (i) the unification of the Commercial Market and the Floating Market, and (ii) the relaxation of rules for the acquisition of foreign currency by Brazilian residents. It is expected that the Central Bank will further regulate foreign exchange transactions, as well as payments and/or transfers of Brazilian currency between Brazilian residents and non-residents (those transfers, the International Transfers of *Reais*), including those made through non-resident accounts (the CC5 accounts).

See "Item 3. Key Information — D. Risk Factors — Risks relating to Brazil — Exchange rate instability may have adverse effects on the Brazilian economy, our business, financial condition, results of operations and prospects and the trading price of our ADSs and preferred shares."

The following tables set forth the Commercial Market rate for the purchase of U.S. dollars expressed in *reais* per U.S. dollar for the periods and dates indicated:

Year Ended	Exchange Rates of <i>Reais</i> per U.S. \$1.00			
	Low	High	Average <sup>(1)</sup>	Period End
December 31, 2005	2.163	2.762	2.285	2.341
December 31, 2006	2.059	2.371	2.215	2.138
December 31, 2007	1.733	2.156	1.944	1.771
December 31, 2008	1.559	2.500	1.837	2.337
December 31, 2009	1.702	2.422	1.998	1.741

(1) Represents the daily average rate during each of the relevant periods.  
Source: Central Bank.

Month Ended	Exchange Rates of <i>Reais</i> per U.S. \$1.00		
	Low	High	Period End
December 2009	1.710	1.788	1.741
January 2010	1.723	1.875	1.875
February 2010	1.805	1.877	1.811
March 2010	1.764	1.823	1.781
April 2010	1.731	1.781	1.731
May 2010	1.732	1.881	1.817
June 2010 (through June 18, 2010)	1.776	1.866	1.776

Source: Central Bank.

### B. Capitalization and Indebtedness

Not applicable.

### C. Reasons for the Offer and Use of Proceeds

Not applicable.

#### **D. Risk Factors**

Investing in our ADSs or our preferred shares involves a high degree of risk. Before making an investment decision, you should carefully consider the risks set forth below. Our business, financial condition and results of operations may be materially adversely affected by any of these risks. The trading price of our ADSs or our preferred shares may decrease due to any of these risks, and you may lose all or part of your investment. The risks described below are those that we currently believe may materially affect us.

##### **Risks relating to Brazil**

***The Brazilian government has exercised, and continues to exercise, significant influence over the Brazilian economy. Brazilian political and economic conditions have a direct impact on our business, financial condition, results of operations and prospects as well as the trading price of the notes.***

The Brazilian economy has been characterized by the significant involvement of the Brazilian government, which often changes monetary, credit, fiscal and other policies to influence Brazil's economy. The Brazilian government's actions to control inflation and effect other policies have involved wage and price controls, depreciation of the *real*, controls over remittance of funds abroad, intervention by the Central Bank to affect base interest rates and other measures. We have no control over, and cannot predict, what measures or policies the Brazilian government may take in the future. Our business, financial condition, results of operations and prospects and the trading price of the notes may be adversely affected by changes in Brazilian governmental policies, as well as general economic factors, including, without limitation:

- Brazilian economic growth;
- inflation;
- interest rates;
- variations in exchange rates;
- exchange control policies;
- fiscal policy and changes in tax laws;
- liquidity of domestic capital and lending markets;
- government control of production activities and oil refining; and
- other political, diplomatic, social and economic developments in or affecting Brazil.

We cannot predict what future fiscal, monetary, social security or other policies will be adopted by current or future Brazilian governments, or whether these policies will result in adverse consequences to the Brazilian economy, to our business, results of operations, financial condition or prospects, or to the trading prices of our ADSs and preferred shares.

In addition, possible political crises may affect the confidence of investors and the public in general, which may result in economic deceleration and affect the trading prices of securities issued by Brazilian companies.

***Exchange rate instability may have adverse effects on the Brazilian economy, our business, financial condition, results of operations and prospects and the trading price of our ADSs and preferred shares.***

As a result of inflationary pressures, the Brazilian currency has depreciated frequently over the past decade. Throughout this period, the Brazilian government has implemented various economic plans and used various exchange rate policies, including sudden devaluations, periodic mini-devaluations (during which the frequency of adjustments has ranged from daily to monthly), exchange controls, dual exchange rate markets and a floating exchange rate system. Although long-term depreciation of the *real* is generally linked to the rate of inflation in Brazil, depreciation of the *real* occurring over shorter periods of time has resulted in significant variations in the exchange rate between the *real*, the U.S. dollar and other currencies. In 2002, the *real* fell 34.3% against the U.S. dollar, caused in part by political uncertainties involving the presidential election in Brazil and the global economic recession. Notwithstanding the fact that the *real* appreciated 13.4%, 9.5% and 17.2% against the U.S. dollar in 2005, 2006 and 2007 respectively, from mid-2008 through the end of that year, the *real* depreciated 31.9% against the U.S. dollar as a result of the ongoing global financial crisis. However, in 2009, the *real* appreciated 25.5% against the U.S. dollar, as reported by the Central Bank. On December 31, 2009, the exchange rate was R\$1.741 per U.S. dollar and on June 18, 2010, the exchange rate was R\$1.7761 per U.S. dollar. We cannot assure you that the *real* will not continue to depreciate substantially or appreciate against the U.S. dollar in the future.

The majority of our revenues are denominated in *reais*, and a significant portion of our operating expenses (such as fuel, aircraft and engine maintenance, aircraft leasing and insurance payments, parts and engines) are denominated in, or linked to, the U.S. dollar or other foreign currencies. In the event that we are unable to adjust our prices or to obtain protection through hedging transactions, a depreciation in the *real* would reduce our profit margins and/or cause operating losses as a result of increased expenses. Devaluations in the *real* against the U.S. dollar or other foreign currencies also create inflationary pressures, which can restrict our access to foreign financial markets and lead to government intervention (including the implementation of recessionary policies to curb aggregate demand). Exchange rate instability may adversely affect our business, financial condition, results of operations and the trading price of our ADSs and preferred shares.

***Inflation and certain measures by the Brazilian government to curb inflation have historically adversely affected the Brazilian economy and Brazilian securities market, and high levels of inflation in the future would adversely affect our business, financial condition, results of operations and prospects and the trading price of our ADSs and preferred shares.***

Brazil has historically experienced extremely high rates of inflation. Inflation and some of the measures taken by the Brazilian government in an attempt to curb inflation have had significant negative effects on the Brazilian economy generally. Inflation, policies adopted to curb inflationary pressures and uncertainties regarding possible future governmental intervention have contributed to economic uncertainty and heightened volatility in the Brazilian securities market.

Since the introduction of the *real* in 1994, Brazil's inflation rate has been substantially lower than in previous periods. However, inflationary pressures persist. According to the General Price Index (*Índice Geral de Preços-Mercado*, or IGP-M), Brazilian inflation rates were 1.2%, 3.8%, 7.7%, 9.8% and 1.7% in 2005, 2006, 2007, 2008 and 2009 respectively. According to the National Consumer Price Index (*Índice Nacional de Preços ao Consumidor Amplo*, or IPCA), Brazilian inflation rates were 5.7%, 3.1%, 4.5%, 5.9% and 4.3% in 2005, 2006, 2007, 2008 and 2009 respectively.

Brazil may experience high levels of inflation in the future. Inflationary pressures may lead to the Brazilian government intervening in the economy and introducing policies that could adversely affect our business, financial condition, results of operations and prospects and the trading price of our ADSs and preferred shares.

In the event that Brazil experiences high inflation in the future, we may not be able to adjust the prices we charge our passengers to offset the impact of inflation on our expenses. This would lead to decreased net income. Inflationary pressures may also adversely affect our ability to access foreign financial markets, causing adverse effects on our capital expenditure plans.

***Developments and the perceptions of risks in other countries, including other emerging markets, the United States and Europe, may adversely affect the Brazilian economy, our business, financial condition, results of operations and prospects and the market price of Brazilian securities, including the trading price of our ADSs and preferred shares.***

The market for securities issued by Brazilian companies is influenced by economic and market conditions in Brazil and, to varying degrees, market conditions in other Latin American and emerging markets, as well as the United States and Europe. Although economic conditions are different in each country, the reaction of investors to developments in one country may have a material adverse effect on the market value of Brazilian companies' securities. Crises in another emerging market country, the United States or Europe could decrease investor demand for Brazilian securities, including our notes, ADSs and preferred shares. This may adversely affect the trading value of our ADSs and preferred shares, and any decline in trading value would impede our access to capital markets and financing for future operations.



The recent global financial crisis has had significant consequences worldwide and in Brazil, causing stock and credit market volatility, credit unavailability, interest rate increases, a general economic slowdown, volatile exchange rates and inflationary pressure, which may adversely affect the market price of Brazilian securities, including our ADSs and preferred shares.

Although Latin American countries fared comparatively well at the beginning of the global financial crisis, as of late 2008, and through 2009, many of the countries we serve, including Brazil, experienced either economic slowdowns or recessions. If the Brazilian economy experiences a sustained recession, or if Brazil experiences significant political disruptions, our business, financial condition and results of operations could be materially and adversely affected.

***Variations in interest rates may have adverse effects on our business, financial condition, results of operations and prospects and the trading price of our ADSs and preferred shares.***

We are exposed to the risk of interest rate variations, principally in relation to the Long Term Interest Rate (*Taxa de Juros de Longo Prazo*, or TJLP), with respect to loans denominated in *reais*, the Interbank Deposit Rate, or DI Rate, and with respect to operating and finance leases denominated in U.S. dollars, the London Interbank Offer Rate, or LIBOR.

Beginning in 2003, as inflationary pressures eased, the CMN, the highest monetary regulatory body in the Brazilian government, decreased the TJLP. At December 31, 2007, the TJLP was 6.25%, where it remained through December 31, 2008. As of December 31, 2009, the TJLP was 6.0%. The DI Rate at December 31, 2007 was 11.1%, 13.6% at December 31, 2008 and 8.55% at December 31, 2009. The LIBOR at December 31, 2007 was 4.7%, 1.4% at December 31, 2008 and 0.3% at December 31, 2009. We believe that the decrease in both the DI Rate and LIBOR between 2008 and 2009 helped stimulate demand and consumption during a period of financial crisis. However, significant increases in consumption, inflation or other macroeconomic pressures may lead to an increase in these rates, which may have an adverse effect on our business.

In addition, our repayments under many of our operating and finance leases are linked to LIBOR, and we are exposed to the risk of variations in LIBOR. At December 31, 2009, the estimated future payments due on our operating and finance lease contracts linked to LIBOR amounted to U.S.\$3,465 million.

If TJLP, the DI Rate or LIBOR was to increase, our loan repayments would increase, and we might not be able to adjust the prices we charge to offset increased payments. If we are unable to adequately adjust our prices, our revenues would not offset the increased loan expenses, adversely affecting our results of operations. Accordingly, interest rate increases may adversely affect our business, financial condition, results of operations and prospects and the trading price of our ADSs and preferred shares.

#### **Risks Relating to our Business and the Brazilian Aviation Industry**

***The airline industry is particularly sensitive to changes in economic conditions and continued negative economic conditions that would likely continue to negatively impact our results of operations and our ability to obtain financing on acceptable terms.***

Our operations, and the airline industry in general, are particularly sensitive to changes in economic conditions. Unfavorable economic conditions, such as high unemployment rates, a constrained credit market and increased business operating expenses, can reduce spending for both leisure and business travel. Unfavorable economic conditions can also impact our ability to raise fares to counteract increased fuel, labor, and other expenses. An increasingly unfavorable economic environment would likely negatively impact our results of operations. We continue to be cautious of current domestic economic conditions.

Factors such as continuing unfavorable economic conditions, a significant decline in demand for air travel, or continuing instability of the credit and capital markets could result in pressure on our borrowing costs, operating results and financial condition and would affect our growth and investment plans. These factors could also negatively impact our ability to obtain financing on acceptable terms and our liquidity in general.

***The regulatory structure of Brazilian civil aviation is undergoing change and we have not yet been able to evaluate the results of this change on our business and results of operations.***

Scheduled air transportation services are considered public utilities in Brazil and are subject to extensive regulation by the Brazilian government. Over recent years, the Brazilian regulatory authorities have taken a more proactive role in monitoring the development of the Brazilian civil aviation market. For example, in an effort to prevent excess supply, the authorities have established rigorous criteria for air transport companies to follow when creating new routes or increasing flight frequencies. Various legislative initiatives have taken place, including the drafting of a bill to replace the Brazilian Aeronautics Code, Law No. 7,565 of December 19, 1986, a submission to the Ministry of Defense for approval of a new civil aviation public policy regulation and the establishment of ANAC, the national aviation agency that replaced the *Departamento de Aviação Civil*, or DAC, as the principal regulatory body for Brazilian civil aviation. See "Item 4. Information on the Company — B. Business Overview — Regulation of the Brazilian Civil Aviation Industry — Rights to Operate Air Routes — Future legislation."

Operation of air transportation services, as well as airport infrastructure, is an exclusive right of the Brazilian government, which may choose to provide these services directly or through third parties by means of concessions or permits. Our concession to operate scheduled and public passenger and cargo air transportation was obtained on December 9, 1996, and is valid until December 9, 2011. We cannot assure you that we will be able to automatically renew our concession. See "Item 4. Information on the Company — B. Business Overview — Regulation of the Brazilian Civil Aviation Industry — Overview — Air transportation services concession."

Our growth plans include expanding into new markets, increasing flight frequency and expanding our fleet, which consisted of 132 aircraft at the end of 2009. ANAC has actively monitored the developments of Brazil's airline market and has taken restrictive measures to help restore greater stability in the industry. Accordingly, our capacity to grow is dependent on receiving the necessary authorizations from ANAC and the Bureau of International Relations (*Superintendência de Relações Internacionais*, or SRI). We cannot assure you that we will obtain all necessary authorizations in the future and any failure to do so would require us to re-evaluate our strategies.

The Brazilian civil aviation structure may change significantly in the future and we may not be able to anticipate or evaluate how this change will affect our business and results of operations. We cannot assure you that these or other changes in Brazilian civil aviation regulations will not have an adverse effect on our business or results of operations. Any change that requires us to focus a significant level of resources on compliance with new aviation regulations, for example, would result in additional expenditure on compliance and consequently adversely affect our results of operations.

In addition, our ability to increase prices to offset an increase in our fixed expenses may be adversely affected in the event that the Brazilian civil aviation authorities impose price control restrictions on air transportation services. If we are unable to adequately increase prices to offset increases in fixed expenses, this would adversely affect our results of operations. Changes in the regulations issued by the Brazilian government or the occurrence of any of the above factors may increase our expenses, limit our capacity to expand our routes or adversely affect our business and results of operations.

***Competition in both the domestic and international civil aviation markets is increasing, and the Brazilian government may intervene in the domestic market.***

We face intense competition in both the domestic and international markets. The Brazilian government has the power to authorize or deny the entry of new participants into the domestic market in which we operate, as well as the power to assume air transportation operations. Accordingly, each year we face increased competition from existing and new participants, including new low cost carriers on some of our domestic routes. The air transportation sector is highly sensitive to price discounting, particularly as a result of the arrival of low-cost airlines and some airlines use of predatory pricing policies. Other factors, such as flight frequency, schedule availability, brand recognition, and quality of offered services (such as loyalty programs, VIP airport lounges, in-flight entertainment and other amenities) also have a significant impact on market competitiveness. In addition, it does not require significant investment to acquire an airline concession in Brazil and, as a result, the barriers to entering the domestic market are low. We cannot assure you that the Brazilian government will not assume air transport operations or that existing or new competitors in our markets will not offer lower prices, more attractive services or increase their routes capacities in an effort to obtain greater market share. In the event that any of the foregoing events occur, we cannot assure you that the price of our fares, passenger demand or our profit margins will not be negatively affected. Any negative impact on our fares would lead to decreased net revenues and may require us to focus on cost-saving programs.

In 2009, the National Civil Aviation Council (*Conselho de Aviação Civil*), or CONAC, announced that it would propose to the Brazilian Government a change to the regulatory limit of foreign ownership in Brazilian airline companies from 20% to 49%. This proposal may be accepted by the Brazilian Government and become a draft bill. We cannot predict the effects of this regulation on the competitive environment, our industry or on us.

***Substantial fluctuations in fuel prices or decreased availability of sufficient quantities of fuel may harm the Brazilian civil aviation market and our business if we cannot pass those cost increases on to passengers through our fares or our fuel hedging arrangements become more expensive.***

Fuel expenses represent a significant portion of operating expenses for airlines in general, and fuel prices have risen significantly in recent periods. For the year ended December 31, 2009, fuel expenses represented 28.6% of our operating expenses.

Historically, fuel prices in Brazil have been subject to significant variations in international prices, which in turn vary as a result of global political issues and global supply and demand. The availability of fuel is also subject to periods of market scarcity and surplus and is affected by the demand for gasoline and other petroleum derivatives. Therefore, it is not possible to predict the cost and availability of fuel in the future with any degree of certainty. In the event that the supply of fuel is reduced for any reason, we may need to increase our prices or reduce our scheduled services, which would adversely affect our net revenues.

Fuel prices reached record levels during the middle of 2008, but decreased substantially in the second half of that year. However, in 2009, this trend reversed and fuel prices presented high volatility. Jet fuel expenses have been subject to wide fluctuations as a result of increases in demand, sudden disruptions in global supply, as well as market speculation. In addition, some of our competitors may be able to obtain fuel on better terms (with respect to both price and quality). Significant increases in fuel expenses (or in the relative price we pay for fuel compared to our competitors) may harm our financial condition and results of operations in the event that it is not possible for us to pass on price increases to passengers through our fares (or in the event that competitors can decrease their prices relative to ours and take market share from us).

Since 2006, we have routinely hedged our future fuel requirements. However, there can be no assurance that, at any given point in time, our hedge contracts will provide any particular level of protection against increased fuel costs (or that our counterparties will be able to perform under our hedge contracts, such as in the case of a counterparty's bankruptcy). Additionally, a deterioration in our financial condition could negatively affect our ability to enter into new hedge contracts in the future. From 2006 through 2009, we routinely hedged between 30% and 80% of our future fuel requirements (over rolling 24-month periods). Due to new market and macroeconomic conditions, we decided to modify this policy. We now plan to hedge our fuel requirements over rolling 24-month periods with between 20% and 60% of our future fuel requirements hedged over the first 12 months, and 10% to 60% hedged over the second 12 months.

The decrease in fuel prices in the latter half of 2008 had the effect of increasing the costs associated with our fuel hedging arrangements, so that we recorded a liability of R\$1 billion at December 31, 2008 as a result of those arrangements. Due to market conditions in 2009, we agreed to post approximately R\$96 million in collateral to cover potential amounts owed with respect to fuel hedging arrangements that have not yet settled. In 2009, fuel prices increased, reducing our fuel price variation costs because of our fuel hedging arrangements. However, there can be no guarantee that fuel prices shall remain at their current level. Our fuel hedging transactions and adjustments to our price margins might not be sufficient to protect us from fuel price variations, in which case our results of operations could be significantly and adversely effected.

***Airlines have significant fixed expenses that may harm our ability to attain our strategic goals.***

As is the case with other airlines, we have high fixed expenses (arising principally from aircraft lease agreements). We expect to incur additional fixed expenses and contractual debt as we lease or acquire new aircraft and other equipment to implement our growth strategy. As of December 31, 2009, we had firm commitments to purchase 79 aircraft, with an aggregate manufacturer's list price of approximately U.S.\$9.1 billion. In 2010, we added to this order 25 additional firm commitments to purchase aircraft, with an aggregate manufacturer's list price of approximately U.S.\$2.2 billion. We will require substantial capital from external sources to meet our future financial commitments. Volatility in global financial markets may make it difficult for us to obtain financing for new aircraft on favorable terms.

As a function of our fixed expenses, we may (i) have limited ability to obtain additional financing for working capital and other purposes, (ii) be required to dedicate a significant part of our cash flow to fixed expenses resulting from operating and finance leases for aircraft, (iii) incur higher interest or leasing expenses in the event that interest rates increase or (iv) have a limited ability to plan for, or react to, changes in our businesses, the civil aviation sector generally and overall macroeconomic conditions.

***We depend significantly on automated systems and any breakdown in these systems may harm our business and results of operations.***

We depend on automated systems to operate our businesses, including our sales system, automated seat reservation system, fleet and network management system, telecommunications system and website. Significant or repeated breakdowns of our automated systems may impede our passengers and travel agencies' access to our products and services, which may cause them to purchase tickets from other airlines, adversely affecting our net revenues. Any interruption in our automated systems may result in the loss of important information and increase our expenses, which may cause a negative public perception of our airline and reduce demand for our services.

***A failure to implement our growth strategy may harm our results of operations and the trading price of our ADSs and preferred shares.***

Our growth strategy in the domestic and international markets, and the consolidation of our leadership in those markets, includes, among other objectives, increasing the number of markets we serve and increasing the frequency of the flights we provide. These objectives are dependent on obtaining approvals for operating new routes from local regulators and obtaining adequate access to the necessary airports. Guarulhos airport in São Paulo and Juscelino Kubitschek airport in Brasília are highly congested, and passenger utilization is near, or at, maximum capacity. In addition, Congonhas airport in São Paulo and Santos Dumont airport in Rio de Janeiro are subject to slot restrictions that limit both the number of landings and take-offs and the times at which landings and take-offs may be scheduled. Other airports may also reach maximum passenger capacity in the future or impose slot restrictions, which would adversely affect our growth strategy. Any factor preventing or delaying our access to airports or routes which are vital to our growth strategy (including our ability to maintain our current slots and obtain additional slots at certain airports) may restrict the expansion of our operations and, consequently, adversely affect our growth strategy.

***Our insurance expenses may increase significantly as a result of a terrorist attack, harming our financial condition and results of operations.***

Insurance companies may significantly increase insurance premiums for airlines and reduce the amount of insurance coverage available to airlines for civil liability in respect of damage resulting from acts of terrorism, war, or similar events, as was the case following the terrorist attacks of September 11, 2001 in the United States.

In response to substantial increases in insurance premiums to cover risks related to terrorist attacks following the events of September 11, 2001 in the United States, the Brazilian government enacted legislation, authorizing the Brazilian government to assume civil liability to third parties for any injury to persons or goods on the ground caused by terrorist attacks or acts of war against Brazilian airlines operating in Brazil or abroad. However, the Brazilian government may, at its sole discretion, suspend the assumption of liability at any time, provided that it gives seven days' notice of the suspension. If the Brazilian government suspended its assumption of liability, the Brazilian airlines are required to reassume the liability and contract for insurance in the market.

Airline insurers may reduce their coverage or increase their premiums in case of terrorist attack, seizures, aircraft accident and the Brazilian government's termination of its assumption of liability or other events affecting civil aviation in Brazil or abroad. If there are significant reductions in insurance coverage, our potential liability would increase substantially. If there are significant increases in insurance premiums, our operating expenses would increase, adversely affecting our results of operations.

***We may not succeed in obtaining all aircraft and parts on time, which may result in a suspension of the operations of certain of our aircraft because of unscheduled or unplanned maintenance.***

At December 31, 2009, we had firm orders outstanding with Airbus for an additional 47 Airbus A320 aircraft, 4 Airbus A330 aircraft, and 22 Airbus A350 aircraft, together with an additional 10 options for Airbus A350 aircraft. In 2010, we converted five of those 10 options for Airbus A350 aircraft into firm orders and made additional firm orders to purchase 20 Airbus A320 aircraft. We also had firm orders outstanding with Boeing for 6 B777 aircraft. Any disruption or change in the manufacturers' delivery schedules for these new aircraft will affect our operations and would negatively affect our financial condition and results of operations because we would not be able to accommodate increased passenger demand. Our ability to obtain these new aircraft from Airbus or Boeing may be affected by several factors, including (i) Airbus or Boeing may refuse to, or be financially limited in its ability to, fulfill the obligations it assumed under the aircraft delivery contracts, (ii) the occurrence of a fire, strike or other event affecting Airbus' or Boeing's ability to fulfill its contractual obligations in a complete and timely fashion and (iii) any inability on our part to obtain aircraft financing or any refusal by Airbus or Boeing to provide financial support. Our operations may also be affected by any failure or inability of Airbus or Boeing (or other suppliers) to supply sufficient replacement parts in a timely fashion, which may cause the suspension of operations of certain aircraft because of unscheduled or unplanned maintenance. Any such suspension of operations would decrease passenger revenue and adversely affect our financial condition.

***The reputation and financial results of airlines may be harmed by any accident or incident involving their aircraft.***

Any accident or incident involving the aircraft of any airline may require repair or replacement of the damaged aircraft and temporary or permanent loss of service, in addition to significant expenses arising from indemnities payable to injured passengers and third parties. We believe that the level of insurance we have contracted for accidents is consistent with market practice. However, we may incur losses in the event that our insurance is insufficient to cover the damage from an accident. Any requirement to pay amounts not covered by our insurance may harm our business and results of operations. Any accident or incident involving one of our aircraft, even if completely covered by insurance, may affect our image and generate a public perception that we are less safe or reliable than other airlines, which would harm our passenger demand, our revenues and our market position. In addition, any accident or incident relating to an aircraft operated by another airline, but which involves one of the same models of aircraft we have in our fleet may generate a public perception that the particular model of aircraft is unsafe, which may also harm passenger demand for our services, our revenues and, consequently, our results of operations.

***Our business may be adversely affected by downturns in the airline industry caused by terrorist attacks, war or outbreak of disease, which may alter travel behavior or increase expenses.***

Demand for air transportation may be adversely affected by terrorist attacks, war or political or social instability, epidemics, natural disasters and other similar events that are out of our control. Any of these events in the markets in which we operate could have a material impact on our business, financial condition and results of operations. Furthermore, such events could have a prolonged effect on air transportation and on certain expenses including insurance and airport fees.

For example, the terrorist attacks in the United States on September 11, 2001 severely and adversely impacted the worldwide airline industry. Airline traffic in the United States fell dramatically after the attacks and decreased, albeit less severely, throughout Latin America. Our revenues depend on the number of passengers traveling on our flights. Therefore, any future terrorist attacks or threat of attacks, whether or not involving commercial aircraft, any increase in hostilities relating to reprisals against terrorist organizations or otherwise and any related economic impact could result in decreased passenger traffic and materially and negatively affect our business, financial condition and results of operations.

In addition, the escalation of military activity in the Middle East and the public concerns about the possibility of an outbreak of disease (such as the H1N1 virus) could negatively impact the public's willingness to travel by air. We cannot determine if and when such an event will occur and whether the event will decrease demand for air travel, thus materially and negatively affecting our business, financial condition and results of operations.

***Our operations are often affected by factors beyond our control, including airport congestion, weather conditions and increased safety measures.***

Like other airlines, we are subject to delays caused by factors beyond our control, including airport congestion, adverse weather conditions and increased safety measures. Delays have the effects of leaving passengers dissatisfied, reducing aircraft utilization (the average number of hours per day an aircraft is in operation) and increasing expenses, which may affect our profitability. Adverse weather conditions may cause cancellations of, or significant delays in, our flights. Cancellations or delays resulting from airport congestion, adverse weather conditions and safety related measures may decrease our revenues and harm our reputation as a punctual airline, which could lead to decreased passenger demand for our services.

In 2010, a volcanic eruption in Iceland affected our operations in London, Paris, Frankfurt and Milan between April 15th and April 21st. We had to cancel 56 flights, which represented approximately 2% of our international flights scheduled for that month. While this volcanic eruption had only a small effect on our operations, if a volcanic eruption occurs that requires us to cancel a large number of flights, our revenues may be adversely affected. We cannot guarantee that further cancellations will not happen due to the same or other volcanic eruptions.

***Problems with air traffic control systems or other technical failures could interrupt our operations and materially affect our business.***

Our operations, including our ability to deliver customer service, are dependent on the effective operation of our equipment, including our aircraft, maintenance systems and reservation systems. Our operations are also dependent on the effective operation of domestic and international air traffic control systems and the air traffic control infrastructure in the markets in which we operate. Equipment failures, personnel shortages, air traffic control problems and other factors that could interrupt operations could adversely affect our operations and financial results and our reputation.

Technical and operational problems in the Brazilian air traffic control systems since the last quarter of 2006 have led to extensive flight delays, higher than usual flight cancellations and increased airport congestion. This negatively affected our punctuality and operating results. The Brazilian government and air traffic control authorities have taken measures to improve the Brazilian air traffic control systems, but if the changes undertaken by the Brazilian government and regulatory authorities do not prove successful, these air traffic control-related difficulties might recur or worsen, which may have a material adverse effect on our business, our results of operations and our growth strategy.

***The successful execution of our strategy is partly dependent on us maintaining a high daily aircraft utilization rate, making us especially vulnerable to delays.***

In order to successfully execute our strategy, we need to maintain a high daily aircraft utilization rate, which is a measure of the number of block hours that we use our aircraft per day. Achieving a high daily aircraft utilization rate allows us to maximize the amount of revenue that we generate from each aircraft and is achieved, in part, by reducing turnaround times at airports and developing schedules that enable us to fly more hours on average per day. Our aircraft utilization rate could be adversely affected by a number of factors that we cannot control, including air traffic and airport congestion, interruptions in the service provided by air traffic controllers, adverse weather conditions and delays by third-party service providers in respect of matters such as fueling and ground handling. In addition, high aircraft utilization rates increase the risk that, if an aircraft falls behind schedule, it could remain behind schedule for up to two days. Such delays could result in a disruption in our operating performance, leading to customer dissatisfaction due to any resulting delays or missed connections.

## **Risks Relating to our ADSs and Preferred Shares**

***We have a stable group of principal shareholders with the power to manage our business, and the interests of these persons may conflict with those of other shareholders.***

Our principal shareholders, TAM – Empreendimentos e Participações S.A., or TEP, and Agropecuária Nova Fronteira Ltda., or Nova Fronteira, collectively control 89.42% of our common stock and have the power to, among other things, (i) elect the majority of our directors and (ii) control the results of any proposal requiring shareholder approval (including transactions with related parties, corporate re-organization, sales of assets and the timing and conditions of payment of any future dividends, subject to the minimum mandatory dividend distribution requirements under Brazilian corporation law). Our principal shareholders have the power to approve transactions that might not be in the interests of other shareholders and may prevent or frustrate any attempts to remove our current directors or executive officers.

***Our preferred shares do not carry general voting rights.***

Our preferred shares and, consequently, our ADSs do not carry general voting rights except in relation to certain specific matters and under specific circumstances. See "Item 10. Additional Information — B. Memorandum and Articles of Association." Our principal shareholders, who hold the majority of common shares with voting rights and control us, are therefore able to approve corporate measures without the approval of holders of our preferred shares.

Accordingly, you will not have control over the approval of corporate measures such as appointment of directors, approval of significant transactions or changes in our capital structure.

***The economic value of your investment may be diluted.***

In the event that we need to obtain capital for our operations by issuing new shares, any such issuance may be made at a value below the book value of our preferred shares on the relevant date. In that event, the then holders of our ADSs and preferred shares would suffer an immediate and significant dilution of their investment.

***The sale of significant quantities of ADSs or preferred shares may cause the stock market price of our ADSs and preferred shares to decline.***

In the event that we or our shareholders elect to sell a significant number of our ADSs or preferred shares, or in the event that the market perceives that we have the intention of any such sale, the stock market price of our preferred shares or ADSs could decline significantly unless there are high levels of demand to purchase our ADSs or preferred shares.

***Brazilian securities markets are relatively volatile and illiquid. Therefore you may not be able to sell the preferred shares underlying the ADSs at the price and time you desire.***

Investing in securities that trade in emerging markets, such as Brazil, often involves greater risk than investing in securities of issuers in the United States, and such investments are generally considered to be more speculative in nature. The Brazilian securities market is substantially smaller, less liquid and can be more volatile than major securities markets in the United States. There is also significantly greater concentration in the Brazilian securities market than in major securities markets in the United States. Accordingly, although you are entitled to withdraw the preferred shares underlying the ADSs from the depository at any time, you may not be able to sell the preferred shares underlying the ADSs at the price and time you wish.

***Changes in Brazilian tax laws may have an adverse impact on the taxes applicable to a disposition of our preferred shares or ADSs.***

Law No. 10,833 of December 29, 2003 provides that the disposition of assets located in Brazil by a non-resident to either a Brazilian resident or a non-resident is subject to taxation in Brazil, regardless of whether the disposition occurs outside or within Brazil. This provision results in the imposition of income tax on the gains arising from a disposition of our preferred shares by a non-resident of Brazil to another non-resident of Brazil. There is no judicial guidance as to the application of Law No. 10,833 of December 29, 2003 and, accordingly, we are unable to predict whether Brazilian courts may decide that it applies to dispositions of our ADSs between non-residents of Brazil. However, in the event that the disposition of assets is interpreted to include a disposition of our ADSs, this tax law would result in the imposition of withholding taxes on the disposition of our ADSs by a non-resident of Brazil to another non-resident of Brazil.

Because any gain or loss recognized by a U.S. Holder (as defined in "Item 10. Additional Information — E. Taxation — United States") will generally be treated as a U.S. source gain or loss unless such credit can be applied (subject to applicable limitations) against tax due on the other income treated as derived from foreign sources, such U.S. Holder would not be able to use the foreign tax credit arising from any Brazilian tax imposed on the disposition of our preferred shares.

***The Brazilian government may impose exchange controls and significant restrictions on remittances of reais abroad, which would adversely affect your ability to convert and remit dividends, distributions or the proceeds from the sale of our preferred shares and our capacity to make dividend payments to non-Brazilian investors and would reduce the market price of our preferred shares or ADSs.***

The Brazilian government may restrict the remittance abroad of proceeds of investments in Brazil and the conversion of the *real* into foreign currencies. The Brazilian government last imposed such remittance restrictions for a brief period in 1989 and early 1990. In the event that the Brazilian government determines that the Brazilian foreign currency reserves need to be maintained, it may impose temporary charges on any overseas remittance of up to 50% of the value of the remittance. We cannot assure you that the Brazilian government will not take similar measures in the future. The return of any such restrictions would hinder or prevent your ability to convert dividends, distributions or the proceeds from any sale of our preferred shares into U.S. dollars and to remit U.S. dollars abroad and our capacity to make dividend payments to non-Brazilian investors. The imposition of any such restrictions would have a material adverse effect on the stock market price of our preferred shares or ADSs.

***If you surrender your ADSs and withdraw preferred shares, you risk losing the ability to remit foreign currency abroad and certain Brazilian tax advantages.***

As an ADS holder, you benefit from the electronic certificate of foreign capital registration obtained by the custodian for our preferred shares underlying the ADSs in Brazil, permitting the custodian to convert dividends and other distributions with respect to the preferred shares into non-Brazilian currency and remit the proceeds abroad. If you surrender your ADSs and withdraw preferred shares, you will be entitled to continue to rely on the custodian's electronic certificate of foreign capital registration for only five business days from the date of withdrawal. Thereafter, upon the disposition of distributions relating to the preferred shares, unless you obtain your own electronic certificate of foreign capital registration, or you qualify under Brazilian foreign investment regulations that entitle some foreign investors to buy and sell shares on Brazilian stock exchanges without obtaining separate electronic certificates of foreign capital registration, you would not be able to remit abroad non-Brazilian currency. In addition, if you do not qualify under the foreign investment regulations, you will generally be subject to less favorable tax treatment of dividends and distributions on, and the proceeds from any sale of, our preferred shares.

If you attempt to obtain your own electronic certificate of foreign capital registration, you may incur expenses or suffer delays in the application process, which could delay your ability to receive dividends or distributions relating to our preferred shares or the return of your capital in a timely manner. The depository's electronic certificate of foreign capital registration may also be adversely affected by future legislative changes.

***If we do not maintain a registration statement and no exemption from the Securities Act is available, U.S. Holders of ADSs will be unable to exercise preemptive rights with respect to our preferred shares.***

We will not be able to offer our preferred shares to U.S. holders of ADSs pursuant to preemptive rights granted to holders of our preferred shares in connection with any future issuance of our preferred shares unless a registration statement under the Securities Act is effective with respect to such preferred shares and preemptive rights, or an exemption from the registration requirements of the Securities Act is available. We are not obligated to file a registration statement relating to preemptive rights with respect to our preferred shares, and we cannot assure you that we will file a registration statement. If a registration statement is not filed and an exemption from registration does not exist, JPMorgan Chase Bank, N.A., as depository, will attempt to sell the preemptive rights, and you will be entitled to receive the proceeds of the sale. However, these preemptive rights will expire if the depository does not sell them, and U.S. holders of ADSs will not realize any value from the granting of such preemptive rights.



## ITEM 4. INFORMATION ON THE COMPANY

### A. History and Development of the Company

#### General

TAM S.A. is a holding company founded in May 1997 under the name *CIT — Companhia de Investimentos em Transportes* for the specific purpose of participating in, managing and consolidating shareholdings in airlines. In November 1997, we implemented a corporate restructuring that increased *CIT — Companhia de Investimentos em Transportes*' stake in TAM Taxi Aéreo Marília S.A. ("TAM Marília"), a sociedade anônima de capital fechado organized under the laws of Brazil. We also changed our corporate name to *TAM — Companhia de Investimentos em Transportes*. In September 2002, we again changed our corporate name to TAM S.A. We currently hold ownership interests in TAM Linhas Aéreas, TAM Mercosur, TP Franchising Ltda ("TP Franchising"), a company organized under the laws of Brazil, and Multiplus S.A. ("Multiplus"), a company organized under the laws of Brazil. TAM Linhas Aéreas holds an ownership interest in TAM Viagens, TAM Capital, TAM Capital 2, TAM Finacial 1 and TAM Finacial 2.

TAM S.A. is a *sociedade anônima de capital aberto* organized and operating under the Brazilian law. Our headquarters are located at Avenida Jurandir, 856, Lote 4, 1º andar, CEP 04072-000, São Paulo, SP, Brazil. Our telephone number is +55 11 5582 9715.

TAM Marília was founded in January 1961 in the interior of the state of São Paulo, where the late Captain Rolim Amaro worked as a pilot. In 1971, Captain Rolim Amaro became an executive partner and minority shareholder of TAM Marília. TAM Transportes Aéreos Regionais ("TAM Regionais") was founded in May 1976 and was TAM Marília's first scheduled airline, with 67% of its capital stock held by Captain Rolim Amaro. In 1978, Captain Rolim Amaro became the major shareholder of TAM Marília, holding 98% of its capital stock.

In 1986, Captain Rolim Amaro incorporated TAM Linhas Aéreas, launching its operations through *Brasil-Central Linha Aérea Regional S.A.* (which was created to operate in the country's northern and central-western regions). In the same year, *Brasil-Central Linha Aérea Regional S.A.* was granted a concession to operate at Guarulhos International Airport and became *TAM Transportes Aéreos Meridionais S.A.*, Brazil's second largest domestic airline.

In 1993, we launched the TAM Loyalty Program (the first airline loyalty program in Brazil) in order to incentivize existing customers to fly with us more often and to attract new customers. In 1998, we inaugurated our first international flight between São Paulo and Miami. In 1999, we initiated flights to Paris through a codeshare agreement with Air France.

In 1998, we acquired *Itapemirim Transportes Aéreos Regionais* (whose corporate name was changed to *Interexpress Transportes Aéreos Regionais S.A.*, or "Interexpress Transportes Aéreos Regionais") and then acquired *Helisul Linhas Aéreas S.A.* (whose corporate name was changed to TAM Express S.A., or "TAM Express").

In 1999, TAM Express and Interexpress Transportes Aéreos Regionais merged into TAM Linhas Aéreas, resulting in greater integration, operational efficiency and a consequent reduction in expenses. As a continuation of this restructuring process, and as a result of the need to unify our regional, national and international operations, *TAM Transportes Aéreos Meridionais S.A.* was merged into TAM Linhas Aéreas in November 2000.

On February 6, 2003, we signed a protocol of understanding with Varig S.A. ("Varig") for code sharing operations as a preliminary stage in a possible merger between the two companies. This was primarily intended to eliminate overlapping flights and to rationalize supply in the market. As a result of signing this protocol of understanding, we were able to reorganize our aircraft fleet, negotiate the return of 19 Fokker 100 aircraft and reduce our operating expenses.

On February 15, 2005, as it became clear that the proposed merger would not take place, both parties (Varig and TAM S.A. submitted detailed plan to the Conselho Administrativo de Defesa Econômica, or CADE, to cancel the codeshare arrangement. On February 23, 2005, the codeshare agreement was cancelled (with the approval of the CADE) and all of our codeshare operations with Varig had to be terminated by May 24, 2005. We ceased all codeshare operations with Varig on May 2, 2005.

On June 17, 2005, we completed our initial equity offering of preferred shares, offering a total of 30,190,000 preferred shares to institutional investors in the United States and institutional and other investors elsewhere. On July 19, 2005, we and the selling shareholders in the equity offering issued a further 281,600 preferred shares pursuant to an over-allotment option granted to the underwriters in that offering.

On March 15, 2006, we completed a follow-on equity offering of preferred shares in Brazil and our initial public offering of ADSs in the United States and elsewhere outside Brazil. This offering of preferred shares and ADSs was registered with the SEC and the ADSs are listed on the New York Stock Exchange. We became a reporting company under the Securities Exchange Act of 1934, or the Exchange Act. We offered 2,660,103 ADSs and 2,339,897 preferred shares, while the selling shareholders in that offering sold 21,209,462 ADSs and 9,408,636 preferred shares. On April 11, 2006, we and the selling shareholders in that offering sold an additional 1,103,000 ADSs pursuant to an over-allotment option granted to the underwriters in that offering.

TAM Mercosur operates scheduled air transportation operations and is headquartered in Asunción, Paraguay. TAM Mercosur, which operates in Paraguay, Argentina, Brazil, Chile, Uruguay and Bolivia, was founded in March 1993 under the name *Líneas Aéreas Paraguayas S.A.* (LAPSA) and all of its capital stock was initially held by the government of Paraguay. The Paraguayan government currently holds 5.02% of TAM Mercosur's capital stock. In January 1997, LAPSA's corporate name was changed to *Transportes Aéreos del Mercosur S.A.* In September 2003, upon approval of TransAmérica's dissolution and liquidation, we acquired all shares of TAM Mercosur held at the time by TransAmérica (which consisted of 94.98% of its capital stock). In the year ended December 31, 2009, TAM Mercosur's net operating revenues represented 1.9% of our total consolidated net operating revenues.

TAM Viagens is a limited company (*sociedade limitada*) and tourism operator controlled by TAM Linhas Aéreas. Through TAM Viagens, we package and sell tourism travel and corporate events in Brazil and abroad.

In October 2009, we founded Multiplus, a network of loyalty programs that allows TAM customers to accrue loyalty points from a wide array of product and service providers. On February 5, 2010, Multiplus conducted an initial public offering of its common shares, which reduced our ownership in Multiplus from 100% to 73%. See "Item 4 — Information on the Company — B. Business Overview — Competitive Advantages" and "Item 4 — Information on the Company — C. Organizational Structure".

In 2007, TAM Linhas Aéreas incorporated TAM Capital as a wholly-owned subsidiary, organized under the laws of the Cayman Islands, for the purpose of issuing U.S.\$300 million 7.375% senior guaranteed notes due 2017 on April 25, 2007. On December 18, 2007 we completed an exchange offer pursuant to which holders of 99.2% of the notes issued on April 25, 2007 exchanged their notes for new notes that were registered under the Securities Act of 1933, as amended, and otherwise carried identical terms.

In 2007, TAM Linhas Aéreas incorporated TAM Financial 1, a wholly-owned subsidiary organized under the laws of the Cayman Islands, for the purpose of raising funds for pre-delivery payments of four Boeing 777 aircraft. In that same year, TAM Linhas Aéreas also incorporated TAM Financial 2, a wholly-owned subsidiary organized under the laws of the Cayman Islands, whose main activities include aircraft acquisition and financing.

In 2008, we began operating the Boeing 777-300ER, our largest passenger capacity aircraft. The Boeing 777-300ER currently transports up to 365 passengers on our routes connecting Brazil, Germany, England and Chile. These Boeing aircraft were financed by a structured deal with a financial guarantee from the Export-Import Bank of the United States ("Ex-Im Bank") and included the participation of four international financial institutions: Calyon, Natixis, Private Export Funding Corporation (Pefco) and Société Générale. In that same year, we finalized the phase-out program of the Fokker 100 (100-seat aircraft) from our fleet and returned our MD-11s, older and less efficient aircraft that we had used to operate some of our long haul routes.

In 2009, TAM Linhas Aéreas incorporated TAM Capital 2, a wholly-owned subsidiary organized under the laws of the Cayman Islands, for the purpose of issuing U.S.\$300 million 9.5% senior guaranteed notes due 2020 on October 22, 2009.

On May 13, 2010, TAM became a full member of the Star Alliance, the largest global alliance in commercial aviation based on the number of members and geographical coverage. During 2008, our integration into the Star Alliance began with experts from TAM, its mentor in the alliance, United, and the Star Alliance, teaming up to ensure we met the requirements for the alliance. These requirements include, for example, compatibility with StarNet, the Star Alliance's IT backbone, implementing common guidelines for dealing with passengers and the accumulation and redemption of loyalty program points. As a result of our successful integration, we now share products and services in the 1,167 airports and 181 countries in which the Star Alliance operates. Star Alliance services include baggage check-in to final destinations, easier connections and the convenience of more than 980 VIP lounges. Another benefit for our passengers is the integration of all Star Alliance member companies' frequent flier programs, which makes accumulating points easier, provides more redemption options and gives priority for service and boarding.

### **Capital Investments**

During 2009, we invested R\$334 million in fixed assets, primarily due to aircraft acquisition and replacement parts for our fleet, and R\$135 in intangible assets. During 2008, we invested R\$637 million in fixed assets for the same reasons, aircraft acquisition and replacement parts for our fleet, and R\$133 million in intangible assets. During 2007, we invested R\$311 million in fixed assets primarily for replacement parts for our fleet and R\$37 million in intangible assets.

For more information on our capital investments, see below "Item 5 — Operating and Financial Review and Prospects — B. Liquidity and Capital Resources".

## **B. Business Overview**

### **Overview**

We provide scheduled air transportation in both the domestic market and the international market through our operating subsidiaries, TAM Linhas Aéreas and TAM Mercosur, and since March 2010 through Pantanal Linhas Aéreas S.A. ("Pantanal"). According to data provided by ANAC, we are the leading airline in the domestic market, with a 43.1% market share as of December 2009 and a 50.3% and 48.8% market share as of December 2008 and December 2007, respectively, as measured in RPKs. We offer flights throughout Brazil. Of all Brazilian airlines, we serve, together with our commercial partners, the largest number of destinations in Brazil. We operate scheduled passenger and cargo air transport routes to 42 cities, and through regional alliances with other airlines, we serve an additional 40 domestic destinations. We also directly serve 18 international destinations and provide connections to other destinations through commercial agreements with United Airlines, Lufthansa, TAP, LAN and other airlines. We offer convenience to our passengers by offering frequent and direct flights to and from all major domestic airports at competitive prices. In 2009, we transported approximately 25.8 million passengers on domestic flights and approximately 4.6 million passengers on international flights, compared to 25.6 million passengers and 4.5 million passengers, respectively, in 2008, and approximately 24.2 million passengers and 3.7 million passengers, respectively, in 2007. In 2009, we averaged 781 take-offs per day, compared to an average of 751 take-offs per day and 734 take-offs per day in 2008 and 2007, respectively. In order to meet domestic demand, we primarily cater to the business market, but also operate in the leisure and cargo markets, which complement our primary operations and allow us to maximize the use of our aircraft.

At December 31, 2009, we operated with a fleet of 132 aircraft, consisting primarily of Airbus models A340, A330, A321, A320 and A319, as well as Boeing models B777 and B767, and we had 24,282 employees. As of the same date, TAM Linhas Aéreas consisted of 132 aircraft, as set forth in the table below, including 3 Airbus A320 subleased to TAM Mercosur.

Since our incorporation, we believe that we have demonstrated a history of sustained growth and a proven ability to adapt to developments in the civil aviation industry in Brazil and around the world. According to IATA, Brazil is the fourth largest domestic aviation market in the world (in number of scheduled passengers transported) and has one of the busiest shuttle services in the world (São Paulo – Rio de Janeiro).

We believe that we have a strong corporate culture, grounded by principles set forth by our founder, Captain Rolim Adolfo Amaro, that permeates all levels of our company and continues to guide the day-to-day activities of our management. In order to ensure that we act in accordance with best practices and provide value-added service to our passengers, we seek to embed our culture in our employee training, and believe that our entire staff is a product of this practice. Our mission is to be the people's favorite airline company, through joy, creativity, respect and responsibility, and we consistently transmit this mission statement to our employees.

Our vision is to make our customers happy by working with a "spirit of serving". We seek to achieve this goal by offering comprehensive service that gives passengers superior value for their money. We are able to do this by continuing to reduce expenses and by improving the return on capital invested.

Model	Total at December 31,		
	2009	2008	2007
Boeing 777	4	4	—
MD 11	—	—	3
Airbus A340	2	2	2
Airbus A330	16	16	12
Boeing 767	3	3	—
Airbus A321	5	3	3
Airbus A320	81	81	70
Airbus A319	21	20	15
Fokker 100	—	—	10
Total	132	129	115

### Competitive Advantages

We believe that our principal competitive advantages are:

- *Value-added service at competitive prices.* We believe that we offer the best combination in the domestic market of a network of destinations and frequent flights, with value-added service, high on-time rates and competitive prices, based on:
  - *broad domestic network of destinations:* our own domestic network serves 42 destinations in Brazil, many of which are direct flights, offering greater convenience to our clients. Through our regional alliances with *Passaredo Transportes Aéreas Ltda.* (Passaredo), *Linhas Aéreas S.A.* (Total Linhas), *Trip Transporte Aéreo Regional do Interior Paulista Ltda.* (Trip Transporte) and *NHT Linhas Aéreas Ltda* (NHT), our network extends to a further 40 destinations in Brazil;
  - *convenient schedules with high on-time arrival rates:* we always work to maintain a high percentage of on-time flights, in order to offer the best service possible;
  - *efficient network of international destinations and supporting domestic service:* we currently serve 18 international destinations (ten in South America, three in North America and five in Europe) that are in high demand by the Brazilian public. We also serve various other destinations in North America, Europe, and other continents through agreements with several international carriers;
  - *special services:* we have developed special services to meet specific demands and optimize the use of our aircraft, such as night and holiday flights offered at promotional rates.
- *Focus on cost management.* We are an airline with low operating expenses. In 2003, we initiated the implementation of a restructuring project that initiated a cultural change within us, making our employees aware of cost management. We continuously seek opportunities to reduce expenses focusing our efforts on reducing operating, commercial and administrative expenses. Our overall CASK increased from R\$16.17 in 2007 to R\$17.44 in 2008 and decreased to R\$14.83 in 2009 and our CASK excluding fuel decreased from R\$10.84 in 2007 to R\$10.56 in 2008 and increased to R\$10.59 in 2009. Some of our principal cost savings arise from:

- *efficient use of our aircraft:* we maintained the average load factor of our aircraft and the daily average block hours per aircraft by optimizing our network of destinations and our fleet. In 2009, the average load factor of our aircraft was 68.2% and the block hours per aircraft was 11.8 hours, compared to 71.0% and 12.5 hours in 2008 and 70.4% and 12.6 hours in 2007;
- *modern and flexible fleet:* we have one of the newest fleets in the domestic market, with an average age of 6 years at December 31, 2009. Our use of a modern fleet allows us to reduce operating and maintenance expenses. We primarily operate Airbus narrow-bodied aircraft in the domestic and South American markets and Airbus and Boeing wide-bodied aircraft in the long haul routes, providing us with the flexibility required to serve routes of different passenger densities. We believe that all of our aircraft are equipped with the most advanced equipment and technology, ensuring greater reliability, comfort and safety. In 2009, we substituted three A320 with new aircraft and added one A319 and two A321 to our fleet;
- *proprietary maintenance team:* we have our own maintenance team trained to serve all aircraft in our fleet quickly and at a labor expenses we believe is lower than that of our competitors. We also have our own maintenance center in the city of São Carlos (in the interior of the state of São Paulo) which performs all hull maintenance on our aircraft and also provides maintenance services for other airlines. By using our own maintenance center, we have been able to reduce the maintenance time of our aircraft and, consequently, obtain more efficient use of our aircraft; and
- *use of technology in operating processes:* at the end of 2009, we implemented the Amadeus Altéa platform, which is used by other Star Alliance members and which helped us reach a new level of web sales, largely because the related FlexPricer Amadeus search engine provides a more customer-friendly method for finding and purchasing tickets by presenting fare and date comparisons.
- *Innovative services and products combined with a strong brand and our "espírito de servir" (spirit of serving).* Our corporate culture is based on providing value-added services to our passengers. We consistently seek to make travel a more convenient and comfortable experience for our passengers and believe that we have successfully positioned our brand so as to associate it with superior service, aircraft and technologically-advanced operations. We strive to be a company that is focused on our passengers, translating our "spirit of service" into all operations, and we believe this is evidenced by:
  - high on-time arrival rates and frequent flights;
  - a modern fleet equipped with interiors specifically designed to afford greater comfort to our passengers, such as a wider middle seat (one of the widest middle seats of all the Airbus model aircraft);
  - a polite approach to our passengers, including a courteous flight crew and attendants and our red carpet welcoming to all passengers at airports and aircraft;
  - video and audio entertainment on domestic flights, in addition to offering free in-flight meals and magazines;
  - self-service options for check-in in major airports; and
  - open channels of communication with our passengers through our call center, our "Talk to the President" program and online service chat sessions at our portal.
- *TAM Loyalty Program.* We were the first airline in Brazil to offer a loyalty program, and there are currently over 6.6 million members in the TAM Loyalty Program. We regard our loyalty program as a strong relationship tool and believe that it is the most flexible loyalty program in the market because it imposes no restrictions on flights or the number of seats available when members are redeeming accumulated points in the domestic or South American market. Members may accumulate points quickly and easily by flying on TAM or partner airlines, making purchases through TAM Loyalty Program-affiliated credit cards or using services and products at partner establishments. In addition, the TAM Loyalty Program strengthens lines of communications with our passengers.

- *Multiplus Fidelidade.* In 2009, we launched a new program designed to create an even broader network in which customers can earn TAM Loyalty Program points. Multiplus Fidelidade is an expansion of our loyalty program concept and acts as a tool to assist in the integration of partner companies into our loyalty network. We believe our expanded network helps to capture and retain customers and increase sales. Multiplus Fidelidade is a coalition of loyalty programs that permits the accrual of points for redemption for products or services with different partners. We believe this program is a source of value generation and we have a team dedicated to its development.
- *An experienced management team and motivated professionals.*

To further our mission, we hire and retain motivated professionals. We consider the talent, skill and dedication of our employees as a key competitive edge. We are focused on keeping our employees satisfied and motivated by providing them with ongoing professional development, ensuring their safety and adopting a people-oriented approach to management. In our recruiting and selection process we deliberately look for employees with the potential to fit the "TAM" profile. People hired attend an orientation to educate them about our corporate history, the founder's principles, and our fundamental values, mission and culture. Management also invests in our employees through the Commander Rolim Amaro Training Academy, and providing opportunities for internal transfers.

Some of our key motivational tools include:

"Employee of the Month" and "Employees of the Year" programs; breakfasts with team managers; graduation ceremonies for flight attendants; a Quality of Life program; barbecues for technical crews and the TAM Ethics Channel, a program that allows employees to write comments, suggestions or concerns about us in confidence and receive answers on an individual basis.

In addition to these motivational tools, we have an internal webcast which is a new way to guarantee that our strategic information is communicated to all employees across the world. Employees can access these webcast sessions via the internet or intranet.

Our compensation policy for executives is variable. For all other levels the compensation policy is profit sharing, reflecting employee needs and the market, within the bounds of current legislation and the terms and conditions of the Airline Ground Crew and Pilots Union's collective labor agreements.

## **Strategy**

Our strategic goal is to maintain our strong position in the domestic and international passenger markets and to attain high levels of profitability in both markets. We will seek to pursue this goal by offering comprehensive service that delivers superior value to our passengers as we work to reduce expenses and increase our return on invested capital. To reach these objectives, our strategies are:

- *Continue providing superior customer service.* One of our key strategies is to offer differentiated and high-quality service. Relying on a strong and reliable network, we consistently seek to make travel more convenient and comfortable for our passengers and to perfect our service and strengthen our commitment to passengers.

- *Increase revenue and profitability and serve a greater number of passengers at a competitive price.* We will seek to continue to provide what we believe is a service that delivers the best value to our customers in the domestic market, offering more convenient and higher quality services at competitive prices. Our goal is to increase revenues, as well as profitability, through:
  - *expansion of business traveller market:* consolidating and expanding our traditional passenger base of business travellers, who we believe represent more than 75% of demand for our domestic flights, through measures focusing on business travellers and sales channels that traditionally serve that market;
  - *growth in our tourism and leisure travel operations:* we believe that the tourism and leisure markets are complementary to our core market of business travellers. In order to use our fleet more efficiently, our strategy involves capturing additional demand in the tourism and leisure market through specific promotions for flying at off-peak hours during the day, besides holidays and local events (for example, festivals and city anniversaries, among others) using our scheduled operations. We also serve leisure travelers by (i) the operation of charter flights, and (ii) the sale of tourism packages through TAM Viagens (an indirect subsidiary controlled by TAM Linhas Aéreas). TAM Viagens recorded a gross revenue of R\$446 million, R\$412 million and R\$166 million at December 31, 2009 2008 and 2007, respectively, representing approximately 4.4%, 3.8% and 2.0% of our consolidated revenues for the same periods. We believe that through our subsidiary TAM Viagens, we also own the second-largest tourism and leisure travel operator in the country;
  - *selective expansion in international markets:* in the last three years, our international operations have consistently grown as a percentage of our total revenues. In the year ended December 31, 2009, international flights represented 40.2% of our ASKs. Our strategy involves maintaining our leadership in the international market and selectively identifying new international destinations to serve our customers; and
  - *expansion of our cargo business:* we have focused on greater utilization of cargo space in our aircraft to develop our cargo business line, while maintaining our commitment to further improve service to our passengers. Our cargo transportation business line represented R\$936 million or 9.2% of our consolidated gross revenues at December 31, 2009, compared to R\$1,009 million or 9.3% of our consolidated gross revenues at December 31, 2008 and R\$777 million or 9.2% of our consolidated gross revenues at December 31, 2007.
- *Reduce our operating expenses, optimize the use of our fleet and streamline our processes.* We believe that successfully implement of our strategy we need to reduce expenses and improve how we invest. We are pursuing this strategy by:
  - *maintaining a standardized, efficient and flexible fleet:* we will continue to optimize the size of our fleet, in order to keep maintenance and operating expenses for our fleet at a low level. In 2006, we announced our decision to phase out our entire fleet of Fokker 100 aircraft by mid-2008 and we met that target. As a result of this decision, we have been exclusively using Airbus A320 family aircraft in the domestic market since mid-2008. We maintain a high aircraft utilization and to maintain a flexible fleet with aircraft capable of easily adapting to the differing levels of demand from route to route; and
  - *increasing productivity by redesigning operational processes and using technology:* since the implementation of our restructuring project in 2003, we have applied a cost reduction policy aimed at increasing our productivity through new information technology tools, redesigning operational processes and redeployment of labor and outsourcing activities which are not related to our core strategy. We also hope to obtain economies of scale by increased growth in our operations.

## Products and Services

Our principal product is the scheduled air transportation of passengers. In addition, we also have products targeted specifically towards the development of domestic and international tourism. We also provide cargo transportation operations.

We set out below a breakdown of our gross revenues by type of service rendered for the periods indicated:

	Year Ended December 31,		
	2009	2008	2007
	(R\$ millions)		
<b>By type of service rendered:</b>			
Domestic			
Scheduled — Passengers	5,332	5,968	4,682
Charter — Passengers	137	195	152
Cargo	447	459	360
	5,916	6,622	5,194
<b>International</b>			
Scheduled — Passengers	2,675	2,804	2,109
Charter — Passengers	9	19	20
Cargo	489	550	417
	3,173	3,372	2,546
<b>Other</b>			
TAM Loyalty Program	539	441	144
Travel and tourism agencies	60	64	30
Other (includes expired tickets)	452	421	414
	1,050	926	588
<b>Total Gross</b>	<b>10,139</b>	<b>10,920</b>	<b>8,328</b>
Sales taxes and other deductions	(374)	(407)	(309)
Revenue	9,765	10,513	8,019

## Sales and Distribution

We are continuously developing direct and indirect distribution channels for air fare ticket sales. We plan to increase direct sales (which at December 31, 2009 represented approximately 27.8% of our total ticket sales) by targeting the leisure market and by making it easier for our passengers to purchase tickets, principally through the internet and our call center. We were the first airline in Latin America to sell tickets on the internet. Through our website, registered users may purchase tickets online, receive customer service, make reservations up to one hour before departure and access information relating to the TAM Loyalty Program. As part of our plan to increase direct sales through the internet, in 2006 we launched a new "fare profile" system for sales of domestic tickets. We offer five fare profiles, "Promo," "Light," "Flex," "Max" and "Top." We launched a marketing campaign highlighting this new fare profile system at the time of launch and recorded an increase of approximately 40% in direct sales in the month after introduction. Likewise, in 2009, we launched a marketing campaign which focused on promoting the TAM Loyalty Program, our large network, courteous on board services and price competitiveness. After launching that campaign, in November 2009, we migrated our reservation platform to Amadeus Altéa, which we believe offers greater conveniences to our passengers. In 2009, 78.4% of our sales were through travel agencies and 21.6% were through direct channels, of which 13.8% were through the internet.

Our call center allows passengers an alternative means to make reservations and purchase tickets. Our call center is available 24 hours a day. We also sell tickets through our network of stores located in the main cities of Brazil and each airport from which we operate.

Indirect sales are those made through corporate travel agencies, agencies with registrations and pre-approved credit and travel operators. Currently, there are approximately 5,000 travel agencies authorized to sell our tickets in Brazil.

We use our proprietary *e-TAM* portal to integrate our entire sales chain, from the time of reservation to passenger boarding, consolidating indirect sales in our Brazilian distribution chain. Data obtained from the *e-TAM* portal allows us to offer a set of customized services, based on the "one-to-one" concept. In the last 12 months of operation, 99.4% of indirect channel reservations made in Brazil were made through the *e-TAM* portal.



We believe that more than 75% of our passenger traffic consists of business travelers and employees of large and medium-sized companies with whom we have travel agreements. To further develop our business relationship with our corporate clients, we have signed agreements with hotel chains and car rental companies to offer our customers complete corporate transportation and accommodation packages. Our advertisements run primarily in media vehicles such as internet sites, radio spots, local newspaper advertisements, magazines and outdoor billboards.

### **Pricing Policy, Revenue and Yield Management**

In general, prices charged in the Brazilian domestic market by airlines are freely set by the airlines, with ANAC responsible for monitoring the prices. No discounts greater than 65% of the total price may be granted without ANAC's approval five days in advance of the date such discounts will be offered to consumers. Brazilian airlines are freely able to set their prices. See "Item 4. Information on the Company — B. Business Overview — Regulation of the Brazilian Civil Aviation Industry — Rights to Operate Air Routes — Prices."

We believe that our current pricing policy is dynamic. Focusing on maximizing profitability, we aim to define particular niches within the market to better serve projected demand. Pricing availability is based on traffic projections and is accompanied by closely monitored performance indicators. Our pricing policy focuses specifically on our indirect distribution channels (GDS system and *e-TAM* portal) and direct channels (our website, reservation call center and stores).

We seek to achieve the greatest possible competitiveness for each origin/destination in relation to the competition, keeping in mind at all times our product's added value in terms of flight frequency, schedules, the TAM Loyalty Program and our on-time record.

We continuously analyze market opportunities with the intention of stimulating demand for specific routes and periods. Lower prices are offered for one-time promotions (such as national or regional holidays) and as incentives to take flights at particular times (such as night flights). These prices generally carry restrictions, such as the requirement to purchase a round-trip, a minimum stay at the destination, or the requirement that the ticket be issued within 24 hours, and generally do not earn points for the TAM Loyalty Program.

The price a passenger is willing to pay may vary depending upon factors such as destination, month of the year, day of the week and departure schedule. Revenue and yield management is the process by which (based on historical data and statistical projection models) airlines establish the number of seats to be offered for each price category over time, in order to maximize total operating revenue for each flight. We believe that efficient yield management is the key to success in the air transportation market in Brazil and abroad.

We believe that we have an efficient and accurate system for collecting data on reservations, departures and revenue. The system also monitors levels of overbooking and recommends discounts for future departures. Data relating to reservations and departure is collected daily, forming reservation profiles for each flight and allowing specific recommendations from flight to flight. The system allows our analysts to ascertain whether flights are above or below historic reservation levels and decide whether to close the discount classes or offer more space for passengers who generate higher revenues. Accordingly, our yield management practices allow us to anticipate and react quickly to market changes.

We currently have a team of analysts dedicated to revenue and price management. These professionals are divided by market sector and have particular knowledge of specific routes in order to better understand features which are specific to each route (such as holidays, high and low season, peak schedules and days and the competitive environment).

## Air Transportation Operations

### *Passenger transportation*

#### *Scheduled domestic operations*

We currently operate an average of 709 daily flights to 42 destinations in Brazil. Through our regional alliances with Passaredo, Trip Transporte, and NHT we serve an additional 40 domestic destinations.

Passenger traffic in the domestic market represented approximately 53.9% of our gross revenues in 2009, 56.4% of our revenues in 2008 and 58.0% in 2007. Our RPKs in the domestic market increased 6.4% in 2009, 10.6% in 2008 and 12.5% in 2007. The RPKs in the total domestic market increased 17.7% in 2009, 7.4% in 2008 and 11.9% in 2007.

In 2009, according to data provided by INFRAERO, we recorded the highest number of passengers transported in 22 of the 42 airports we serve. The table below sets forth the airports we serve in Brazil, our average number of departures per day at those airports and the number of passengers who took our flights in 2009:

Route	Average Number of Departures per day with our Aircraft <sup>(1)</sup>	Passenger Departures per year <sup>(2)</sup>
São Paulo (Congonhas)	97	2,525,689
São Paulo (Guarulhos)	73	2,195,351
Brasília	77	1,440,271
Rio de Janeiro (Galeão)	45	1,218,927
Salvador	40	963,769
Rio de Janeiro (Santos Dumont)	34	908,117
Recife	26	784,078
Fortaleza	24	823,408
Porto Alegre	26	881,288
Curitiba	31	783,370
Belo Horizonte (Confins)	31	805,007
Belém	16	488,861
Vitória	15	441,001
Natal	11	420,799
Florianópolis	16	397,755
Manaus	10	315,877
Goiânia	11	343,710
São Paulo (Viracopos)	13	314,351
São Luiz	8	273,380
Maceió	6	254,782
Cuiabá	7	228,592
Foz Do Iguaçu	7	230,508
Porto Seguro	5	221,766
Campo Grande	8	209,222
Aracaju	6	202,884
João Pessoa	4	177,617
Londrina	6	163,279
Teresina	4	135,094
Macapá	3	130,034
São José Do Rio Preto	4	120,796
Uberlândia	3	103,901
Porto Velho	2	91,970
Ribeirão Preto	4	91,334
Navegantes	3	89,372
Ilhéus	2	79,102
Palmas	2	78,518
Imperatriz	4	65,845
Marabá	2	62,168
Rio Branco	1	51,414
Santarém	2	50,803
Boa Vista	1	47,843
Joinville	2	40,874

(1) Figures relate to departures on TAM aircraft only.

(2) Figures relate to TAM Issued tickets (and include departures on non-TAM aircraft).

### *Scheduled international operations*

We operate an average of 72 daily international flights to Buenos Aires, Santiago, Asunción, Montevideo, Lima, Ciudad del Este, Santa Cruz de la Sierra, Cochabamba, Caracas, La Paz, Miami, Orlando, New York, London, Paris, Frankfurt, Madrid and Milan. We have codeshare agreements with LAN Group, Pluna, United Airlines, Air Canada, TAP, Lufthansa, Air China and Swiss International, allowing our passengers to make connections to destinations throughout the world, in addition to other services, such as simplified check-in, luggage shipping and access to VIP lounges. We offer the ability to earn and redeem points through the TAM Loyalty Program, the Star Alliance and our partner airlines.

International scheduled passenger traffic represented 26.4% of our gross revenue in 2009, 25.9% in 2008 and 25.5% in 2007. Our RPKs from international flights grew 12.5% in 2009, 40.2% in 2008 and 70.6% in 2007, successive increases that have resulted primarily from increased capacity on selected routes that presented substantial traffic throughout the year. The RPKs of Brazilian carriers in the total international market decreased 0.6% in 2009, compared to an increase of 25.7% in 2008 and a decrease of 5.1% in 2007. Our share of the international market operated by Brazilian carriers was 86.5%, 75.2% and 67.5% in 2009, 2008 and 2007, respectively, successive increases that have resulted primarily from a decrease in Varig's long haul international flights as result of its liquidation.

### *Cargo transportation operations*

We also earn revenues through cargo transportation operations. These operations represented 9.2% of our gross revenue in 2009 and 2008 and 9.3% in 2007. TAM Cargo is our freight business unit, reporting directly to our Commercial and Planning Vice President. We do not operate exclusive cargo aircraft; however, we sell the empty space available in the belly of passenger aircraft, both in domestic and international markets.

We are continuously improving our cargo terminal operating structures, products and processes, resulting in faster receipt of packages and better branding. In 2009, we implemented a new cost saving and advanced tracking system, which allows shippers to track in detail and in real-time the entire path of their freight. We intend to meet our customers' needs by growing our operations, both by increasing the freight of small packages, which have higher yields, and in large volume freight, such as industrials and perishable cargo.

In the international cargo segment, we are continuously improving our management systems, resulting in quicker processing and better revenue monitoring. These improvements help us analyze market behavior to enhance our accuracy and decision making with respect to the shipments. We are entering into Special Prorate Agreements (SPA) with several airline companies, allowing us to send shipments worldwide, increasing volumes sold and TAM Cargo's brand awareness.

### *Travel and tourism operations*

We also have a travel and tourism operation, TAM Viagens. In 2009, 2008 and 2007, this business represented 4.4%, 3.8% and 2.0% of our total revenues respectively. TAM Viagens offers complete packages including air tickets, ground transportation, hotels, tours and several tourism services. Nowadays, it is one of the largest tour operators in Brazil and has 72 of its own stores, which deals with about 5,000 agencies all over the country, offering products to more than 600 tourist destinations.

Our main objective is to attract passengers flying for tourism and leisure purposes to occupy seats that would otherwise be empty during certain flights, either off-peak flights, or flights during low season – as the Brazilian market has the characteristic of being predominantly composed by business passengers that fly during specific periods of the day. Our tour operator also has fundamental importance in promoting and selling tickets for newly launched flights. We have commercial offices in the U.S. and Argentina, where we focus our sales efforts on promoting trips to Brazil.

In 2009, we promoted a codeshare agreement with the TAM Loyalty Program, accepting points for the sales of packages. In 2009, we also started the process of opening TAM Viagens franchise stores, and we hope to open more than 100 additional stores through 2012. Under this model, the franchisee is responsible for all operational expenses, including the store opening. As a result, each additional TAM Viagens franchise store increases the reach of our operations at no additional cost, further improving our margins.

## **Marketing**

### ***TAM Loyalty Program***

The TAM Loyalty Program was the first loyalty program launched by a Brazilian airline and represents a key element in our marketing strategy. We believe our program is the most flexible in the market because it imposes no restrictions on flights or the number of seats available when members are redeeming accumulated points. The TAM Loyalty Program has more than 6.6 million members and approximately 9.7 million free flights have been distributed since its creation in 1993. Beginning in 2009, we launched Multiplus Fidelidade, a loyalty network that integrates the TAM Loyalty Program and allows our members to accumulate points, not just by flying with TAM, but also by flying with partner airlines, making purchases through TAM Loyalty Program-affiliated credit cards or using services and products at partner establishments. Multiplus Fidelidade is described below. Itaú Unibanco offers credit cards that allow holders to earn TAM Loyalty Program points, and credit cards are available in both MasterCard and Visa designations. These cards are available in four tiers (white, blue, red and black) and qualification for a particular tier is based on miles flown. The rate at which points accumulate varies depending on membership tier. The white card is the base level of membership and cardholders accrue points each time they fly. Blue and red cardholders receive progressively greater benefits and increased points for miles flown, allowing the holders to accrue redeemable points for free travel more quickly. We launched the black card in 2009 to create additional benefits and conveniences for our most frequent flyers, such as granting black cardholders access to a dedicated customer service group to help meet all of their needs.

Points earned by TAM Loyalty Program members must be redeemed for air tickets and partners' products within two years, and historically approximately 31% of points expire without being redeemed. This two year period for redemption limits the growth in liabilities arising from the TAM Loyalty Program, assuming a stable trend in relation to the number of passengers we carry. See "Item 5. Operating and Financial Review and Prospects — A. Operating Results — Critical Accounting Estimates and Judgments — Revenue Recognition".

### ***Multiplus Fidelidade***

In 2009, we launched Multiplus Fidelidade, a program designed to create a broader network in which our customers can earn points through the TAM Loyalty Program. Multiplus Fidelidade is a coalition of loyalty programs that permits the accrual of points for redemption from products and services offered by many different partner companies, not just ours. We believe this expanded network helps to capture and retain customers and increase sales. It is attractive to our less frequent flyers because it allows them to accrue loyalty points in many ways besides flying. We believe Multiplus Fidelidade is a source of value generation and we have a team dedicated to its development.

### ***Communications with our passengers***

Our "Talk to the President" initiative was introduced to encourage passengers to give us suggestions, compliments and complaints. The Talk to the President initiative devotes some of our employees to receiving and forwarding thousands of pieces of correspondence each month, including response cards, faxes, e-mails and telephone calls. Our 0800 123 000 hotline number works 24 hours a day, 7 days a week. Once an issue is raised by a passenger, we survey, research and analyze the issue, and seek to keep the customer informed as to our progress, pending resolution of an issue or implementation of a suggestion. In 2009, the Talk to the President initiative generated 350,000 responses from our passengers (including suggestions, compliments and complaints), compared to 179,564 in 2008 and 180,000 in 2007. The Talk to the President initiative is also accessible to our customers at 12 of the foreign airports in which we operate.

## Fleet

### *General*

Our fleet policy focuses on achieving the highest levels of safety, quality, efficient scheduling and high on-time arrival rates, as well as rationalizing maintenance expenses. Currently, our fleet consists of advanced technology jet aircraft, yielding cost benefits that allow us to achieve high results in efficiency indices and safety standard qualifications. See "— Safety."

The two Airbus "families" operating in our fleet are the A330-200 and the A340-500 aircraft (wide-bodied aircraft used for long-distance flights), and the A321, A320-200 and A319-100 aircraft (narrow-bodied aircraft used for medium and short-distance flights). The aircraft in these families differ by number of seats, allowing us flexibility when making commercial decisions regarding passenger demand for flights. The A321, A320 and A319 models are considered to be among the most comfortable aircraft operating in Brazil in their category, with the ability to operate at low cost on routes with up to five hours of flying time. They are also the only Brazilian narrow-bodied fleet to have fly-by-wire flight controls, with computers receiving and analyzing each pilot command, making flights more accurate and efficient. Airbus family aircraft also have the benefit of standardized maintenance and operations, allowing pilots and technicians to fly and work on different models after minimum additional training. All our aircraft are equipped with the best and most advanced equipment and software options offered by the manufacturer, giving us what we believe is one of the most advanced aircraft fleets in the world.

We have constant data communication capability between each of our aircraft and all of our departments on the ground, even when flying. For these communications, we developed a proprietary system, called DMS (Datalink Management System), that allows us to manage all information sent in real time by the ACARS (Aircraft Communication Addressing and Reporting System) installed in our fleet. Using the aircraft DMS, pilots may send text messages to any of our sectors. The messages are transmitted via satellite and appear on the DMS user screen in real time. In addition to communicating with the pilot, these resources also allow remote online monitoring of aviation systems, such as computer functions, landing and departure times, fuel consumption and engine performance parameters. As a result, any operating variance may be analyzed by our maintenance technicians even before an aircraft arrives at its destination. This technology yields savings in maintenance costs and also significantly improves our efficiency and safety.

The quality of our technical services is regularly audited by Brazilian and international authorities, manufacturers and insurance companies. Our codeshare agreements with United Airlines and Lufthansa also require that we meet the maintenance and safety compliance requirements of the competent international aviation authorities.

The advantages of our modern technology, combined with our excellent operating and maintenance standards for our aircraft, yield high equipment utilization rates with reliability levels ("technical dispatch capacity") above the industry average for all equipment we operate. Our fleet maintains a high technical dispatch capacity index according to IATA standards. This index measures the on-time departure capacity of aircraft without taking into consideration external factors such as bad weather. In 2009, we had an average fleet operational reliability index of 98.6% (compared to 98.8% and 98.6% in 2008 and 2007, respectively) for our fleet in operation, the reference point used in auditing our technical services. Aircraft, engine and equipment manufacturers audit our data according to IATA's unified standard.

TAM Linhas Aéreas has RBHA (Brazilian Aviation Approval Regulation) certifications 121 and 145 for maintenance operations and services. It also has an EASA 145 certification for maintenance services, which are performed at the São Carlos maintenance center in São Paulo.

In 1998, we received a U.S. Federal Aviation Regulation (FAR 129) operating certification, and in 1999, we received a European certification from the *Direction Générale de L'Aviation Civile — DGAC*, allowing us to begin operating scheduled commercial flights to European and U.S. cities. In addition to the destinations in which we now operate scheduled flights, such as Miami, New York, Orlando, Paris, London, Madrid, Milan and Frankfurt, these certifications also permit us to apply to operate additional scheduled flights to cities such as Washington, Indianapolis, Lisbon, Barcelona, Zurich, Amsterdam, and Moscow.

All of these certifications, obtained as a result of our modern maintenance facilities and the high technical quality of our maintenance, rank us among the top airlines in global aviation standards. Since 2000, we have had the Extended Twin Engine Operations (ETOPS) certification of 180 minutes for Airbus A330 model aircraft, proving that we are in compliance with the most stringent global aviation standards in this respect. We also have state-of-the-art equipment in Brazil, such as the Future Air Navigation Systems (FANS), which increases safety in congested air space and achieves fuel savings by using more direct routes.

The following table illustrates our fleet composition over the last three years:

Model	In Operation			To be Returned/Out of Operation			Total		
	December 31,			December 31,			December 31,		
	2009	2008	2007	2009	2008	2007	2009	2008	2007
Boeing 777	4	4	—	—	—	—	4	4	—
MD 11	—	—	3	—	—	—	—	—	3
Airbus A340	2	2	2	—	—	—	2	2	2
Airbus A330	16	16	12	—	—	—	16	16	12
Boeing 767	3	3	—	—	—	—	3	3	—
Airbus A321	5	3	3	—	—	—	5	3	3
Airbus A320	81	81	70	—	—	—	81	81	70
Airbus A319	21	20	15	—	—	—	21	20	15
Fokker 100	—	—	5	—	—	5	—	—	10
Total	132	129	110	—	—	5	132	129	115

TAM Mercosur's fleet consists of 3 Airbus A320 aircraft (sub-leased from TAM Linhas Aéreas).

The average age of the TAM Linhas Aéreas fleet is one of the lowest in global aviation: 4.8 years for Airbus A319/320/321 model aircraft, and 6.5 years for Airbus A330/340 model aircraft. With 132 aircraft in operation, the overall average age of our fleet was 6.0 years at the end of 2009.

The following table sets forth the historical and projected development of our operational fleet at December 31 in each of the years indicated:

	2006	2007	2008	2009	2010 <sup>(1)</sup>	2011 <sup>(1)</sup>
	<i>(Number of aircraft)</i>					
Airbus A330/A340	10	14	18	18	20	22
Airbus A319/A320/A321	64	88	104	107	116	121
Fokker 100	19	5	—	—	—	—
MD-11	—	3	—	—	—	—
Boeing 767	—	—	3	3	3	3
Boeing 777	—	—	4	4	4	4
ATR-42	—	—	4	4	5	5
Total	93	110	129	132	148	155

(1) Our fleet projection is based on the following: we currently have firm orders with Airbus for 51 Airbus aircraft (47 aircraft narrow body family A320 and four A330) for delivery through 2013. In addition, we have firm orders for 22 Airbus A350XWB models 800 and 900, with options for 10 more, with delivery between 2014 and 2018. We currently have firm orders placed with Boeing for six B777-300ER aircraft, of which four are expected to be delivered in 2012 and two in 2013. In 2010, we made firm orders with Airbus for an additional 20 Airbus A320 family to be delivered in 2014 and 2015, and converted 5 of our 10 A350 options existing at December 31, 2009 into firm orders with deliveries through 2018.

We phased out our entire fleet of Fokker 100 aircraft in 2008, at which point we started operating only Airbus A320 family aircraft in the domestic market.

In November 2006, we entered into an agreement with Airbus pursuant to which we agreed to lease 31 A319/A320/A321 family aircraft, with 20 additional options and six A330 aircraft, with four additional options. On January 2008, the options under the 2006 agreement were converted into firm orders. In February 2007, we entered into an agreement with Boeing pursuant to which we agreed to lease four Boeing 777 aircraft, with an additional four options that were converted to firm orders in 2008, when we also signed a firm order for two additional aircraft. In July 2007, we entered into an agreement with Airbus pursuant to which we agreed to lease 20 Airbus A319/A320/A321 aircraft. In December 2007, we entered into an agreement with Airbus pursuant to which we agreed to lease 22 Airbus A350-900 aircraft, plus 10 options. In 2010, we converted five of those 10 A350 options into firm orders, and we made firm orders with Airbus to purchase an additional 20 A320 aircraft.

The following table shows the average usage rates of our aircraft, in hours per day, during the periods indicated:

Bodied	At December 31,		
	2009	2008	2007
Narrow-bodied aircraft	11.6	12.2	12.2
Wide-bodied aircraft	12.7	14.0	15.8

### *Leasing agreements*

We currently lease all of our aircraft (using long-term lease agreements) through TAM Linhas Aéreas. Leasing gives us greater flexibility because it allows us to change the composition of our fleet relatively quickly in the event that we need to do so.

Of our total fleet of 132 aircraft at the end of 2009, 128 of our aircraft are subject to operating leases and 4 to finance leases. However, in order to comply with accounting policies, 62 other lease contracts are classified as finance leases.

Operating leases require us to make periodic payments, but do not include aircraft purchase options at the end of the agreement. The payments are denominated in U.S. dollars and the majority of these payments are subject to interest based on LIBOR. Pursuant to the terms of these agreements, aircraft are returned under agreed conditions at the end of the lease. The lessor retains ownership of the aircraft. We are responsible for maintaining and contracting insurance for the aircraft during the leasing period.

Finance leases are capitalized at the lease's commencement at the lower of the fair value of the leased property and the present value of the minimum lease payments. Each lease payment is allocated between liability and finance charges. The corresponding lease obligations, net of finance charges, are recorded as financial liabilities. The interest due on the finance lease is recorded on the income statement over the lease period to produce a constant interest rate on the remaining balance of the financial liability.

### *Maintenance*

We rigorously follow the maintenance plans proposed by the aircraft manufacturers and approved by the competent Brazilian and international aviation authorities. Accordingly, maintenance carried out on our aircraft may be divided into three general categories: (i) line maintenance, (ii) heavy maintenance and (iii) component repair and overhaul. Line maintenance includes daily inspections and minor corrective actions, along with "A" checks, all of which are performed between flights or overnight and do not require changes to our scheduled operations.

Heavy maintenance includes more complex aircraft inspections, including aircraft modifications and corrective actions, and may require removal of aircraft from operations during periods ranging from four days to four weeks, depending on the complexity of the maintenance.

Engine maintenance contracts cover all significant engine maintenance activities. We pay for services rendered pursuant to our engine maintenance contracts on an as-incurred basis. The basis on which maintenance expenses are considered incurred is dependent on the nature of the services provided under our engine maintenance contracts:

- contracts under which amounts are payable to the maintenance provider, and are recognized in the income statement, based on actual maintenance activities performed by the maintenance providers. The expenses incurred reflect the actual time required to perform maintenance and the material costs used in the maintenance activities. These maintenance contracts are referred to as "time and materials" contracts; and
- contracts under which maintenance expenses are payable to the maintenance provider based on hours flown. These maintenance contracts are referred to as "power by the hour" contracts. We accrue a liability and record an expense for maintenance under these contracts on the basis of hours flown. These payments are made to maintenance providers when the engines undergo a maintenance shop visit based on an agreed hourly rate. Our "power by the hour" contracts also provide for a relatively small administrative fee that is paid and expensed monthly (this fee represents less than 5% of amounts paid under all of our "power by the hour" contracts considered together).

We have entered into a number of agreements with suppliers and service providers in order to assist with our maintenance requirements, of which the following are material:

- a general terms agreement between TAM Linhas Aéreas and GE Engine Services Distribution, L.L.C., or GE, dated May 7, 2001, pursuant to which TAM Linhas Aéreas has agreed to purchase certain spare engines and support equipment for both the spare engines it has purchased from GE and certain engines that have already been installed on its operating fleet. The agreement also provides that GE may provide non-standard maintenance training courses upon request of TAM Linhas Aéreas. The agreement provides that GE will charge for any such courses on an "as incurred" basis. The agreement has no fixed termination date;
- an engine maintenance agreement between TAM Linhas Aéreas and MTU Motoren-und Turbinen-Union München GmbH, or MTU, dated September 14, 2000, or the TAY Agreement, pursuant to which MTU has agreed to provide certain maintenance, refurbishment, repair and modification services with respect to approximately 105 aircraft engines. This agreement was amended by means of a novation and amendment between TAM Linhas Aéreas and Rolls-Royce Brazil Ltda. or Rolls-Royce, dated November 8, 2001, pursuant to which Rolls-Royce replaced MTU as contract counterparty. The agreement provides that Rolls-Royce may subcontract services to be performed and that it will not be held liable for damages to or losses of TAM Linhas Aéreas or third parties due to the performance of the services contracted under the agreement, unless caused by willful misconduct or negligence of Rolls-Royce. The agreement provides that service orders placed by TAM Linhas Aéreas are to be charged based on a fixed rate specified for each type of service and subject to an escalation formula. TAM Linhas Aéreas is required to make payments based on actual services performed. This agreement terminates on June 30, 2015;
- an engine maintenance agreement between TAM Linhas Aéreas and MTU Maintenance Hannover GmbH, or MTU Hannover, dated September 14, 2000, pursuant to which MTU Hannover has agreed to provide certain maintenance, refurbishment, repair and modification services with respect to certain V2500-A5 engines. The agreement provides that MTU Hannover may subcontract to third parties and that MTU Hannover will not be held liable for damages to or losses of TAM Linhas Aéreas or third parties due to the performance or non-performance of the services contracted, unless caused by willful misconduct or negligence of MTU Hannover. The agreement provides that service orders placed by TAM Linhas Aéreas will be charged on actual services performed, based on hourly rates for engine/module repair work and on a fixed price for test runs, including fuel and oil, subject to an escalation formula. This agreement terminates on June 30, 2014; and
- an engine maintenance agreement between TAM Linhas Aéreas and United Technologies Inc., Pratt and Whitney Division, or Pratt and Whitney, dated September 14, 2000, pursuant to which Pratt and Whitney has agreed to perform maintenance, modification and/or overhaul of engines, engine modules and their parts and components. Pratt and Whitney has a limited exclusivity right for maintenance services of engines and modules pursuant to the terms of this agreement. This exclusivity provision requires TAM Linhas Aéreas to obtain prior written authorization from Pratt and Whitney before sending the equipment to another maintenance service supplier, with an exception in the case of delay or non-performance of services by Pratt and Whitney. The services to be provided by Pratt and Whitney are charged based on a fixed rate specified for each type of service, subject to an escalation formula. TAM Linhas Aéreas is required to make payments based on actual services performed. This agreement terminates on September 14, 2010.

We are certified to conduct maintenance on each type of aircraft in our fleet. Line maintenance is performed at all bases at which we operate, but mainly at the airports in São Paulo, Congonhas and Guarulhos. We also conduct heavy maintenance and component repair and overhaul at our main maintenance center in São Carlos, which is 250 kilometers northwest of São Paulo. The São Carlos maintenance center is approximately 4.6 million square meters in size and is fully certified by ANAC, EASA, FAA and other Latin American aeronautical authorities to perform maintenance on most of our fleet, including the Airbus A330, A320, A318, A319 and A321, Boeing 767 and Fokker 100, as well as over 2,500 different aeronautical components and parts for Fokker 100 and several parts for all Airbus aircraft and many of our Boeing aircraft. Our maintenance center completed its ANAC 145 certification for Boeing 767 aircraft at the end of 2008, and the first inspections began in 2009. Our maintenance center currently has over 700 direct employees (for core maintenance activities) and approximately 300 indirect employees (providing support functions, such as security, facility maintenance and cleaning). Line maintenance and supply chain activities include approximately 100 additional employees.



All maintenance that is conducted in-house presents significant cost savings and strategic advantages. As we are qualified to perform most line maintenance, heavy maintenance and component repair and overhaul services, we substantially reduce the need to send aircraft and parts overseas, decreasing downtimes and avoiding the costs of aircraft ferry-flights, parts logistics and import-export taxes. For those parts requiring maintenance at costs that are not economically efficient, due to complexity or low volume repairs, we have implemented, where possible, long-term, optimized maintenance agreements with engine manufacturers.

As required by our codeshare agreements with several airlines, including Lufthansa, United, TAP, Air Canada and LAN, we have the IATA Operational Safety Audits (IOSA) maintenance certification. Further, our maintenance division also has required certifications from each country in which we fly our aircraft (for example, the FAR 129 certification required by the United States).

In addition to the manufacturers (Airbus, Boeing, Rolls Royce, GE, Pratt & Whitney) training, we train our engineers and technicians at our own training center, which is fully certified under ANAC 147, and which uses the same equipment and software that the manufacturers use. We refer to our training center as the "TAM Service Academy".

Besides maintenance on our own aircraft, we also perform maintenance for third party aircraft and flight components within the ranges of our certifications. We are party to several line maintenance support contracts, pursuant to which we provide maintenance on Airbus aircraft, as well as heavy and component support for Brazilian and foreign airlines. We also have a total care maintenance contract for the President of Brazil's A319 ACJ. Our maintenance services are consistently growing, helping us to dilute our fixed expenses, as well as increase our revenues.

A significant part of our aircraft and vehicle maintenance expenses are indexed to the U.S. dollar. For a description and analysis of the effect of exchange rate variations on our income, including fleet maintenance expenses, see "Item 11. Quantitative and Qualitative Disclosures about Market Risk — Exchange rate risk."

#### ***Fuel***

Fuel is the largest component of our operating expenses, representing 28.6% of our operating expenses in 2009.

Fuel consumed in Brazil represents approximately 80% of our total consumption and is acquired through the following distributors: Air BP Petrobrás and Shell (formerly Cosan and Esso). We purchase fuel abroad from Air BP, Exxon Mobil, J&D Oil Field, Shell, Morgan Stanley, Repsol YPF and World Fuel Services. Supply contracts for fuel in Brazil are normally made for a two to three year period and current contracts expire at the end of 2010. Supply contracts at our international bases normally have a term of one or two years. The great majority of our fuel is purchased under "into-plane" terms, meaning that the supplier is responsible for delivering the fuel directly into the tanks of our aircraft. The fuel prices in the contracts we sign normally consist of three components: (i) the price from the refinery, (ii) the supplier differential and (iii) airport or logistics fees and taxes. The price of fuel from the refinery is subject to international market variations in the price of oil and refineries' margins. The supplier differential is the portion charged by the supplier, which consists of a fixed amount per volume negotiated and committed to be charged during the contractual period, and reflects the cost of distribution, storage, and delivery, as well as a profit margin. Airport taxes and fees vary by airport. We have a department responsible for negotiating fuel purchase contracts and, as a result of the high volumes of fuel we purchase, we believe that we are normally able to obtain more favorable terms than our competitors.

To reduce our exposure to international fuel price and exchange rate variations, in 2006 we began to enter into arrangements intended to hedge a minimum of 30% and a maximum of 80% of our projected fuel consumption for up to a rolling 24-month period. Due to new market and macroeconomic conditions, we decided to modify this policy. We now plan to hedge our fuel requirements over rolling 24-month periods with between 20% and 60% of our future fuel requirements hedged over the first 12 months, and 10% to 60% hedged over the second 12 months. For a description and analysis of the effect of volatility in fuel prices on our income, see "Item 11. Quantitative and Qualitative Disclosures about Market Risk — Risks relating to variations in the price of oil." Another important cost reduction initiative involving fuel is our "fuel tanker" program, pursuant to which we refuel aircraft in regions where fuel prices are relatively low. This initiative has more of an effect in Brazil, where the local taxes for each state cause significant variances in final fuel price. We have also formed a multidisciplinary work group, involving each of our departments responsible for fuel, engineering, control, operations, dispatching and financing, to develop other measures to reduce spending and fuel consumption by our fleet.

### *Safety*

We adopt the highest safety standards in the world. We comply with Brazilian and foreign aviation regulations, including those issued by the ICAO (International Civil Aviation Organization), the FAA – Federal Aviation Administration (U.S. aviation authority) and the EASA – European Aviation Safety Agency (EASA). As an international air company, we are a member of the IATA, and sit on the Regional Flight Safety Committee (RCG). We are also a member of the Flight Safety Foundation (the largest nongovernmental organization for flight safety) and the Flight Safety Committee (a committee comprised of all Brazilian airlines).

Our priority is to provide safe air transportation. Our founder, Commander Rolim Amaro, passed down one of our key corporate mottos: "Safety comes first to the client." We are extremely devoted to flight safety. We adopt modern certification and system standards; for example:

- In 2002, we were the first Brazilian company to implement the FOQA (Flight Operations Quality Assurance) system, a system used for the systemic analysis of flights and the prevention of operating failures that may affect the safety of a flight, which subsequently became a benchmark for other Brazilian companies;
- In 2004, the European Union Aviation Authority granted us the EASA 145 certification for our aircraft maintenance and repair facility located in São Carlos and we have been recertified annually since then;
- In July 2006, we became a member of the United Kingdom Flight Safety Committee (UKFSC), an association of organizations and professionals dedicated to improving flight safety standards in commercial aviation in the United Kingdom. In 2006, we also became a member of the Steering Committee of the Emergency Response and Planning Task Force (ERPTF) of IATA;
- In 2007, we were the first company in Latin America to implement the AQD (Aviation Quality Database) system for safety database management, which analyzes operating risks and implements the SMS (Safety Management System) in conformity with Brazilian and foreign regulations;
- In January 2010, we ratified the IOSA certification that IATA granted us in 2007 and validated in 2008. The IOSA certification is the most complete and recognized international operational safety certificate. The IOSA certification requires an independent evaluation system focused on the operational management and control systems of air companies. The IOSA audit encompasses over 940 requirements related to operational safety, such as management system, flight operations, operational dispatch, ramp operations, airports, maintenance, cargoes, operational safety and training for each area associated with operations. With IOSA registration renewal, we met a pre-requisite for joining the Star Alliance; and

- In 2009, the U.S. aviation authority (FAA) granted us the FAR 145 certification for our aircraft maintenance and repair facility located in São Carlos.

Brazilian civil aviation follows the highest safety standards in the world. Brazil is classified as a Category 1 country in terms of the flight safety standards established by ICAO. Category 1 is the highest.

### **Insurance**

We maintain insurance policies as required by law and the terms of our aircraft leasing agreements. The scope of these policies includes all risk coverage for aircraft hulls, including war risks and third party legal liability for passengers, cargo, baggage and injuries to third parties on the ground. Our current policies, which will be in force through December 19, 2010, follow practices adopted by the international civil aviation industry.

We have also contracted for asset insurance against the risk of theft, fire, flood, electrical damage and similar events for equipment and buildings we own or for which we are responsible, including airport areas where we have operations. Similarly, we have contracted for vehicle insurance against the risk of robbery, theft, fire and civil liability against third parties for all vehicles we own or for which we are responsible.

We have also contracted for liability insurance in respect of our directors and officers and the existing policy is due to expire on May 7, 2011.

### **Information Technology**

We invest significantly in information technology systems that enhance our operating processes, allow us to provide higher quality services to our passengers, grant us greater flexibility and increase the speed of our operations.

In 2004, we introduced the *e-TAM* portal, a tool that integrates our entire sales chain, from the time of reservation to passenger boarding. Moreover, data obtained from the *e-TAM* portal allows us to offer our passengers a set of customized services. The great majority of our domestic reservations made in Brazil are made through the portal environment. The use of the *e-TAM* portal allows us to reduce the cost of reservations and ticket issuance by consolidating the GDSs previously used for almost all our reservations. Currently, GDS is used more for international tickets issued in Brazil and for tickets issued abroad.

We were the first Brazilian airline to develop and install self-service check-in kiosks in airports. With over 150 units in Brazil's major airports, the kiosks allow passengers who purchase *e*-tickets to check-in and select their seat in less than ten seconds, reducing lines in the check-in halls and on board the aircraft. In 2007, 2008 and 2009 approximately 2,009,900, 5,888,474 and 6,220,208 passengers, respectively, checked in through the self-service kiosks.

In October 2003, we signed a general services agreement with Sabre Travel International Limited, pursuant to which we were granted a license (relating to the provision of maintenance services) for electronic reservation technology and database backup. This agreement was intended to remain in force for ten years, unless early terminated by either party. In March 2009, we announced that we were exercising our right to early terminate the contract and the contract was early terminated in March 2010.

In July 2009, we signed an agreement with Amadeus IT Group SA, pursuant to which we were granted a license to operate our core processes using their software. This agreement shall expire ten years from the date we began to use the Amadeus platform, November 15, 2009, unless terminated early in accordance with the termination clause.

The TAM Loyalty Program and "special services" system are also important tools for obtaining profile information on our passengers. The TAM Loyalty Program allows us to monitor the activity of passengers registered with the program, recording information on each passenger flight in addition to personal information and preferences (such as preferred seat, special meal requests and other data obtained through our contacts or customer surveys). The "special services" system allows the crew to input data on preferences of our passengers directly to our database. This data is also used to study passengers, offer promotions and new services and define our advertising message.

Our DOV-line tracing system monitors all aircraft baggage and cargo, following the location of items inside the aircraft, for proper weight balancing. A balanced aircraft is critical for a safe flight and has the added benefit of reducing fuel consumption. The DOV-line tracing system also manages crew distribution.

### Seasonality

The Brazilian passenger air transportation market is subject to seasonality, as there is always higher demand for air transportation services in the second half of the year. However, this seasonality is partially mitigated by the fact that we have a higher concentration of business travel than the market average (and business travel is less sensitive to seasonality). Our other operations do not vary significantly as a result of seasonality.

### Competition

#### *Domestic*

Airlines in Brazil compete primarily in terms of routes, price, flight frequency, service reliability, brand recognition and benefits offered to passengers, such as loyalty programs and customer service. We believe our market leadership and the TAM Loyalty Program enhance our competitive performance in many of these areas.

Our competitors, both actual and potential, include Brazilian airlines, airlines operating on regional air routes and new participants in the market who operate primarily on regional transportation networks. Our principal competitor is Gol. In previous years, Varig had been one of our major competitors. However, Varig filed for bankruptcy protection in Brazil and the United States in June 2005. Varig's assets and operations were sold to various investors over the course of 2006 and, on December 14, 2006, Varig ceased operations altogether. On December 15, 2006, a new company, VRG Linhas Aéreas S.A., initiated operations on some of the routes previously used by Varig. On March 24, 2007, Gol announced that it had entered into an agreement to acquire VRG Linhas Aéreas S.A. In compliance with applicable CADE requirements, Gol and Varig operated as separate airlines until CADE's final approval of the acquisition on June 25, 2008. On October 19, 2008, the route networks of both companies were integrated.

To a much less degree, we also face competition from a number of significantly smaller airlines operating in the domestic market. In 2009, 17 different airlines together shared the 13% of the domestic market that is not served by TAM and Gol (who together share approximately 87% of the domestic market).

ANAC's resolution provides that 80% of new airport slots are distributed to existing airlines, with these slots being divided evenly (without regard to market shares). New slots are only available to airlines that have a history of punctuality, no pending proceedings with ANAC and a positive shareholders' equity. The remaining 20% of slots are available to new entrants. See "— Regulation of the Brazilian Civil Aviation Industry — Rights to Operate Air Routes — Policy on slots."

The graph below shows the history of market participation on domestic routes, calculated by reference to RPKs, for the major Brazilian airlines, for the periods indicated (based on data provided by ANAC):

	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
	<i>in percentages</i>					
<b>TAM</b>	35.8	41.3	47.8	48.8	50.4	45.6
<b>GOL/VRG</b>	-	-	-	-	42.4	41.4
<b>GOL</b>	22.3	25.9	34.3	39.5	-	-
<b>Varig</b>	31.0	25.5	10.0	3.5	-	-
<b>Others</b>	10.9	7.3	7.9	8.1	7.2	13.0

Source: ANAC.

We also face competition, albeit to a lesser degree, from land transportation companies such as road transport companies.

### **International**

The international market is substantially more competitive than the domestic market. In the international market, there are many international airlines that are larger than us and more experienced. To ensure sustained market competitiveness, airlines are dependent on partnerships and codeshare agreements in the international market.

With respect to international flights, airlines compete primarily on the basis of routes, services, price and mileage and frequent flyer programs. We offer 72 daily international flights to Buenos Aires, Santiago, Asunción, Montevideo, La Paz, Ciudad del Este, Santa Cruz de la Sierra, Cochabamba, Punta del Este, Caracas, Lima, Miami, New York, Orlando, London, Paris, Frankfurt, Madrid and Milan. We have codeshare agreements with LAN Group, Pluna, United Airlines, Air Canada, TAP, Lufthansa, BMI, Air China, and Swiss International, allowing our passengers to make connections throughout the world, in addition to other services such as simplified check-in, luggage shipping and access to VIP lounges. We also have inter-airline agreements allowing us to offer our passengers a wide range of destinations around the world. On October 7, 2008, we publicly announced that we were joining the Star Alliance, the largest global alliance in commercial aviation. We became a full member of the Star Alliance on May 13, 2010.

In the international market, our main competition is from major international airlines that serve the markets in which we operate. Our average international market share in 2009 was 86.5% (measured by RPK). According to ANAC, Brazilian airlines were responsible for approximately 34% of international passengers transported in 2008, with the remainder offered by non-Brazilian airlines. We believe that in 2009, Brazilian airlines transported 36% of those passengers to and from Brazil. The graph below shows the history of market participation on international routes, calculated by reference to RPKs, among only the Brazilian airlines, for the periods indicated (based on data provided by ANAC):

	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
	<i>in percentages</i>					
<b>TAM</b>	14.5	18.4	37.3	67.5	75.3	86.5
<b>GOL/VRG</b>	-	-	-	-	23.9	13.4
<b>GOL</b>	-	2.1	7.3	14.2	-	-
<b>Varig</b>	85.4	77.0	50.4	13.1	-	-
<b>Others</b>	-	2.5	5.0	5.2	0.8	0.1

Source: ANAC.

## **Overview of the Industry**

### **General**

According to IATA, Brazil is the fourth largest domestic aviation market in the world (in number of scheduled passengers transported), covering a vast area (greater than the continental United States) with a population of approximately 191.5 million people in 2009 (according to the Brazilian Geography and Statistics Institute – *Instituto Brasileiro de Geografia e Estatística*, or IBGE). We believe that the São Paulo — Rio de Janeiro shuttle route is one of the busiest shuttle routes in the world. According to ANAC, more than 3 million passengers were transported on this route in 2008. Growth of the Brazilian commercial aviation industry is closely related to growth of Brazilian GDP. According to ANAC, the Brazilian commercial aviation industry transported more than 50 million passengers in the domestic market in 2008.

Brazilian civil aviation follows the highest established standards of flight safety in the world. Brazil is classified as Category 1 under the flight safety standards established by the ICAO, the same classification as the United States and Canada.

Airlines operating in the Brazilian commercial aviation market can be divided into the following four categories:

- domestic airlines, which provide public transportation service on a scheduled basis within Brazil and operate mainly with large aircraft between the major cities of Brazil;
- regional airlines, which provide public transportation service on a scheduled basis within Brazil, generally connecting smaller cities to bigger cities in Brazil. Typically, regional airlines operate with smaller aircraft, such as turbo-props;
- charter airlines, which provide transportation service on a non-scheduled basis; and
- international airlines, which provide international transportation services on a scheduled basis to and from Brazil.

The market for scheduled airline service in Brazil includes two main types of passengers: those traveling on business and those traveling for leisure. Business passengers generally place more importance on factors such as frequency of flights, reliability, availability of direct flights, extent of area served and value-added services. These passengers are also becoming increasingly sensitive to price. Leisure passengers generally place more importance on price and tend to be more flexible regarding the scheduling of their trips.

The business travel sector is the largest and most profitable segment of the air transport industry in Brazil. We believe that the number of business trips is significantly greater than the proportion of domestic business trips in the international civil aviation market. In Brazil, small and medium-sized companies (which comprise a large proportion of our customer base) place significant importance on receiving good service from their airline, while maintaining a balance between quality, frequency of flights and low prices.

In 2008, the ten busiest airports accounted for 70.0% of all domestic traffic in terms of departures and arrivals, according to ANAC's Annual Report.

The domestic civil aviation market is principally served by TAM and Gol/VRG, who together represented 87% of all domestic routes in 2009, in terms of RPK. According to ANAC, in 2009, our share of the domestic market was 45.6%, while that of Gol/VRG was 41.4%. The remaining market share, approximately 13%, was served by 17 different airlines. This market profile is consistent with the historical make-up of the domestic market, which has traditionally seen a small number of airlines holding the vast majority of domestic market share and a much larger number of airlines (the identity of whom has continuously changed over the years as different airlines have entered and left the market) holding the remaining portion.

On June 17, 2005, Varig became the first Brazilian company to file for an in-court reorganization under Law No. 11,101 of February 9, 2005, which we refer to as the New bankruptcy law, in the courts of the State of Rio de Janeiro. Previously, the Brazilian Aeronautical Code provided that concessionaires of public air transportation were not allowed to apply for in-court reorganization. During this period of in-court reorganization, Varig faced a drastic deterioration in its financial and operational condition. It ceased operation of several flights and withdrew from important domestic and international markets. On December 18, 2005, the creditors' assembly of Varig approved its in-court reorganization plan, but this plan was amended by the creditors on May 9, 2006 in order to permit a judicial disposal of Varig's flight operating unit. On July 17, 2006, the flight operating unit of Varig was sold in a public bid process held by the Judiciary of the State of Rio de Janeiro to VarigLog Linhas Aéreas S.A., a former subsidiary of Varig that was also sold on November 11, 2005 pursuant to the in-court reorganization plan. On March 24, 2007, VarigLog and Gol announced that Gol had entered into an agreement to acquire VRG Linhas Aéreas S.A., which is VarigLog's subsidiary and operates Varig's routes. In compliance with applicable CADE requirements, Gol and Varig operated as separate airlines until October 19, 2008 when they integrated their networks, which was after CADE's final approval of the acquisition on July 25, 2008.

## Trends In the Domestic Market

In the past 35 years, the domestic market has generally grown in terms of RPK, except during times of significant economic recession (such as the oil crisis, the debt-moratorium crisis in the 1980s and the economic recession and political instability of the early 1990s).

Since the year 2000, the annual air-traffic passenger growth rate, in terms of RPK, was 10%, compared to an annual available capacity growth rate in terms of ASK, of 8%. The average load factor in the period was 65%. Domestic passenger traffic and available capacity rates for the period between 2000 and 2009 are set out in the following table:

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
	<i>(in millions, except percentages)</i>									
ASKs	41,562	45,314	47,013	41,851	42,756	48,740	55,257	62,895	73,015	84,238
Change in ASKs <sup>(1)</sup>	–	9%	4%	–11%	2%	14%	13%	14%	16%	15%
RPKs	24,479	26,527	26,711	25,196	27,962	34,147	39,261	42,773	47,814	56,255
Change in RPKs <sup>(1)</sup>	–	8%	1%	–6%	11%	22%	15%	9%	12%	18%
Load factor	59%	59%	57%	60%	65%	70%	71%	68%	66%	67%

(1) Percentages refer to percentage change from previous year.  
Source: ANAC.

Historically, growth in domestic civil aviation demand has generally exceeded growth in GDP. From 2000 to 2009, domestic civil aviation RPK grew 10% per year, while the annual GDP growth rate in the same period was 3.2%, according to ANAC and IBGE.

The variable factors that have the greatest influence on the commercial aviation market are the price of fuel and variations in exchange rates, because fuel is the most important element of expenses for airlines, and most elements of the market (including fuel) are tied to the U.S. dollar.

The influence of the Brazilian government on the industry, through industry regulations, has also had a significant impact on the performance of airlines operating in the market. From 1986 to 1993, the Brazilian government imposed more rigid control over local civil aviation activities because of high inflation levels which led to a series of economic crises in Brazil during that entire period. The Brazilian government mainly monitored airline air fares and supervised the use and expansion of their routes. In 1994, after successful efforts to control inflation and stabilize the Brazilian economy, the Brazilian government (acting through the aviation authorities) began to deregulate civil aviation activities, principally by gradually reducing government control over the airlines' local activities. Even though Brazilian civil aviation is still a regulated sector, ANAC's current rules are significantly more flexible than the regulations which were previously in effect. Further, the relevant authorities have frequently issued basic and essential regulations in order to harmonize the Brazilian regulatory environment with international, more modern models.

We believe the current regulatory regime has favored the financial performance of Brazilian civil aviation. As a result of imposing a more rational supply of services and ending implicit subsidies to less competitive airlines, we believe that the Brazilian government has enabled more competitive airlines such as TAM and Gol to better utilize their aircraft in an environment of healthy competition, which in turn has led to improved average returns in the domestic market. Such regulatory system is undergoing certain structural changes. See "Item 3. Key Information — D. Risk Factors — Risks Relating to the Civil Aviation Industry and our Business — The regulatory structure of Brazilian civil aviation is undergoing change and we have not yet been able to evaluate the results of this change on our business and results of operations" and "— Regulation of the Brazilian Civil Aviation Industry — Rights to Operate Air Routes — Future legislation."

## Regulation of the Brazilian Civil Aviation Industry

### Overview

Scheduled air transportation services are considered public services in Brazil and, accordingly, are subject to extensive regulation by the High Command of Aeronautics of the Ministry of Defense, or the High Command of Aeronautics, CONAC and ANAC. Scheduled air transportation services are also regulated by the Brazilian federal constitution and by the Brazilian Aeronautical Code.

The Brazilian Aeronautical Code sets out the principal rules relating to airport infrastructure and operations, flight protection and safety, certification of airlines, aircraft leasing structure, liability, transfers, registration and licensing, training of crews, concessions, inspection and control of airlines, public and private air cargo transport services, airlines' civil liability and penalties for violations.

CONAC is the Brazilian President's advisory body. Its board of advisors includes the Minister of Defense, the Minister of Civil Affairs, the Minister of Finance, the Minister of Development, Industry and Foreign Trade, the Minister of Foreign Relations, the Minister of Tourism and the Command of the High Command of Aeronautics. CONAC has the authority to establish policies for the Brazilian civil aviation industry that are adopted and carried out by the High Command of Aeronautics and ANAC. CONAC establishes general rules related to adequate representation of Brazil in treaties, conventions and other matters related to international air transportation, airport infrastructure, the granting of additional funds to be used to benefit airlines and airports (based on strategic, economic and leisure considerations), the coordination of civil aviation operations, air safety, concessions for the operation of airline services and permits for the provision of related commercial services.

ANAC is the main civil aviation authority in Brazil and reports directly to the Ministry of Defense. ANAC is an independent regulatory agency associated with, but not under the control of, the Ministry of Defense and operates as an independent agency for an indefinite term. ANAC principally has the authority to: (i) regulate, inspect and supervise services rendered by airlines operating in Brazil, (ii) grant concessions, permits and authorizations for air transport operations and airport infrastructure services, (iii) represent the Brazilian government before international civil aviation organizations, (iv) control, register and inspect civil aircraft, and (v) ensure that air transportation services are provided under free market principles.

The Brazilian government has recognized and approved the three main international conventions related to world commercial air transportation operations: the Chicago Convention of 1944, the Geneva Convention of 1948 and the Montreal Convention of 1999.

Recently, in February 2009, the Federal Government approved the new Civil Aviation National Policy (Política Nacional de Aviação Civil or "PNAC"). Although the PNAC does not establish any immediate measure, it contains the main guidelines for the national civil aviation system. It encourages the Ministry of Defense, CONAC and ANAC to issue regulations on strategic matters such as safety, competition, environmental, and consumers' issues, as well as to inspect, review and value the activities of all operating companies.

#### *Air transportation services concession*

The Brazilian federal constitution grants the Brazilian government the exclusive authority to explore air transportation services and airport infrastructure and provides that the government can render these services either directly or indirectly through third parties (by means of concessions or permits). According to the Brazilian Aeronautical Code and regulations issued by the High Command of Aeronautics, any operation of scheduled air transportation services requires a concession granted by the High Command of Aeronautics. The terms of each concession must be formalized by means of a concession agreement entered into with ANAC. Any company seeking a concession must meet certain economic, financial, technical, operational and administrative requirements established by ANAC. In addition, all companies seeking a concession must (i) be legal entities constituted in Brazil, (ii) obtain a valid Air Operation Approval Certification (CHOA) — corresponding to the former Air Transport Operation Approval Certification (CHETA), and (iii) comply with certain restrictions regarding ownership of its shares or quotas. See "— Rights to Operate Air Routes — Restrictions against the ownership of shares in airlines operating under concessions."

ANAC has the authority to revoke a concession in the event of any failure by an airline to comply with the rules of the Brazilian Aeronautical Code, supplemental laws and regulations and the terms of the applicable concession agreement.

Article 122 of Law No. 8,666 of June 21, 1993 provides that concessions must be regulated by specific procedures stipulated in the Brazilian Aeronautical Code. The Brazilian Aeronautical Code and the regulations issued by ANAC do not expressly establish any bidding procedures in relation to concessions. Accordingly, it is not currently necessary to conduct bidding prior to awarding concessions for the operation of air transportation services (such as ours), as would be required in the case of other public services generally regulated by laws applicable to public concessions.



Our concession to operate scheduled air transportation of passengers, cargo and mail at a national level was obtained on December 9, 1996 through the issuance of Ordinance 816/GM5 and the execution of the relevant concession agreement, which will remain valid until December 9, 2011. Although we can offer no guarantee that we will be able to renew our concession, we do not currently foresee any problems in relation to this renewal.

#### *Aircraft registration*

The registration of aircraft in Brazil is governed by the Brazilian Aeronautical Code. The Brazilian Aeronautical Code provides that no aircraft is authorized to fly in Brazilian airspace or to land in or take-off from Brazilian territory without being duly registered. In order to remain registered with a Brazilian registration number, an aircraft must have both a certificate of registration and an airworthiness certificate (*certificado de navegabilidade*), each of which is issued by RAB after a technical inspection by ANAC. The certificate of registration issued by ANAC attributes Brazilian nationality to the aircraft and proves for its enrollment with the proper authorities. The airworthiness certificate is generally valid for six years from the date on which ANAC conducted its inspection of the aircraft and provided authorization for it to fly over Brazilian airspace (subject to continued compliance with certain technical requirements and conditions). The registration of any aircraft can be cancelled in the event that the authorities verify that such aircraft is not in compliance with the requirements for registration (in particular any failure to adapt the aircraft to any safety requirements specified by ANAC or by the Brazilian Aeronautical Code).

All agreements relating to aircraft registered in Brazil, including sale and purchase agreements, financial commercial leasing agreements, mortgages (and amendments to any such agreements) must be submitted to the Brazilian Aeronautical Registry (RAB) for the purpose of publishing the transactions contemplated thereby and updating aircraft registration.

#### *Rights to Operate Air Routes*

##### *Domestic routes*

ANAC has the authority to grant Brazilian airlines the right to operate any new route. Any airline seeking to operate a new route must submit studies proving both the technical and economic feasibility of the proposed route (in form satisfactory to ANAC) and must fulfill certain conditions in relation to the awarding of those routes. In respect of awarding any new route or approving any change to existing routes, ANAC evaluates the infrastructure capacity of the airports from which the route will be operating and the increase in demand and competition between airlines. In addition, approval for operation of a route is made subject to the condition that the route must be operated on a scheduled basis. The operation of a route by any airline can be cancelled in the event that the airline (i) fails to initiate operation of the route within 15 days of receiving authorization, (ii) fails to maintain at least 75% of the flights established in the respective National Air Transport Schedule (*hotran*) for a period of 90 days, or (iii) suspends operations for more than 30 days. ANAC's approval of new routes or changes to existing routes is given in the course of an administrative proceeding and does not require any amendment to the applicable concession agreement.

Once awarded, the routes must be immediately reflected in the *hotran* (the report of the itinerary of all routes an airline operates), which will then become an integral part of each airline's database at ANAC. The *hotran* not only establishes the routes but also the arrival and departure times at certain airports, none of which can be changed without the prior approval of ANAC. Brazilian civil aviation laws and regulations provide that an airline may not sell or transfer routes to another airline.

Recently, ANAC has imposed schedule restrictions to several Brazilian airports from which we operate. Operating restrictions, including the prohibition of international flights' operations and the prohibition of civil aircraft's operation after 11:00 p.m. and before 6:00 a.m., were imposed for Congonhas Airport, one of the busiest Brazilian airports and the most important airport for our operations. No assurance can be given that these or other government measures will not have a material adverse effect on our business and results of operations.

### *International routes*

International airlines are those with points of departure in Brazilian territory and points of arrival in foreign territory, operated by Brazilian companies previously designated by the Brazilian government and operated in accordance with the terms of bilateral agreements with foreign governments. The rights to international routes between major cities (as well as the corresponding landing rights) are derived from bilateral air transportation agreements negotiated between the government of Brazil and foreign governments. Pursuant to the terms of those agreements, each government grants the other the right to designate one or more domestic airlines to operate scheduled service between certain destinations in each country.

Requests for new international routes or changes in existing routes must be submitted by each interested Brazilian airline to SRI, which evaluates each request based on the provisions of the applicable bilateral agreement, the availability of existing routes between the two countries and the general policies of the Brazilian aviation authorities. Following such evaluation, SRI may take any steps required in relation to qualification of the international route.

Ordinance No. 569/GC5 of September 5, 2000 provides that international air transportation services may be cancelled in the event that such services are (i) not implemented or operated for more than six months, (ii) the airline is proven to be incapable of performing the service, or (iii) the airlines fails to comply with the agreements, laws and regulations of the High Command of Aeronautics.

Any airline's international route frequency rights may be terminated if the airline fails to maintain at least 80% of flights provided for in its air transportation schedule HOTRAN for any 180-day period or suspends its operation for a period exceeding 180 days.

### *Policy on slots*

Each *hotran* represents the authorization for an airline to land and take off at certain airports within a predetermined space of time. That space of time is known as an airport slot and establishes that an airline can operate in a specific airport at the times contained in the *hotran*.

Brazilian law provides that a slot is an ANAC concession reflected in an airline's *hotran*. As is in the case with routes, a slot is not owned by the airline and may not be transferred to another airline.

The more congested Brazilian airports are subject to traffic restrictions via slot allocation policies. On July 3, 2006, ANAC issued Resolution No. 2 which set forth the new rules to the distribution of domestic slots. This resolution establishes that 20% of the available slots of a restricted airport will be distributed among new entrants and 80% of the available slots will be distributed among existing airlines. In addition, ANAC requires that any airline applying for a slot must have a record of punctuality, have no pending proceedings with ANAC and have a positive shareholders' equity. Although we comply with all conditions and requirements to apply for new slots, we can offer no guarantee that new slots will be allocated to us.

The *Departamento de Controle do Espaço Aéreo*, or DECEA, is responsible for coordinating and inspecting the infrastructure support facilities of airports. DECEA, acting jointly with ANAC and INFRAERO, also conducts studies at all Brazilian airports to determine the maximum operating capacity of each airport. Congonhas airport in São Paulo currently has slot restrictions. Investments currently being made in Brazilian aviation infrastructure are expected to enable an increase in aircraft operations at congested airports and, consequently, the granting of new slots to airlines.

### *Aviation infrastructure and the airport system*

The Brazilian Federal Constitution grants the Brazilian government the exclusive authority to operate air transportation services and airport infrastructure and provides that the government can render these services either directly or indirectly through third parties (by means of concessions or permits). The installation and operation of any aviation infrastructure services inside or outside an airport will always require the prior authorization of the aviation authority, which will also supervise them.

Ground structures are required for the operation of air navigation systems. Any surface structure which is intended to meet the needs of air navigation is included under the category of aviation infrastructure. Accordingly, aviation infrastructure is broadly defined and includes all ground organizations, assets and facilities that support the development of air navigation. Aviation infrastructure is made up of the group of ground agencies, facilities or structures that support air navigation in relation to safety, schedules and efficiency, including (i) the airport system, (ii) the flight protection and safety system, (iii) the Brazilian Aviation Registration system; (iv) the air accident investigation and prevention system, (v) the system of air transport safety and coordination facilities, (vi) the system of personnel training and education for the air navigation and aviation infrastructure, (vii) the aviation industry's system of coordination, and (viii) the aviation infrastructure coordination system.

The airport system consists of all Brazilian landing fields (military and civilian, private and public) used for domestic aviation and international flights. Airports are public landing fields equipped with installations and facilities to support aircraft operations and the departure and arrival of passengers and cargo. The construction, administration, and operation of airports are subject to the rules, instructions, coordination and control of the aviation authority. Airports include areas intended for airport administration, public agencies that function on a mandatory or optional basis in the airports (such as those relating to the Federal Revenue Service (customs), the Ministry of Justice (federal police), the Ministry of Health (health supervision), and the Ministry of Agriculture (agricultural inspection)). In addition to these administrative areas, airports contain areas for passenger, baggage and cargo service and movement and for the general public (including vehicle parking facilities). Airports are open to traffic and the public by means of the approval of the aviation authorities. Airports may be built, maintained and operated directly by the Brazilian government or through concessions, authorizations or permits. Airports may also be operated by specialized quasi-public enterprises under the Brazilian government or its subsidiaries, reporting to the High Command of Aeronautics (such as INFRAERO), by Brazilian states or Municipalities and by legal entities considered technically, economically and financially qualified by the aviation authorities.

INFRAERO, a government company reporting to the Ministry of Defense, has the function of managing, operating, and controlling most Brazilian federal airports (including their control towers and airport safety operations). Smaller airports and regional airports may belong to state or municipal governments and, in such cases, are frequently managed by local government agencies. INFRAERO performs safety activities at most Brazilian airports, including the verification of passengers and baggage, cargo safety and general airport safety measures.

The use of areas within federal airports (such as hangars and check-in counters) is subject to a concession-for-use granted by INFRAERO. Where there is more than one candidate to use a certain airport area, INFRAERO may institute a bidding process.

#### *Prices*

Brazilian airlines are freely able to set their prices for domestic routes but must register the prices with ANAC for monitoring purposes. ANAC constantly monitors airfares and may intervene in the market and in scheduled air service concessions to prevent acts against economic order and to protect the interests of consumers. Airlines may establish price discounts or follow other promotional strategies. Airlines must submit any promotional passenger fare discounts greater than 65% of ANAC's reference rate per kilometer to ANAC at least five business days in advance. Reference rates are established by ANAC based on Brazilian civil aviation's average operating expenses.

International prices are established in accordance with bilateral agreements. Since 1993, fares from all companies selling international flights originating in Brazil were required to exceed a floor. On April 22, 2009, ANAC approved a gradual phasing out of the floor (for flights to destination other than South America) through discounts of up to 20% until July 2009, 50% until October 2009, and 80% until April 2010, when the phase-out will end. For international flights with destinations to South America, the floor was removed in September 2008.

### *Civil liability*

The Brazilian Aeronautical Code and the Montreal Convention of 1999 limit an aircraft operator's liability for damage to third parties caused by ground or air operations, or for damage resulting from persons or objects being thrown from aircraft. The Brazilian National Congress approved the Montreal Convention of 1999 by means of Legislative Decree No. 59 of April 18, 2006 and Decree No. 5,910 of September 27, 2006. The Montreal Convention replaced the Warsaw Convention of 1929 and will have the effect of increasing the liability limits for civil aircraft operators. The Brazilian courts, however, have occasionally disregarded the liability limits set forth in both the Warsaw Convention of 1929 and its successor, the Montreal Convention of 1999, and have granted compensation based on the Civil Code and Consumer Defense Code (which do not expressly set out maximum liability limits).

In response to the substantial increase in insurance premiums to cover damage from terrorist attacks after the September 11, 2001 attacks in the United States, the Brazilian government introduced a law authorizing it to assume responsibility for damage caused to third parties as a result of terrorist attacks or acts of war against aircraft pertaining to Brazilian airlines. See "Item 4. Information on the Company — B. Business Overview — Insurance."

### *Environmental legislation and regulations*

Brazilian airlines are subject to various federal, state and municipal environmental protection laws, including those relating to the disposal of materials and chemical substances and noise pollution generated by aircraft. These laws and regulations are applied by the state and municipal governmental authorities, which can impose administrative sanctions following violations, in addition to liability in the civil and criminal courts for any party violating the laws and regulations. For example, according to a ANAC ordinance, the operation of scheduled commercial flights departing from or arriving at Congonhas Airport is subject to a noise ban from 11:00 P.M. to 6:00 A.M. because of the airport's proximity to residential areas in the city of São Paulo.

### *Restrictions against the ownership of shares in airlines operating under concessions*

The Brazilian Aeronautical Code provides that, in order to be entitled to a concession to operate scheduled service, and subject to the carve-outs described below, 80% of an airline's voting capital must be held directly or indirectly by Brazilian citizens and certain management positions must be held only by Brazilian citizens.

The Brazilian Aeronautical Code sets out certain restrictions against transferring the capital of scheduled airlines operating under concessions (such as our subsidiary, TAM Linhas Aéreas) including the following restrictions:

- shares with voting rights must be registered, and the company's by-laws must prohibit the conversion of preferred shares with no voting rights into shares with voting rights;
- ANAC's prior approval of any share transfer, regardless of the investor's nationality, which would result in (i) a change in the company's control, (ii) the concessionaire's ownership of more than 10% of the company's capital, or (iii) a transfer of more than 2% of the company's capital stock;
- the company must submit to ANAC in the first month of each six-month period a detailed chart of shareholder participation, including a list of shareholders and a list of all share transfers that occurred during the six-month period; and
- based on the information in the chart described above, ANAC may determine that subsequent transfers must be subject to its prior approval.

Our corporate purpose is the management of corporate participation in airlines. We hold shares representing the shareholding control of TAM Linhas Aéreas, which, in turn, is a company operating under a concession for the operation of scheduled air transportation services. The Brazilian Civil Aviation code provides that the restrictions against share transfers described above apply only to companies operating under concessions for the operation of scheduled air transportation service and, accordingly, do not apply to us.

In 2009, CONAC announced that it would propose to the Brazilian government a change to the regulatory limit of foreign ownership in Brazilian airline companies from 20% to 49%. This proposal may be accepted by the Brazilian government and become a draft bill in 2011.

#### *Future legislation*

On March 28, 2001, CONAC published for public consultation a draft of a bill to replace the Brazilian Aeronautical Code and modernize the basic laws and regulations relating to the industry. In general, this draft deals with matters related to civil aviation, including airport concessions, consumer protection, increased foreign shareholding participation in airlines, limitation of airlines' civil liability, compulsory insurance and fines. However, at the date of this Annual Report there are no relevant discussions or developments in respect of this draft bill.

#### *Federal intervention*

The executive branch of the government may intervene in Brazilian civil aviation companies whenever their operations or financial situations jeopardize the continuation, efficiency and safety of Brazilian air transportation services. The purpose of federal intervention is to re-establish normal service by the company and the intervention may last as long as necessary to achieve this purpose, though it may not exceed a period of two years. In the event that a technical inspection conducted before or after the decree of federal intervention demonstrates that the re-establishment of normal service would be impractical, the federal intervention can be converted to extra-judicial liquidation, provided at least half the company's debts can be liquidated by means of a sale of its assets. In the event that the company's assets are not sufficient to pay at least half of the company's debts (or in the event that there is evidence of fraud), the federal intervention or extra-judicial liquidation must be converted to bankruptcy.

#### *New bankruptcy law*

On February 9, 2005, the President of Brazil sanctioned the New Bankruptcy Law. The New Bankruptcy Law became effective on June 9, 2005 and replaced the current bankruptcy law (Decree-Law No. 7,661/45), and introduced significant innovations in the Brazilian bankruptcy system. In general, the New Bankruptcy Law creates new processes of extra-judicial recovery and judicial recovery (the latter being a replacement for current bankruptcy protection) and introduces other relevant changes in the bankruptcy process. Business owners and business partnerships are subject to the New Bankruptcy Law, including those whose purpose is to operate air services or aviation infrastructure of any kind, and those who are currently prevented from filing for bankruptcy protection.

Through the extra-judicial recovery process, a debtor may ask the judiciary to approve agreements with one or more classifications of creditors or with groups of creditors of the same classification with similar payment terms. The plan may not include credits of a labor or tax nature or those derived from future exchange contracts, leasing agreements or fiduciary agreements. Once approved, the plan will apply to all creditors who adhered to it and will be binding on all creditors included in its scope, even those who did not sign the plan, provided that the debtor obtained the approval of at least three-fifths of the creditors of each class of creditors.

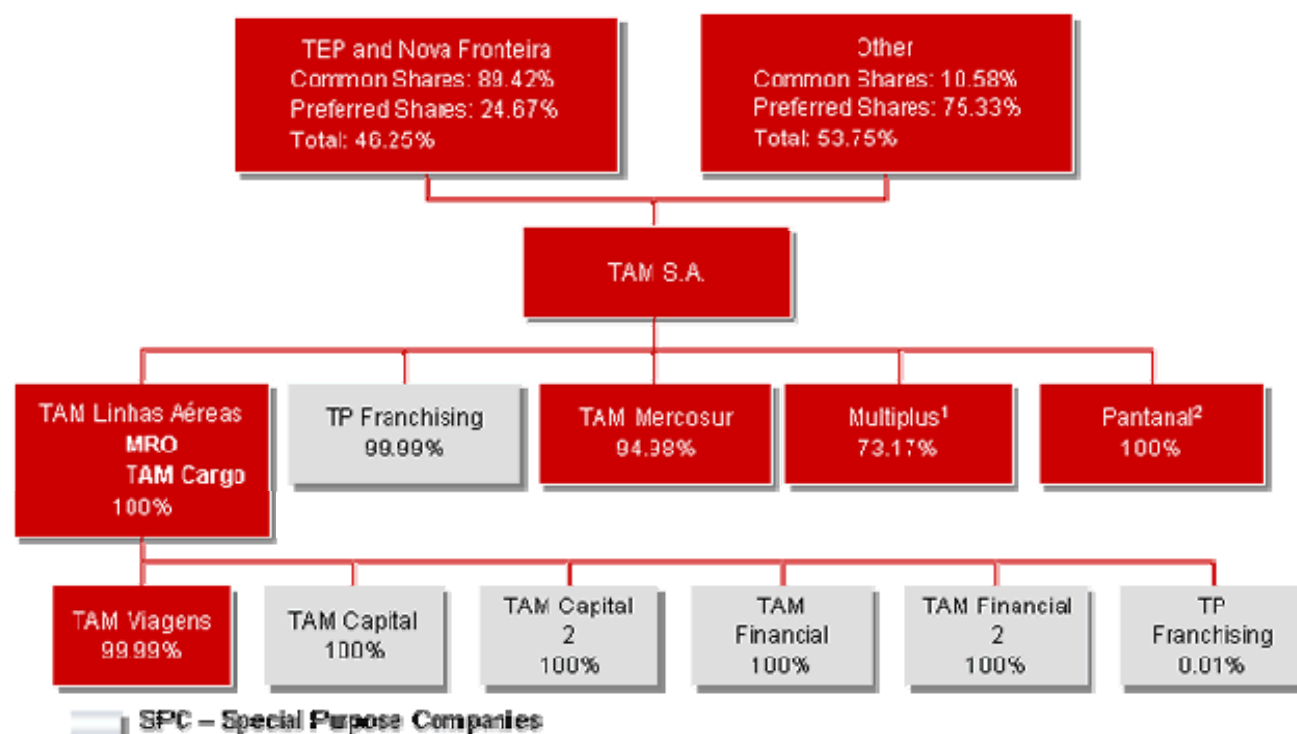
The judicial recovery process consists of judicial action intended to remedy the debtor's financial problems and enable it to continue its operations (provided that the economic feasibility of continuing operations can be proven). Unlike the current Brazilian bankruptcy protection system, which merely covers unauthenticated credits, the judicial recovery process obliges all prior creditors to go to court to recover credits, including labor creditors, except credits of a labor or tax nature or those derived from future exchange contracts, leasing agreements or fiduciary agreements. The recovery plan submitted by the debtor must present a proposal for the payment of debts, indicating the means of recovery to be utilized. In the event that a creditor objects to the plan proposed by the debtor, the judge must call a meeting of the creditors to decide whether to accept or refuse the plan. In the case of refusal, the judge must declare the debtor bankrupt. In the case of acceptance and subsequent granting of judicial recovery, the original obligations of the debtor will be novated.

The principal innovations introduced by the New Bankruptcy Law include (i) the requirement of a minimum amount of credit necessary for the creditor to request the debtor's bankruptcy; (ii) elimination of suspensive bankruptcy protection, (iii) the possibility of a rapid sale of assets (with priority given to sales of blocks of assets), and (iv) an alteration in the order of credit classification.

In the case of judicial recovery and bankruptcy of airlines, the exercise of rights derived from commercial aircraft leasing agreements (or parts thereof) will not be suspended.

### C. Organizational Structure

We currently have 150,585,147 shares, divided into 50,195,049 common shares and 100,390,098 preferred shares. TAM's main shareholders are TAM Empreendimentos e Participações S.A. ("TEP") and Agropecuária Nova Fronteira Ltda. ("Nova Fronteira"), which hold 46.25% of the capital stock of TAM and belong to the Amaro family. See "Item 17 — Related Shareholders and Transactions." We have a 53.75% free float. The organization chart below summarizes TAM's ownership structure. The following organizational chart sets out, in summary form, our shareholder structure and subsidiaries as of the date of this report:



<sup>1</sup> At December 31, 2009, we had 100% ownership in Multiplus. In February 2010, pursuant to an initial public offering conducted by Multiplus, our ownership interests were reduced to 73.17%.

<sup>2</sup> At December 31, 2009, we had acquired 100% ownership in Pantanal pursuant to an agreement signed on December 19, 2009. However, this acquisition was not approved by ANAC until March 18, 2010.

TAM S.A. ("TAM" or "Company") is a joint stock company incorporated on May 12, 1997, whose main corporate purpose is holding direct ownership interests in the capital of companies in the air transportation industry. We hold ownership interests in:

- TAM Linhas Aéreas S.A. ("TLA" or "TAM Linhas Aéreas") is a passenger and cargo transport company with routes in Brazil and internationally. TLA holds ownership interests in:
  - MRO, our maintenance repair and overhaul business.
  - TAM Cargo, a small and large freight cargo company.
  - Fidelidade Viagens e Turismo Ltda. ("Fidelidade"), a travel and tourism company that operates under the name TAM Viagens.
- Transportes Aéreos del Mercosur S.A. ("Mercosur") is an airline headquartered in Asunción, Paraguay, which operates in Paraguay, Argentina, Brazil, Chile, Uruguay and Bolivia.
- TP Participações Ltda. ("TP Participações") changed its name to TP Franchising Ltda. ("TP Franchising") on July 20, 2009, and also modified its corporate purpose. TP Franchising is now dedicated to developing franchises. It has not recorded any corporate transactions since its establishment on October 23, 2004.

- Multiplus S.A. ("Multiplus") is a company that we launched in October 2009 to administer a network of loyalty programs. Multiplus exclusively manages the TAM Loyalty Program. In February 2010, an initial public offering was conducted for Multiplus, reducing our ownership in Multiplus from 100% to 73%.
- Pantanal Linhas Aéreas S.A. ("Pantanal") is an airline headquartered in Brazil. On December 19, 2009, we signed an agreement for the acquisition of all of Pantanal's shares. This acquisition was approved by ANAC on March 18, 2010.

Through our subsidiary, TLA, we also control TAM Capital Inc. ("TAM Capital"), TAM Capital 2 Inc. ("TAM Capital 2"), TAM Financial Services 1 Ltda. ("TAM Financial 1") and TAM Financial Services 2 Ltda. ("TAM Financial 2"). Each of these companies is headquartered in the Cayman Islands and each company's main activities involve aircraft acquisition, financing and debt issuance. We wholly and unconditionally guarantee the debt issued by our wholly-owned companies.

#### **D. Property, Plant and Equipment**

In 2001, we opened our maintenance center in São Carlos, a city in the interior of the state of São Paulo. The maintenance center occupies an area of approximately 4.6 million square meters, with 50,000 square meters of building area. At this maintenance center, we perform maintenance on our aircraft and components, as well as on other Latin American airlines, aircraft and components.

The TAM Service Academy is located in an eight-story building in São Paulo (close to Congonhas Airport) and covers an area of 12,000 square meters. The TAM Service Academy is the largest and most modern aviation training center in Latin America and is dedicated to training pilots, flight attendants and customer service and administrative staff. The TAM Service Academy has the capacity to accommodate over 750 persons training each day.

We have entered into concession agreements with the management of different airports for the use of designated areas to provide services in passenger terminals, including check-in halls, passenger sales and operational support areas. These agreements provide for periodic adjustments in the renewal conditions and amounts paid for the concessions. We also have concessions for the use of hangars and cargo terminals in airports throughout Brazil.

#### **ITEM 4A. UNRESOLVED STAFF COMMENTS**

None.

#### **ITEM 5. OPERATING AND FINANCIAL REVIEW AND PROSPECTS**

The following discussion should be read in conjunction with our consolidated annual financial statements and the notes thereto, which are included elsewhere in this Annual Report and have been prepared in accordance with IFRS. See "Presentation of Financial and Other Data" for a discussion of our adoption of IFRS, with our consolidated annual financial statements as of and for the years ended December 31, 2008 and 2007 being our first IFRS financial statements.

##### **A. Operating Results**

##### **Principal Factors Affecting Our Financial Condition and Results of Operations**

###### *Brazilian macroeconomic conditions*

Our revenues and profitability are affected by conditions in the Brazilian economy in general.

According to ANAC, growth in the Brazilian civil aviation market is closely correlated to growth in Brazilian GDP. In terms of RPKs, the Brazilian domestic flight market increased 19.4% in 2005, 12.3% in 2006, 11.9% in 2007, 7.4% in 2008 and 17.7% in 2009. We believe that Brazilian GDP is an important factor in determining our capacity for future growth and our results of operations.

Inflation levels are now within the target range imposed by the Central Bank on both a current and a 12-month basis. The Central Bank has changed the base interest rate several times in order to keep inflation within this target. For the year ended December 31, 2007, the average base interest rate was 11.9% and the GDP growth for that year was 5.4%. For the year ended December 31, 2008, the base interest rate was 15.1% and the GDP growth for that year was 5.1%. For the year ended December 31, 2009, the base interest rate was 8.55% and the GDP for that year was 4.9%.

#### ***Effects of exchange rate variations and inflation on our financial condition and results of operations***

Our financial condition and results of operations have been historically affected by variations in exchange rates and the rate of Brazilian inflation. Our expenses (such as fuel expenses, lease obligations, aircraft insurance, engine maintenance and related expenses) are principally denominated in U.S. dollars or are linked to the U.S. dollar. In 2009, 2008 and 2007, approximately 48%, 54% and 50%, respectively, of our operating expenses were either denominated in or linked to the U.S. dollar. By contrast, most of our revenues are received in *reais*. We are therefore exposed to fluctuations in the U.S. dollar/Brazilian *real* exchange rate. In 2009, 36.6% of our revenues were denominated in U.S. dollars, compared to 35% in 2008 and 32% in 2007. We have a policy of hedging changes in fuel prices by means of derivative transactions. From 2006 through 2009, we routinely hedged between 30% and 80% of our future fuel requirements (over rolling 24-month periods). Due to new market and macroeconomic conditions, we decided to modify this policy. We now plan to hedge our fuel requirements over rolling 24-month periods with between 20% and 60% of our future fuel requirements hedged over the first 12 months, and 10% to 60% hedged over the second 12 months.

Inflation has historically had an impact on our financial conditions and results of operations and it continues to do so. Our suppliers of services and certain products related to our operating expenses generally utilize the IPCA index to adjust their prices for inflation. Approximately 52%, 46% and 50% of our operating expenses were linked to inflation in 2009, 2008 and 2007, respectively. A substantial increase in inflation could adversely affect the amount of our expenses.

The table below sets forth certain data relating to inflation, real GDP growth rates, the Brazilian *real*/U.S. dollar exchange rate and oil prices for the periods indicated:

	Year Ended December 31,		
	2009	2008	2007
Real growth in GDP	(0.2)%	5.1%	5.4%
Inflation (IGP-M)	(1.7)%	9.8%	7.7%
Inflation (IPCA)	4.3%	5.9%	4.5%
DI Rate <sup>(1)</sup>	8.55%	13.62%	11.12%
LIBOR <sup>(2)</sup>	0.25%	1.43%	4.70%
Appreciation (depreciation) of the Brazilian real in relation to the dollar	34.22%	(24.2)%	20.7%
Rate of exchange at end of period — U.S.\$1.00	R\$1.7412	R\$2.337	R\$1.7713
Average exchange rate <sup>(3)</sup> — U.S.\$1.00	R\$1.998	R\$1.837	R\$1.9441
Increase in West Texas Intermediate oil price (per barrel)	78.1%	(53.5)%	57.2%
West Texas Intermediate oil (per barrel) (end of period)	U.S.\$79.40	U.S.\$44.60	U.S.\$95.98
West Texas Intermediate oil (per barrel) (average price over period)	U.S.\$61.80	U.S.\$99.75	U.S.\$72.41

(1) The DI Rate corresponds to the overnight interest rate for the interbank market in Brazil (as of the last day of the period, annualized).

(2) Quarterly LIBOR for dollar deposits relative to last day of period.

(3) Represents average daily exchange rates in period.

Sources: *Getúlio Vargas Foundation (Fundação Getúlio Vargas, or FGV), CETIP, Brazilian Geography and Statistics Institute (Instituto Brasileiro de Geografia e Estatística, or IBGE), Central Bank and Bloomberg.*

#### ***Role of ANAC***

ANAC can influence our capacity for growth and our ability to generate future revenues. ANAC has the authority to grant Brazilian airlines the right to operate new domestic routes, increase the frequency of flights serving existing routes, award slots, purchase or lease aircraft and approve the entry of new companies into the domestic civil aviation market.

#### ***Revenues***

Our revenues arise principally from passenger transportation. In the years ended December 31, 2009, December 31, 2008 and December 31, 2007, our operating revenues were derived from the following sources:



- 80.4%, 82.3% and 83.5%, respectively, from passenger transportation service;
- 9.2%, 9.2% and 9.3%, respectively, from cargo service; and
- 10.4%, 8.5% and 7.2%, respectively, from services and maintenance of aircraft operated by other airlines, receipt of fines and fees in relation to re-pricing of air fares and sub-leasing, together with revenue from credit card companies that purchase TAM Loyalty Program points to pass on to their customers.

Revenue from passenger transportation is driven by the number of paying passengers we transport, measured in revenue passenger kilometers, or RPKs, and the price those passengers pay, measured in the *centavos* price paid for each RPK, or yield. RPKs increase either as a function of increased capacity, measured in ASKs, or an increase in load factor, measured as increased RPK in relation to available ASKs.

Our competitors' activities, such as a reduction in the number of flights operated by Varig throughout a year, can also present market opportunities to generate revenue. New airlines entering the market and the ticket pricing policies employed by our competitors can also affect our revenues. Accordingly, we are continuously evaluating the number of flights we offer and the size of our fleet.

The following table sets forth our supply and demand, load factor and scheduled domestic yield for the periods indicated:

	Year Ended December 31,		
	2009	2008	2007
ASKs (millions)	64,720	57,091	47,599
RPKs (millions)	44,148	40,518	33,500
Load factor	68.2%	71.0%	70.4%
Scheduled domestic yield in centavos	21.90	26.71	23.42
Scheduled international yield in centavos	14.24	16.86	17.66

We use RASK (revenue per ASK) as one of our key performance indicators because we believe it enables us to evaluate the balance between load factor and yield and thereby allows us formulate our strategy regarding pricing more accurately.

#### ***Sales taxes and other deductions***

We deduct the following taxes and tariffs:

#### ***PIS and COFINS***

The *Programa de Integração Social* (Social Integration Program, or PIS) and the *Contribuição para o Financiamento de Seguridade Social* (Contribution for the Financing of Social Security, or COFINS) taxes are federal social contribution taxes assessed on gross operating revenues. In respect of passenger transportation revenues, the applicable rates of PIS and COFINS are 0.65% and 3%, respectively. In respect of cargo transportation and other revenues (except financial income), the applicable rates of PIS and COFINS are 1.65% and 7.60%, respectively (increased from 0.65% and 3% respectively in January 2003 and February 2004). International revenues are exempt from PIS and COFINS.

Separately, TAM Mercosur is required to pay 1% of its revenues arising from on-line ticket sales and cargo sales under a Paraguayan tax referred to as the "assumed income" tax.

#### ***ICMS***

The *Imposto sobre Operações Relativas à Circulação de Mercadorias e sobre Serviços de Transporte Interestadual e Intermunicipal e de Comunicação, ainda que as Operações se Iniciem no Exterior* (Tax on the Circulation of Merchandise and Services, or ICMS) is a value-added state tax on gross operating revenues from the transportation of cargo. ICMS is charged for each stage in the chain of production and sale of products, at rates varying from 4% to 1.9% (depending on the product and the state where the service is rendered).

*ISS*

The *Imposto Sobre Serviços* (Tax on Services, or ISS) is a municipal tax assessed at rates varying from 2% to 5% of our gross operating service revenues. We are required to pay ISS.

*Tariff surcharge*

We are subject to a specific civil aviation industry contribution, referred to as a "tariff surcharge", that the government collects (but for which we have only made provisions, and not paid, since 2001) monthly at the rate of 1.0% of our domestic revenues. We have filed an injunction to suspend our obligation to pay this tariff surcharge.

*Operating expenses*

The principal components of our operating expenses include personnel, fuel, depreciation and amortization, maintenance and repairs (excluding personnel), aircraft insurance, take-off, landing and navigational aid charges, leasing of aircraft, engine and equipment under operating leases, third party services, marketing and related expenses and other expenses.

Personnel expenses vary with the number of employees, our salary policy, collective bargaining agreements and profit-sharing programs, as well as the number of hours flown by all crew members. The base date relating to renegotiations of the collective bargaining agreements with our employees is December of each year. Accordingly, any salary adjustments will be almost fully reflected in the following year.

Fuel expenses vary depending on the international petroleum market and the size and utilization of our fleet. From January 1, 2003 to December 31, 2009, the price of West Texas Intermediate oil, the reference price used internationally to price oil, quoted in dollars, increased 149.2%, from U.S.\$31.85 per barrel to U.S.\$79.36 per barrel. From January 1, 2008 to December 31, 2008, the price of West Texas Intermediate ("WTI") oil, quoted in dollars, decreased 53.5% from U.S.\$95.98 per barrel to U.S.\$44.60 per barrel, but increased to U.S.\$150 per barrel in the middle of that year. From January 1, 2009 to December 31, 2009, the price of WTI oil, quoted in dollars, increased by 71.3% from U.S.\$46.34 per barrel to U.S.\$79.36 per barrel. Because the price of oil is quoted in U.S. dollars, our fuel expenses are also affected by exchange rate variations. In past years, we have succeeded in passing on the increase in fuel prices and exchange rate variations to passengers by increasing our ticket prices, albeit with a delay of several months. However, in 2009, due to the financial crisis and market competition, prices have not readjusted. Prevailing market conditions may lead to difficulties in adjusting our prices. We have entered into derivative transactions to hedge against certain oil price and exchange rate variations. See "Item 11. Quantitative and Qualitative Disclosures About Market Risk."

In the case of domestic destinations, the price variances are mainly because different states in Brazil apply different rates of value-added tax to fuel (which is not passed on to end consumers). In the case of international destinations, the price variances reflect movements in the cost of oil on the international petroleum markets (which is itself driven by international commodity price variances), logistic costs and airport taxes on fuel. In both cases, we believe that the factors highlighted will continue to drive fuel price variances in the future and, accordingly, that the fuel tanker program will continue to reduce expenses.

We implemented the fuel tanker program to reduce expenses by obtaining fuel at lower prices at certain airports. Our fuel tanker program operates as follows: if the airport of origin has fuel available at a lower price than at the destination airport, we purchase more fuel at the airport of origin, minimizing refueling at the destination airports where fuel is more expensive. The price difference between airports must be significant enough to offset the additional costs incurred from the aircraft consuming more fuel due to its added weight from carrying the extra fuel. Our systems allow us to calculate the reduction in expenses on a daily basis.

Depreciation and amortization expenses principally relate to aircraft, engines, systems and spare parts and vary depending on the useful life of these components.

Maintenance and repairs (excluding personnel) expenses consist of corrective and preventive work performed on our aircraft and flight equipment and include spare parts for aircraft. These expenses are posted to our accounts as operating expenses as such parts are utilized. Maintenance expenses vary according to the level of utilization of the fleet.

Aircraft insurance expenses increase in proportion to the size of our fleet, the number of passengers we transport and the number of landings we perform (in addition to the classification of our fleet risk by our insurers). These expenses are also affected by variations in the exchange rate, because we purchase insurance in foreign currency. Our operating and finance lease agreements require us to keep the relevant aircraft insured.

Take-off, landing and navigational aid charges include aircraft parking and overflight fees and vary according to the volume of our operations and airfare adjustments established by the Brazilian Federal Airport Infrastructure Company, or INFRAERO, state and international authorities. These expenses are also affected by variations in the exchange rate because international tariffs are charged in foreign currencies.

The expenses incurred in the leasing of aircraft, engine and equipment under operating leases are denominated in foreign currencies and increase in proportion to the size of our fleet. These expenses are affected by variations in the exchange rate and in LIBOR. See "Item 11. Quantitative and Qualitative Disclosures About Market Risk."

Expenses relating to third party services include airport ground-support services, GDS (or Global Distribution System, an electronic passenger distribution system) expenses and airport-utilization concession expenses. Third-party expenses vary mainly according to the volume of our operations. Since implementation of the e-TAM portal in September 2004, our GDS utilization expenses have been substantially reduced in relation to domestic reservations. At December 31, 2009, domestic reservations made via the e-TAM portal accounted for approximately 97.6% of all domestic reservations, compared to approximately 95.1% at December 31, 2008 and 94.9% at December 31, 2007.

The principal components of our marketing and related expenses are: commission for travel and cargo agents, as compensation for the sale of tickets, and cargo shipping (paid directly to the relevant agencies); and other marketing and related expenses, principally credit card administration fees.

Other expenses include those relating to the provision of in-flight services, which vary principally as a function of the volume of passengers we carry on domestic and international flights, and general administrative expenses.

***Movements in fair value of fuel derivatives***

In this line item, the changes in the fair value of fuel derivative instruments are recognized. While we use derivatives to mitigate the economic effects of international petroleum prices, we do not apply hedge accounting.

***Gains / (losses) on revaluation of aircraft recognized in the income statement***

In this line item, the changes in the fair value of aircraft and flight equipment are recognized. The valuations are based on observable market prices for aircraft and flight equipment on an annual basis or more frequently if significant changes are observed in market prices. In the international market, aircraft and flight equipment prices are measured and denominated in U.S. dollars. In our financial statements, we record our aircraft and flight equipment in Brazilian *reais*, which is our functional currency and the currency in which we present our financial statements. As a result, while the U.S. dollar market price of a specific aircraft or piece of flight equipment may remain the same over time, because of fluctuations in the exchange rate between the U.S. dollar and Brazilian *real*, the amount we record in Brazilian *reais* in our financial statements may change. If the fair value of aircraft or flight equipment as of a certain date is lower than its historical cost, we recognize a loss in our income statement. If the fair value subsequently increases, we revert that loss up to the extent originally recognized.

### ***Net finance results***

Our finance costs are mainly impacted by the exchange rate variation as most of our liabilities is in foreign currency. The interest expense, another component of the financial expenses, increase according to our outstanding liabilities. The *Contribuição Provisória sobre Movimentação ou Transmissão de Valores e de Créditos e Direitos de Natureza Financeira* (Provisional Contribution to the Movement or Transfer of Securities and Financial Credits and Rights, or CPMF) included in our financial expenses was a 0.38% federal tax levied on every debit transaction occurring in a bank account. However, as of January 1, 2008, CPMF was no longer in force, as the Brazilian Senate did not approve the Constitutional Amendment which would extend the term of CPMF collection. Therefore, CPMF should not be levied on any debit to bank accounts carried out after such date.

### ***Taxes***

#### ***IRPJ and CSLL***

We are subject to the *Imposto de Renda Pessoa Jurídica* (Income Tax, or IRPJ) and the *Contribuição Social Sobre Lucro Líquido* (Social Contribution on Net Income, or CSLL), which together can require us to pay up to 34% of our adjusted net income (referred to as real income). These taxes are divided up as follows (i) applicable income tax of 15%, (ii) additional income tax of 10% (applicable to that portion of our results that exceeds R\$240,000 per year), and (iii) CSLL, which requires that we pay 9% of our taxable income.

### **Non-controlling interest**

The government of Paraguay holds a 5.02% equity interest in TAM Mercosur's capital stock. We acquired TAM Mercosur in September 2003. The amounts corresponding to the interest held by the Paraguayan government vary as a function of TAM Mercosur's results.

### **Critical accounting estimates and judgments**

Estimates and judgments are continually evaluated and are based on historical experience and other factors, including expectations of future events that are believed to be reasonable under the circumstances. Accounting estimates will, by definition, seldom equal the related actual results. The estimates and assumptions that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year are discussed below.

### **Revenue recognition**

According to IFRIC 13, revenue recognized in respect of the TAM Loyalty Program is deferred based on the estimated fair value of the points awarded to passengers. The fair value is determined based on a weighted average of the value of points sold to commercial partners, and the value of free tickets awarded to passengers. Revenue deferral also depends on the number of points estimated to be forfeited when they expire after two years, and this is based on historical forfeiture rates. In 2009, the Company adopted formally IFRIC 13, and its adoption did not generate impacts on the Company's financial statements.

### **Deferred taxes**

TAM recognizes deferred income tax assets and liabilities based on the differences between the carrying amounts shown in the financial statements and the tax basis of the assets and liabilities, using prevailing tax rates. TAM regularly reviews deferred tax assets for recoverability, taking into account historical income generated and projected future taxable income based on a study of technical viability.

### **Contingencies**

TAM is currently involved in various judicial and administrative proceedings. Contingencies are recognized for all judicial proceedings that represent probable losses. The probability of loss is valued based on available evidence, including the views of internal and external legal counsel. TAM believes that these contingencies are properly recognized in the financial statements.

### Financial instruments used to mitigate the risks of variations in jet fuel prices

TAM records the financial instruments used to mitigate the risks of variations in jet fuel prices at their fair market value based on market quotations for similar instruments. Derivative financial instruments are used in order to mitigate the risk against variations in fuel prices.

TAM does not apply hedge accounting to its derivatives. If TAM were to apply hedge accounting, it would affect the timing of recognition of gains and losses in the income statement, but would not affect the underlying economic effects of the derivative contracts.

### Carrying value of flight equipment

TAM's flight equipment is included in the financial statements at fair value based on valuations. The valuations are based on observable market prices denominated in U.S. dollars. The method by which we calculate fair value of flight equipment is described above in "Item 5. Operating and Financial Review and Prospects - A. Operating Results - Principal Factors Affecting our Financial Condition and Results of Operation - Gains/(losses) on revaluation of aircraft recognized in the income statement".

The carrying value is further affected by the aircraft and engines' estimated useful economic lives, which is based on expected usage and current technology and environmental regulations.

### Year ended December 31, 2009 compared to year ended December 31, 2008

The figures set forth in the table below are expressed in both millions of *reais* and *centavos* and have been subject to rounding adjustments. Accordingly, additions or divisions of certain figures may not be an arithmetic aggregation of the totals and the actual sum of percentage variations may differ from those indicated.

IFRS	Year ended December 31,						% Net Operational Income 2009
	2009	2008	Variation (%)	2009	2008	Variation (%)	
	<i>(in cents of R\$ per ASK)</i>			<i>(in millions of R\$)</i>			
Domestic	8.45	10.79	(21.7)	5,468.6	6,162.5	(11.3)	56.0
International	4.15	4.94	(16.1)	2,684.0	2,822.6	(4.9)	27.5
Cargo	1.45	1.77	(18.2)	936.3	1,009.1	(7.2)	9.6
Other	1.62	1.62	0.0	1,050.2	926.0	13.4	10.8
Sales taxes and other deductions	(0.58)	(0.71)	(19.0)	(373.6)	(407.1)	(8.2)	(3.8)
<b>Revenue</b>	<b>15.09</b>	<b>18.41</b>	<b>(18.1)</b>	<b>9,765.5</b>	<b>10,513.1</b>	<b>(7.1)</b>	<b>100</b>
<b>Operating expenses</b>							
Personnel	(3.07)	(3.12)	(1.7)	(1,985.2)	(1,782.0)	11.4	(20.3)
Fuel	(4.24)	(6.88)	(38.4)	(2,741.3)	(3,927.9)	(30.2)	(28.1)
Depreciation and amortization	(0.99)	(0.81)	23.0	(642.4)	(460.7)	39.4	(6.6)
Maintenance and repairs (excluding personnel)	(0.99)	(0.91)	9.0	(640.4)	(518.3)	23.6	(6.6)
Aircraft insurance	(0.10)	(0.08)	17.6	(63.7)	(47.8)	33.3	(0.7)
Take-off, landing and navigation aid charges	(0.91)	(0.87)	4.3	(585.9)	(495.4)	18.3	(6.0)
Leasing of aircraft, engine and equipment under operating leases	(0.85)	(0.78)	9.4	(549.8)	(443.4)	24.0	(5.6)
Third party services	(1.22)	(1.23)	(1.0)	(787.6)	(701.8)	12.2	(8.1)
Marketing and related expenses	(1.32)	(1.73)	(23.7)	(854.7)	(988.6)	(13.5)	(8.8)
Other	(1.15)	(1.03)	11.7	(745.0)	(588.1)	26.7	(7.6)
<b>Total operating expenses</b>	<b>(14.83)</b>	<b>(17.44)</b>	<b>(15.0)</b>	<b>(9,595.8)</b>	<b>(9,954.1)</b>	<b>(3.6)</b>	<b>(98.3)</b>
<b>Operating profit before movements in fair value of fuel derivatives and revaluation of aircraft</b>							
Movements in fair value of fuel derivatives	0.26	0.98	(73.5)	169.7	558.9	(69.6)	1.7
Gains/(losses) on revaluation of aircraft recognized in the income statement	(1.87)	0.42	N.A.	(1,207.6)	242.4	N.A.	(12.4)
<b>Operating (loss)/profit</b>	<b>(1.11)</b>	<b>(0.83)</b>	<b>N.A.</b>	<b>(721.1)</b>	<b>(472.2)</b>	<b>52.7</b>	<b>(7.4)</b>
Finance income	3.73	2.47	5.10	2,412.7	1,410.4	71.1	24.7
Finance costs	(1.61)	(5.27)	N.A.	(1,041.4)	(3,006.2)	(65.4)	(10.7)
<b>Profit / (loss) before income and social contribution</b>	<b>(1.01)</b>	<b>(3.62)</b>	<b>N.A.</b>	<b>650.2</b>	<b>(2,068.0)</b>	<b>N.A.</b>	<b>6.7</b>
Income tax and social contribution	0.33	1.11	(70.3)	(212.8)	634.2	N.A.	(2.2)
<b>Profit / (loss) after tax (all continuing operations)</b>	<b>0.67</b>	<b>(2.51)</b>	<b>N.A.</b>	<b>437.4</b>	<b>(1,433.8)</b>	<b>N.A.</b>	<b>4.5</b>
Attributable to							
Non-controlling interest	0.00	0.00	N.A.	1.7	0.9	88.9	0.0
Equity holders of TAM	0.67	(2.51)	N.A.	435.7	(1,434.6)	N.A.	4.5

### ***Domestic***

Domestic passenger demand decreased by 11.3% to R\$5,469 million in 2009, compared to R\$6,162 million in 2008. This was due to a decrease in our scheduled domestic yield from 26.7 *centavos* in 2008 to 21.9 *centavos* in 2009 caused by the global economic crisis. The decrease was also partially due to a 2.7% decrease in our domestic load factor, from 68.1% in 2008 to 65.4% in 2009. The domestic load factor decrease was due to a 10.8% increase in ASKs, but only a 6.4% increase in demand for our domestic flights.

### ***International***

International passenger demand decreased by 4.9% to R\$2,684 million in 2009, compared to R\$2,823 million in 2008. This was due to a decrease in our scheduled international yield from 16.9 *centavos* in 2008 to 14.2 *centavos* in 2009 caused by the global economic crisis (expressed in U.S. dollars, our scheduled international yield decreased from 9.2 cents in 2008 to 7.1 cents in 2009). The decrease was also partially caused by a 3.1% decrease in our international load factor, from 75.5% in 2008 to 72.4% in 2009. The international load factor decrease was caused by a 17.4% increase in ASKs, but only a 12.5% increase in RPKs. RPK's increased due to our launch of new international routes in the United States, including flights to Miami and New York from Rio de Janeiro and to Orlando from São Paulo.

### ***Cargo***

Cargo business decreased by 7.2% to R\$936 million in 2009, compared to R\$1,009 million in 2008, due to the global economic crisis causing a slowdown in the overall economy and impacting the volume of shipments from companies.

### ***Other***

Other business increased by 13.4% to R\$1,050 million in 2009, compared to R\$926 million in 2008, primarily due to an increase in revenues from the TAM Loyalty Program. This increase is due to the increase in the number of points sold to our partners. It is also due to the increase in the average foreign exchange rate which impacts the number of points sold to financial institutions because those points are denominated in U.S. dollars, causing the price of the points to vary with the foreign exchange rate.

### ***Sales taxes and other deductions***

Sales taxes and other deductions decreased by 8.2% to R\$374 million in 2009, compared to R\$407 million in 2008, due to a decrease principally in the domestic and cargo businesses.

### ***Net Revenue***

Our revenue decreased by 7.1% to R\$9,766 million in 2009, compared to R\$10,513 million in 2008 due to the decrease in both passenger and cargo revenues, partially offset by the increase in other business. The total RASK decreased by 18.1% to R\$15.1 in 2009, as a result of the increase of 13.4% in the total ASKs, combined with the decrease in net revenue. Our scheduled domestic RASK decreased 21.5% to R\$13.4 in 2009 from R\$17.1 in 2008. Our scheduled international RASK decreased by 19.1%, from R\$12.8 in 2008 to R\$10.3 in 2009.

### ***Operating expenses***

Our operating expenses decreased by 3.6% to R\$9,596 million in 2009, compared to R\$9,954 million in 2008. This decrease is due to the decrease in fuel expenses and marketing and related expenses, partially offset by an increase in leasing of aircraft; engine and equipment expenses under operating leases, personnel expenses, maintenance and repairs (excluding personnel) expenses, third-party services expenses, take off, landing and navigation aid charges, depreciation and amortization expenses, aircraft insurance expenses and other expenses.

Personnel expenses increased by 11.4% to R\$1,985 million in 2009, compared to R\$1,782 million in 2008, primarily due to the increase of 4.7% in the average number of employees in 2009 compared to the average in 2008 and the 6.1% increase in wages. Personnel expenses per ASK decreased by 1.7%.

Fuel expenses decreased by 30.2% to R\$2,741 million in 2009 compared to R\$3,928 million in 2008, due to a 35.5% decrease in the average fuel price per liter, a decrease of 38.0% in the average price of fuel related to the decrease in the average price per barrel of West Texas Intermediate (WTI) oil, which was U.S.\$99.6 per barrel in 2008 and U.S.\$61.8 per barrel in 2009, and a 61.1% increase in the average stage length. This overall decrease was partially offset by the 8.9% depreciation of the Brazilian *real* against the U.S. dollar. Fuel expenses per ASK decreased by 38.4%.

Depreciation and amortization expenses increased by 39.4% to R\$642 million in 2009, compared to R\$461 million in 2008, primarily due to the average increase of 24.5% in the number of capital leased aircraft on our balance sheet and also due to the 8.9% depreciation of the Brazilian *real* against the U.S. dollar.

Maintenance and repairs (excluding personnel) expenses increased by 23.6% to R\$640 million in 2009, compared to R\$518 million in 2008, primarily due to the increase of 8.2% in the flown hours and the 8.9% depreciation of the Brazilian *real* against the U.S. dollar. Maintenance and repairs per ASK increased by 9.0%

Aircraft insurance expenses increased by 33.3% to R\$64 million in 2009, compared to R\$48 million in 2008, primarily due to the increase in our total fleet combined with the 8.9% depreciation of the Brazilian *real* against the U.S. dollar. Aircraft insurance per ASK increased by 17.6%.

Take-off, landing and navigation aid charges increased by 18.3% to R\$596 million in 2009, compared to R\$495 million in 2008, primarily due to an increase in navigation charges related to a 10.0% increase in flown kilometers. Take-off, landing and navigation charges per ASK also increased due to the increase of 3.7% in the number of take-offs and landings. Also, all charges for international flights are denominated in U.S. dollars and the *real* depreciation of 8.9% impacted these expenses. Take-off, landing and navigation chargers per ASK increased by 4.3%.

Leasing of aircraft, engine and equipment expenses under operating leases increased by 24.0% to R\$550 million in 2009, compared to R\$443 million in 2008, due to the net increase in the number of leased operating aircraft in our average 2009 fleet compared to our 2008 fleet and the Brazilian *real* depreciation of 8.9% against the U.S. dollar. Leasing of aircraft, engine and equipment expenses under operating leases per ASK increased by 9.4%.

Third party services expenses increased by 12.2% to R\$788 million in 2009, compared to R\$702 million in 2008, primarily due to the increase of expenses linked to our operations, which grew 13.4% in ASKs. Third party services per ASK decreased by 1.0%.

Marketing and related expenses decreased by 13.5% to R\$855 million in 2009 compared to R\$989 million in 2008. This decrease primarily resulted from the decrease in our international passenger and cargo business, where commercial expenses, principally commissions, are higher. Marketing and related expenses represented 8.8% of our total net revenue in 2009 compared to 9.4% in 2008, a reduction of 0.7 percentage points.

Other expenses increased by 26.7% to R\$745 million in 2009, compared to R\$588 million in 2008, primarily due to the increase of expenses linked to our operations, which grew 13.4% in ASKs, combined with certain non-recurring expenses related to our entrance into the Star Alliance. Other operating expenses per ASK increased by 11.7%.

In line with our strategy of increasing productivity, we also intend to achieve an improved RASK minus CASK spread. To achieve this goal, we plan to increase our fleet, the daily utilization of our aircraft and renegotiate our small and mid-sized contracts to lower our fixed costs. Joining the Star Alliance has helped us reduce the number of internal systems we use, which lowered our maintenance, service and spare parts costs. We are seeking to optimize our maintenance plan by conducting maintenance operations during the night when costs are lower and we are reducing credit card fees by increasing the number of payment methods on our website. We are still susceptible to fluctuations in fuel prices, which remains a key factor in our ability to achieve our desired results. Additionally, the exchange rate variation between the Brazilian *real* and the U.S. dollar has recently begun to fluctuate inconsistently. If the U.S. dollar strengthens significantly against the Brazilian *real*, our results may be negatively impacted.

***Movements in fair value of fuel derivatives***

Fuel derivatives gains (losses) was a gain of R\$317 million in 2009, compared to a loss of R\$1,274 million in 2008, mainly due to the mark to market of the WTI price, which closed 2008 at a price of U.S.\$44.60, compared to a 2009 closing price of U.S.\$79.36.

***Gains (losses) on the revaluation of aircraft recognized in the income statement***

At December 31, 2008, we recognized a gain of R\$242 million due to aircraft for which revaluation decreases had previously been recognized in our income statements. At December 31, 2009, we recognized a loss of R\$1,208 due to aircraft for which the fair value is lower than the historical cost of those aircraft. As described above, in the international market, aircraft and flight equipment are measured and denominated in U.S. dollars, but we record these items in Brazilian *reais* in our financial statements. The change in the exchange rate from R\$2.337 per U.S. dollar at December 31, 2008 to R\$1.7412 per U.S. dollar at December 31, 2009 was the main reason we recognized a loss on revaluation in 2009.

***Net finance income / (costs)***

Our net finance income / (costs) was R\$1,371 million in 2009, compared to an expense of R\$1,596 million in 2008, principally due to the effect of exchange variations in 2008 and 2009.

Interest income from financial investments decreased 57.4% to R\$82 million in 2009, compared to R\$193 million in 2008, principally because we held less cash amounts on average during the year and received a lower average interest rate on that cash. As of December 31, 2009, our financial investments amounted to R\$1,011 million, compared to R\$1,242 million as of December 31, 2008.

Exchange variation was a gain of R\$1,722 million in 2009, compared to an expense of R\$1,258 million in 2008. This increase principally relates to the strengthening of the Brazilian *real* against the U.S. dollar (R\$2.34 per U.S. dollar at December 31, 2008 and R\$1.74 per U.S. dollar at December 31, 2009). This increase mainly impacted the capital leases on our balance sheet that are denominated in U.S. dollars.

Interest expenses decreased 21.3% to R\$422 million in 2009, compared to R\$536 million in 2008, principally due to the reduction in LIBOR, which impacts the capital leases on our balance sheet.

***Income tax and social contributions***

Income tax and social contributions was R\$213 million in 2009, compared to a credit of R\$634 million in 2008. The credit related to losses that occurred in 2008. Our effective rate of income tax and social contributions was 32.7% in 2009, compared to 30.7% in 2008.

***Profit / (loss) after tax***

As a result of the factors discussed above, we recorded a gain after tax (all continuing operations) of R\$437 million in 2009, compared to a loss of R\$1,434 million in 2008. This was principally due to the exchange variation increase of R\$1,722 million in 2009 and the movements in the fair value of fuel derivatives. The overall gain was partially offset by losses on the revaluation of aircraft recognized in our income statement.



## Year ended December 31, 2008 compared to year ended December 31, 2007

The figures set forth in the table below are expressed in both millions of *reais* and *centavos* and have been subject to rounding adjustments. Accordingly, additions or divisions of certain figures may not be an arithmetic aggregation of the totals and the actual sum of percentage variations may differ from those indicated.

IFRS	Year ended December 31,						% Net Operational Income 2008
	2008	2007	Variation (%)	2008	2007	Variation (%)	
		<i>(in cents of R\$ per ASK)</i>			<i>(in millions of R\$)</i>		
Domestic	10.79	10.16	6.2	6,162.5	4,833.9	27.5	58.6
International	4.94	4.47	10.5	2,822.6	2,129.7	32.5	26.8
Cargo	1.77	1.63	8.6	1,009.1	776.8	29.9	9.6
Other	1.62	1.23	31.7	926.0	587.6	57.6	8.8
Sales taxes and other deductions	(0.71)	(0.65)	9.2	(407.1)	(309.3)	31.6	(3.9)
<b>Revenue</b>	<b>18.41</b>	<b>16.85</b>	<b>9.3</b>	<b>10,513.1</b>	<b>8,018.7</b>	<b>31.1</b>	<b>100.0</b>
<b>Operating expenses</b>							
Personnel	(3.12)	(2.75)	13.5	(1,782.0)	(1,309.7)	36.1	(17.0)
Fuel	(6.88)	(5.33)	29.1	(3,927.9)	(2,536.4)	54.9	(37.4)
Depreciation and amortization	(0.81)	(0.52)	55.8	(460.7)	(249.5)	84.6	(4.4)
Maintenance and repairs (excluding personnel)	(0.91)	(0.94)	(3.2)	(518.3)	(445.8)	16.3	(4.9)
Aircraft insurance	(0.08)	(0.07)	14.3	(47.8)	(33.6)	42.3	(0.5)
Take-off, landing and navigation aid charges	(0.87)	(0.88)	(1.1)	(495.4)	(421.0)	17.7	(4.7)
Leasing of aircraft, engine and equipment under operating leases	(0.78)	(1.05)	(25.7)	(443.4)	(501.1)	(11.5)	(4.2)
Third party services	(1.23)	(1.15)	7.0	(701.8)	(549.0)	27.8	(6.7)
Marketing and related expenses	(1.73)	(2.05)	(15.6)	(988.6)	(975.1)	1.4	(9.4)
Other	(1.03)	(1.42)	(27.5)	(588.1)	(677.3)	(13.2)	(5.6)
<b>Total operating expenses</b>	<b>(17.44)</b>	<b>(16.17)</b>	<b>7.9</b>	<b>(9,954.1)</b>	<b>(7,698.5)</b>	<b>29.3</b>	<b>(94.7)</b>
<b>Operating profit before movements in fair value of fuel derivatives and revaluation of aircraft</b>	<b>0.98</b>	<b>0.67</b>	<b>46.3</b>	<b>558.9</b>	<b>320.3</b>	<b>74.5</b>	<b>5.3</b>
Movements in fair value of fuel derivatives	(2.23)	0.27	N.A.	(1,273.5)	130.4	(1076.6)	(12.1)
Gains/(losses) on revaluation of aircraft recognized in the income statement	0.42	(0.47)	N.A.	242.4	(224.7)	N.A.	2.3
<b>Operating (loss)/profit</b>	<b>(0.83)</b>	<b>0.47</b>	<b>N.A.</b>	<b>(472.2)</b>	<b>226.1</b>	<b>N.A.</b>	<b>(4.5)</b>
Finance income	2.47	2.12	16.5	1,410.4	1,006.9	40.1	13.4
Finance costs	(5.27)	(1.59)	231.4	(3,006.2)	(755.2)	298.1	(28.6)
<b>Profit / (loss) before income and social contribution</b>	<b>(3.62)</b>	<b>1.00</b>	<b>N.A.</b>	<b>(2,068.0)</b>	<b>477.7</b>	<b>N.A.</b>	<b>(19.7)</b>
Income tax and social contribution	1.11	(0.31)	N.A.	634.2	(145.9)	N.A.	6.0
<b>Profit / (loss) after tax (all continuing operations)</b>	<b>(2.51)</b>	<b>0.70</b>	<b>N.A.</b>	<b>(1,433.8)</b>	<b>331.8</b>	<b>N.A.</b>	<b>(13.6)</b>
Attributable to							
Non-controlling interest	0.00	0.00	N.A.	0.9	0.2	350.0	0.0
Equity holders of TAM	(2.51)	0.70	N.A.	(1,434.6)	331.6	N.A.	(13.6)

### Domestic

Domestic passenger demand increased by 28% to R\$6,163 million in 2008, compared to R\$4,834 million in 2007. A 15% increase in availability of ASKs, compared to only an 11% increase in demand for our domestic flights, as measured in RPKs, resulted in a 2.3 percentage point decrease in our domestic load factor, from 70.3% in 2007 to 68.1% in 2008. This increase in demand was combined with a 14% increase in our scheduled domestic yield to 26.71 *centavos* in 2008 from 23.42 *centavos* in 2007, due to less intense price competition in the domestic market.

### International

International passenger demand increased by 33% to R\$2,823 million in 2008, compared to R\$2,130 million in 2007. This was caused by a 29% increase in availability of ASKs and a 38% increase in demand for our international flights, as measured by RPKs. This increase in RPKs was a result of our aggressive expansion taking advantage of the market opportunities resulting from the significant decrease in international operations by our main Brazilian competitor. This increase was partially offset by a decrease in our scheduled international yield, which decreased 5% percentage point to 16.86 *centavos* in 2008 from 17.66 *centavos* in 2007, offset by a 5% increase in our international load factor, which increased from 70.5% in 2007 to 75.5% in 2008. Expressed in U.S. dollars, our scheduled international yield decreased by 24.3% from 9.52 cents in 2007 to 7.21 cents in 2008.

### **Cargo**

Cargo business increased by 30% to R\$1,009 million in 2008, compared to R\$777 million in 2007, due to the increase in cargo capacity as a result of the increase in international destinations in our network and more availability of capacity for cargo due to the addition of Boeing 777 type equipment to our fleet, which has large belly-space for cargo.

### **Other**

Other business increased by 58% to R\$926 million in 2008, compared to R\$588 million in 2007, primarily due to an increase in income from our TAM Loyalty Program, net of deferred revenue.

### **Revenue**

Our revenue increased by 31% to R\$10,513 million in 2008, compared to R\$8,019 million in 2007, due to a 28% increase in passenger revenues, a 30% increase in cargo revenues and a 54% increase in other operating revenues. The total RASK increased by 9% to R\$18.41 in 2008, as a result of a combination of the decrease in load factor and an increase in yields. Our scheduled domestic RASK increased 10% to R\$17.08 in 2008 from R\$15.51 in 2007. Our scheduled international RASK increased by 6%, from R\$12.44 in 2007 to R\$13.13 in 2008.

### **Sales taxes and other deductions**

Sales taxes and other deductions increased by 32% to R\$407 million in 2008, compared to R\$309 million in 2007, due to the increase in the revenues that are the basis for tax calculation.

### **Operating expenses**

Our operating expenses increased by 29% to R\$9,954 million in 2008, compared to R\$7,698 million in 2007. This increase is primarily due to an increase in expenses from personnel, fuel, depreciation and amortization, aircraft insurance and third party services as further described below. Our operating expenses per ASK (CASK) increased by 8% from R\$16.17 in 2007 to R\$17.44 in 2008, primarily due to an increase in expenses for personnel, fuel, depreciation and amortization, aircraft insurance, and third party services and the 24% depreciation of the Brazilian *real* against the U.S. dollar during that period, the effect of which was an approximate increase of R\$1,348 million in expenses.

Personnel expenses increased by 36% to R\$1,782 million in 2008, compared to R\$1,310 million in 2007, primarily due to a 19% increase in the number of employees. The number of employees increased because of the addition of new types of aircraft in our fleet that require dedicated crew and technical resources. Personnel expenses per ASK increased by 14%.

Fuel expenses increased by 55% to R\$3,928 million in 2008 compared to R\$2,536 million in 2007, due to the depreciation of the Brazilian *real* against the U.S. dollar, the effect of which was an approximate increase of R\$951.3 million in expenses, and an 18% increase in our fuel consumption caused by an increase in take-offs and aircraft capacity. Oil prices, despite the fact that they decreased 54% over the year, remained at very high levels until the third quarter, which also negatively impacted our fuel expenses. The average fuel price over the year increased by 38% from U.S.\$71.42 to U.S.\$99.75 per barrel.

Depreciation and amortization expenses increased by 85% to R\$461 million in 2008, compared to R\$250 million in 2007, primarily due to a R\$770 million increase in our fixed assets from new additions to our ground equipment, aircraft and intangible assets. These additions were necessary due to the growth in our fleet and operations during the period. Expenses from depreciation and amortization per ASK increased by 56%.

Maintenance and repairs (excluding personnel) expenses increased by 16% to R\$518 million in 2008, compared to R\$446 million in 2007, primarily due to an increase of 13% in our total flown hours, the addition of 14 aircraft to our fleet, and the 24% depreciation of the Brazilian *real* against the U.S. dollar in this period, the effect of which was an approximate R\$114 million increase in expenses. Maintenance and repairs per ASK decreased by 3%.

Aircraft insurance expenses increased by 41% to R\$48 million in 2008, compared to R\$34 million in 2007, primarily due to a net increase in *real*-denominated insurance premiums. Our *real*-denominated insurance premiums increased because of the 24% depreciation of the Brazilian *real* against the U.S. dollar over the period, which caused an approximate increase of R\$12 million in expenses. We also had an 8% increase in transported passengers in 2008.

Take-off, landing and navigation aid charges increased by 18% to R\$495 million in 2008, compared to R\$421 million in 2007, primarily due to the 5% increase in the number of take-offs and the 13% increase in kilometers flown per aircraft, mainly from international flights which are more expensive than domestic flights. These charges were also impacted by the 24% depreciation of the Brazilian *real* against the U.S. dollar, the effect of which was an approximate increase of R\$39 million in expenses. Take-off, landing and navigation aid charges per ASK decreased by 1%.

Leasing of aircraft, engine and equipment expenses under operating leases decreased by 12% to R\$443 million in 2008, compared to R\$501 million in 2007, primarily due to a decrease in the number of our aircraft under operating leases (68 to 65), and a decrease in LIBOR. The decrease in leasing of aircraft, engine and equipment expenses under operating leases was partially offset by the 24% depreciation of the Brazilian *real* against the U.S. dollar which impacted us because our aircraft lease agreements are denominated in U.S. dollars. This resulted in an increase of R\$107 million in expenses. Leasing of aircraft, engine and equipment expenses per ASK decreased by 26%.

Third party services expenses increased by 28% to R\$702 million in 2008, compared to R\$549 million in 2007, primarily due to the increase in distribution costs from international operations (the majority of which are reservation and ticketing costs and third party airport costs) and the 24% depreciation of the Brazilian *real* against the U.S. dollar in the period, the effect of which was an approximate increase of R\$63 million in expenses. Third party services per ASK increased by 7%.

Marketing and related expenses increased by 1% to R\$989 million in 2008 compared to R\$975 million in 2007. This increase primarily resulted from increased revenues derived from increased sales in the international market (from passengers and cargo). As a result of this increase in sales, we incurred higher costs for commissions paid to travel agencies in the international market, which is a U.S. dollar denominated expense. The effect of the 24% depreciation of the Brazilian *real* against the U.S. dollar resulted in an expense of R\$62 million. This was partially offset by a reduction in the level of commissions we paid in the domestic market as a result of revisions to our commercial policy for dealing with domestic travel agencies. Marketing and related expenses represented 9.4% of our total net revenue in 2008 compared to 12.2% in 2007, a reduction of 2.8 percentage points.

Other expenses decreased by 13% to R\$588 in 2008, compared to R\$677 million in 2007, primarily due to the expenses incurred in 2007 related to the phase out of our Fokker 100 aircraft. This decrease was partially offset by a 8% growth in our transported passengers over the period. Other operating expenses per ASK decreased by 28%.

In line with our strategy of increasing productivity, our intention was to offset fixed expenses through more efficient use of aircraft and the redesign of internal processes (an example of which was the integration of the management of TAM Mercosur with our central management in Brazil) to achieve an improved RASK minus CASK spread. In addition, future changes in commercial policies in the international market should either decrease marketing and related expenses or increase the quality of our revenue stream. We are still susceptible to fluctuations in fuel prices, which remain the key challenge to sustaining and improving our results in the future. In addition, recently there has been increased fluctuations in the value of the U.S. dollar against the Brazilian *real*. If the U.S. dollar strengthens against the Brazilian *real*, our results would be negatively impacted.

#### ***Movements in fair value of fuel derivatives***

Fuel derivatives gains (losses) was a loss of R\$1,274 million in 2008, compared to a gain of R\$130 million in 2007, mainly due to the mark to market of our fuel derivative positions at an oil price lower than the strike prices of our positions, magnified by the depreciation of the *real* against the U.S. dollar towards the end of the year.

***Gains (losses) on the revaluation of aircraft recognized in the income statement***

At December 31, 2007, revaluations resulted in an expense of R\$225 million for aircraft whose revalued amount was lower than their cost. At December 31, 2008, the revaluations resulted in a gain being recognized in the income statement of R\$242 million for aircraft for which revaluation decreases had previously been recognized in the income statements.

***Net finance income / (costs)***

Our net finance income / (costs) was an expense of R\$1,596 million in 2008, compared to income of R\$252 million in 2007, principally due to the increase in our debt, and the 24% depreciation of the Brazilian *real* against the U.S. dollar, which generated financial losses related to our lease payment obligations.

Interest income from financial investments decreased 27% to R\$193 million in 2008, compared to R\$263 million in 2007, principally as a result of the reduction of our financial investments. As of December 31, 2008, our financial investments amounted to R\$1,242 million, compared to R\$2,140 million as of December 31, 2007.

Exchange variation was an expense of R\$1,258 million in 2008, compared to a gain of R\$393 million in 2007, principally due to an increase in the Brazilian *real*/U.S. dollar exchange rate from R\$1.7713 per U.S. dollar at December 31, 2007 to R\$2.3370 per U.S. dollar at December 31, 2008. This impacted us because at December 31, 2008, we had a liability of R\$8,856 million in respect of U.S. dollar denominated prepayment obligations for new aircraft, compared to R\$4,338 million at December 31, 2007. This was partially offset by the effect of a R\$667 million portion of our investments being offshore.

Interest expenses increased 24% to R\$582 million in 2008, compared to R\$469 million in 2007, principally due to the increase in our debt as a result of an increase in our fleet.

***Income tax and social contributions***

Income tax and social contributions increased to R\$634 million in 2008, compared to a loss of R\$146 million in 2007, principally due to the fiscal benefit received as a result of our payment of interest on our own capital in 2007. Our effective rate of income tax and social contributions was 30.5% in 2007, compared to 30.7% in 2008.

***Profit / (loss) after tax***

As a result of the factors discussed above, but principally due to a significant loss in our fuel derivatives of R\$1,434 million, we recorded a loss after tax (all continuing operations) of R\$1,392 million in 2008, compared to a profit of R\$332 million in 2007. In addition, we were adversely affected by the 24% depreciation of the Brazilian *real* against the U.S. dollar, which increased our costs by approximately R\$1,247 million.

**B. Liquidity and Capital Resources**

We believe that our liquidity position exceeds the minimum required to sustain our business adequately, and our working capital is sufficient for our present requirements. We also believe that additional sources of liquidity are available to us, if they are needed, through bank facilities or through our access to debt markets.

We decreased our current liquidity ratio by 1.4% between December 31, 2008 and December 31, 2009, and by 42.2% between December 31, 2007 and December 31, 2008, primarily due to the effect of changes in fair value of fuel derivative instruments. Our liquidity ratio is calculated by dividing current assets by current liabilities.

In order to manage our liquidity, we review our cash and financial investments, accounts receivable and short term borrowings. Our accounts receivable are affected by the timing of our receipt of credit card revenues and travel agency invoicing. Customers purchasing tickets using credit cards have the option to pay the ticket price in installments, typically over a 70-day period. We do not take credit risk on customers' credit card receivables because, pursuant to the terms of our agreements with credit card companies, the credit card companies are required to pay us on each of the customer's payment dates, regardless of whether the customer paid the credit card company.

At December 31, 2009, we had R\$2,086 million in cash and cash equivalents and financial investments and R\$1,122 million in accounts receivable, compared to R\$1,914 million and R\$2,607 million in cash and cash equivalents and financial investments and R\$1,157 million and R\$938 million in accounts receivable at December 31, 2008 and 2007, respectively.

In January 2009, we, along with our key counterparties, began restructuring our existing derivative hedging transactions. At December 31, 2008, due to the significant drop in the price of a barrel of oil, as set by the WTI, the market value of these transactions resulted in a loss of R\$1,273 million. Through restructuring, we were able to spread out the maturity dates of these transactions. This allowed us to extend the life of the derivatives, but keep the other terms largely the same. The restructuring reduced disbursements by approximately U.S.\$117 million through December 31, 2009.

At December 31, 2009, our current borrowings used to finance our working capital needs totaled R\$459 million, compared to R\$192 million at December 31, 2008. At December 31, 2009, 92% of our borrowings was denominated in foreign currencies, including our Import Financing (FINIMP) and financing of pre-delivery payments. Our Industrial Funding (FINEM) agreements were denominated in *reais* and represented 7% of our total borrowings at December 31, 2009, compared to 13% at December 31, 2008. At December 31, 2009, our Import Financing (FINIMP) agreements represent 57% of our borrowings, compared to 42% at December 31, 2008.

### Cash position and liquidity

The following table provides a summary of our cash flows from operating activities, investing activities and financing activities for the years ended December 31, 2009, 2008 and 2007 and our total cash position as of December 31, 2009, 2008 and 2007.

	Year Ended December 31,		
	2009	2008	2007
Net cash generated from operating activities	191,103	1,542,509	372,673
Net cash used in investing activities	(480,918)	(643,345)	(438,216)
Net cash used in financing activities	693,202	(693,917)	232,575
Cash and cash equivalents at the beginning of the year	671,785	466,538	299,506
Cash and cash equivalents at the end of the year	1,075,172	671,785	466,538

#### *Net cash generated from operating activities*

##### *Year ended December 31, 2009 compared to year ended December 31, 2008*

Net cash generated from our operating activities decreased from R\$1,543 million for the year ended December 31, 2008 to R\$191 million for the year ended December 31, 2009. This decrease was principally the result of the following: (i) our revenue decreased by R\$748 million, from R\$10,513 million in 2008 to R\$9,765 million in 2009. Our operational costs remained relatively stable in this period; accordingly, our operating profit and cash generated decreased, (ii) we decreased our conversion of financial assets into cash by R\$667 million, from R\$898 million in 2008 to R\$231 million in 2009 and (iii) we increased our cash outflows by R\$114 million in 2009 compared to 2008 to pay our suppliers. This overall decrease in net cash generated from our operating activities was partially offset by a R\$140 million reduction in 2009 in cash outflows used to prepay aircraft maintenance.

##### *Year ended December 31, 2008 compared to year ended December 31, 2007*

Net cash generated from our operating activities increased from R\$373 million for the year ended December 31, 2007 to R\$1,543 million for the year ended December 31, 2008, an increase of R\$1,170 million. This increase was principally the result of our increased conversion of financial assets into cash, from R\$13 million in 2007 to R\$898 million in 2008. The reason for this R\$885 million increase in cash conversion was because we issued less debt in 2008 compared to 2007. Our increase in net cash generated from our operating activities was also due to our R\$239 million increase in operating profits, related principally to increased revenue, from R\$320 million in 2007 to R\$559 million in 2008.

***Net cash used in investing activities***

*Year ended December 31, 2009 compared to year ended December 31, 2008*

Net cash used in investing activities decreased from R\$643 million in the year ended December 31, 2008 to R\$481 million in the year ended December 31, 2009, a decrease of R\$162 million. This decrease was primarily due to a R\$303 million reduction in cash outflows in 2009 compared to 2008 for the purchase of property, plant and equipment, as a result of our financing of flight equipment through FINIMP and the fact that we acquired less property, plant and equipment. The decrease was also partly due to an investment in restricted cash of R\$79 million, a decrease in pre-delivery payments because, in 2009, pre-delivery payments were financed or reapplied to other aircraft and, accordingly, no pre-delivery payment cash transaction occurred in 2009, compared to a R\$44 million net reimbursement received in 2008 from pre-delivery payments. The overall decrease in net cash used in investing activities was partially offset by an increase in the proceeds from the sale of property, plant and equipment of R\$28 million, and for a R\$ 45 million decrease in total cash reimbursements related to deposits in guaranties.

*Year ended December 31, 2008 compared to year ended December 31, 2007*

Net cash used in investing activities increased from R\$438 million in the year ended December 31, 2007 to R\$643 million in the year ended December 31, 2008, an increase of R\$205 million. This increase was primarily the result of an increase in our purchase of property, plant and equipment of R\$326 million. The increase was also partly due to a R\$96 million increase in cash payments in 2008 compared to 2007 due to payments made for the acquisition of intangible assets related to technology investments, computer software projects and payments made to the Star Alliance. The overall increase in net cash used in investing activities in 2008 was partially offset by a R\$93 million increase in net reimbursements from pre-delivery payments and a R\$85 million increase in cash net reimbursements in cash from deposits guaranteeing maintenance.

***Net cash used in financing activities***

*Year ended December 31, 2009 compared to year ended December 31, 2008*

Net cash from financing activities was R\$693 million in the year ended December 31, 2009 compared to net cash used in financing activities of R\$694 million in the year ended December 31, 2008. We generated net cash from financing activities in 2009 principally as a result of TAM Linhas Aéreas issuing debentures in the principal amount of R\$600 million and TAM Capital 2 issuing senior notes in the principal amount of U.S.\$300 million, which generated positive net cash from financing activities of R\$592 million and R\$502 million respectively. In 2009, we reduced our repayment of debt by R\$401 million compared to 2008, and we did not pay any dividends in 2009 due to net losses in our 2008 fiscal year, compared to R\$72 million paid in dividends to our stockholders in 2008. The overall increase in net cash from financing activities was partially offset by the increase in our payments under finance leases, which increased by R\$228 million in 2009 compared to 2008 due to an increase in contracted leases at the end of 2008, with payment obligations in 2009.

*Year ended December 31, 2008 compared to year ended December 31, 2007*

Net cash used in financing activities increased from R\$438 million in the year ended December 31, 2007 to net cash used in financing activities of R\$694 million in the year ended December 31, 2008. The increase in net cash used in financing activities was principally a result of the fact that we issued more debt in 2007 than in 2008, generating a positive cash inflow in 2007 (TAM Capital issued U.S.\$300 million in principal amount of senior notes, which represented approximately R\$607 million, meanwhile no issuance of senior notes occurred in 2008), and we incurred other borrowings in 2007 approximating R\$429 million in connection with the financing of pre-delivery payments through two loan agreements entered into in 2007 for four Boeing 777-300ER and 30 Airbus aircraft. In addition, payments of finance leases were R\$76 million higher in 2008, mainly due to the weakening of the Brazilian *real* against the U.S. dollar. Additionally, in 2008, we used R\$15 million to purchase treasury shares. The overall increase in net cash used in financing activities was partially offset by a R\$120 million decrease in payments of short and long-term borrowings and by a R\$66 million decrease in dividends paid in 2008 compared to 2007.

### *Sources of financing*

We typically finance our aircraft through lease transactions. Although we believe that debt and/or operating/finance leasing shall be available for our future aircraft to be delivered, we cannot guarantee that we will be able to secure obtain resources on terms that are attractive to us, if at all. To the extent that we cannot secure financing, we may be required to modify our aircraft acquisition plans or incur higher financing costs. We expect to continue to require working capital investment due to sources will be obtained our customers' ticket purchases through credit card receivables. We also expect to meet our operating obligations as they become due through our available cash and internally generated funds, supplemented as necessary by short-term credit lines, and when required, our access to the debt markets.

### **Indebtedness**

At December 31, 2009, our total liabilities were R\$11,646 million compared to R\$13,124 million at December 31, 2008. Our total liabilities consisted of (i) R\$4,454 million in current liabilities (compared to R\$4,238 million in 2008), of which R\$1,698 million was deferred income, R\$236 million was derivative financial instruments, R\$430 million was related to trade and other payables, R\$1,245 million was financial liabilities, R\$124 million was related to other current liabilities and R\$179 million was current income tax liabilities, and (ii) R\$7,191 million in non-current liabilities (compared to R\$8,886 million in 2008), of which R\$5,925 million was represented by financial liabilities, R\$666 million was from provisions, R\$100 million was represented by deferred income, R\$6 million was represented by derivative financial instruments and R\$174 million was represented by other non-current liabilities.

We have FINIMP-type lines of credit with financial institutions to help us finance our acquisition of aircraft parts. At December 31, 2009, our FINIMP-type contracts totaled R\$285 million, compared to R\$167 million at December 31, 2008, with guarantees of promissory notes in the amounts of U.S.\$13.9 million and U.S.\$23.6 million for the two periods, respectively.

We have finance lease agreements for the leasing of aircraft, engines and computer equipment. At December 31, 2009, the outstanding balance of such finance lease agreements was R\$4,521 million, compared to R\$6,448 million at December 31, 2008. The decrease in our outstanding balance of finance lease agreements was largely due to changes in the exchange rate of Brazilian *reais* to U.S. dollars, which impacted our leasing obligations denominated in U.S. dollars.

TAM Linhas Aéreas has a U.S.\$50 million credit facility with the International Finance Corporation, or IFC. We record amounts drawn down under this facility in *reais*. In December 2005, TAM Linhas Aéreas entered into an agreement with International Finance Corporation, or IFC, to finance up to U.S.\$33 million in pre-delivery payments to Airbus for firm order aircraft scheduled for delivery in 2010. The full U.S.\$33 million was guaranteed by TAM S.A. As of December 31, 2009, we had R\$19 million outstanding under this facility, compared to R\$52 million outstanding as of December 31, 2008.

TAM Linhas Aéreas also has outstanding FINEM agreements for machinery and equipment in the aggregate amount of approximately R\$32 million with the National Bank of Economic and Social Development (*Banco Nacional de Desenvolvimento Econômico e Social*, or BNDES). The guarantees are mortgages of assets and accounts receivables.

In 2006, we became the first Brazilian airline to register a program for the issuance of debentures with the CVM. In August 2006, we offered R\$500 million in principal amount of debentures pursuant to this program. The final maturity date of these debentures is August 2012, with one third of the aggregate principal amount amortizing in each of 2010, 2011 and 2012. The terms of the debentures provide that we must pay interest semi-annually in an amount equal to 104.5% of CDI.

In April 2007, TAM Capital issued U.S.\$300 million 7.375% senior notes due 2017. The notes are unconditionally guaranteed, on a senior unsecured basis, by TAM S.A. and TAM Linhas Aéreas, and are listed on the Euro MTF market of the Luxembourg Stock Exchange. On December 18, 2007 we completed an exchange offer pursuant to which holders of 99.2% of the notes issued on April 25, 2007 exchanged their notes for new notes that were registered under the United States Securities Act of 1933, as amended, and otherwise carried identical terms.

In July 2009, TAM Linhas Aéreas issued R\$600 million in principal amount of secured debentures that mature in July 2013. Beginning in July 2010, the principal amortizes quarterly. Interest on the debentures is payable monthly at a rate equivalent to 126.5% of the CDI.

In October 2009, TAM Capital 2 issued U.S.\$300 million 9.5% senior notes due 2020. The notes were issued outside Brazil under an exemption from registration granted by the Brazilian CVM and the SEC. TAM Capital 2 has the option to early redeem the senior notes at any time prior to January 29, 2015 and at specified redemption dates thereafter.

The interest rates related to our *real*-denominated indebtedness are typically indexed to TJLP or CDI, and the interest rates related to our U.S. dollar denominated indebtedness are typically indexed to LIBOR. For a more detailed description of the interest rates associated with our indebtedness, see Note 15 of our consolidated annual financial statements for the years ended December 31, 2009, 2008 and 2007.

### **C. Research and Development, Patents and Licenses, etc.**

We hold or have filed registration applications for 229 trademarks before the *Instituto Nacional da Propriedade Industrial*, or INPI, the body with jurisdiction for registering trademarks and patents in Brazil, and 39 trademarks before the bodies with jurisdiction for registering trademarks in other countries in the Americas and Europe in which we operate. Currently, we are facing no third-party challenges to these applications.

TAM Marília owned the "TAM" trademark from its incorporation until September 2004 when TAM Marília underwent a spin-off which resulted in the creation of *Taxi Aéreo, Representações, Marcas e Patentes S.A.* (TAM Milor). TAM's trademark (and other trademarks related thereto) were transferred to TAM Milor. Both TAM Marília and TAM Milor are companies controlled by the Amaro Family. Until March 10, 2005, the relationship we, and our subsidiaries, TAM Viagens and TAM Mercosur, had with TAM Milor did not provide for any compensation for our use of the TAM trademark and was subject to revision at any time. In order to protect the use of TAM's trademark on an appropriate legal and commercial basis, on March 10, 2005, TAM S.A., TAM Milor, TAM Linhas Aéreas, TAM Viagens and TAM Mercosur entered into a License for Use of Trademark Agreement, pursuant to which TAM Milor granted the other parties a license to use the "TAM" trademark in exchange for a monthly compensation or royalty payment.

The terms of this agreement provide that it may be terminated in the event of (i) bankruptcy, judicial composition with creditors or winding-up of either party, (ii) one party failing to comply with any of its obligations and failing to remedy such non-compliance within 15 days of receiving notice of such non-compliance, or (iii) we and/or our subsidiaries TAM Viagens and TAM Mercosur utilizing TAM's trademark in a manner other than that set forth in the agreement. The current expense we, and our subsidiaries, TAM Viagens and TAM Mercosur, record on a monthly basis for the use of the trademark is R\$1.2 million, the same amount recorded as of December 31, 2008. This amount is adjusted annually by reference to the IGP-M. This agreement is effective until December 9, 2011, following which, provided that TAM Linhas Aéreas' concession is itself renewed, the license to use the trademark will automatically be renewed for an equivalent period. The recording of the transfer of ownership of TAM trademarks from TAM Marília to TAM Milor and the License for Use of Trademark Agreement are already registered with the INPI. The intention of recording both the transfer and the registration of the License for Use of Trademark Agreement before the INPI is to provide third parties with notice of the existence of such rights.

The license for use was granted exclusively in relation to the classes of the activities we currently perform. TAM Milor may grant a license to use TAM's trademark to other parties for different activities that do not involve the scheduled transportation of passengers.

We have also internally developed our *e*-TAM portal, a tool that integrates our entire sales chain, from the time of reservation until boarding of the aircraft. Additionally, such contract does not impose any limitation on TAM Milor's right to dispose of or pledge the trademarks that are subject to the License for use of Trademark Agreement to third parties and TAM Milor may enter into such transactions without our prior knowledge or consent. In addition, the terms of the License for Use of Trademark Agreement grant us an exclusive license for the use of TAM's trademark as a symbol for securities traded on stock exchanges.



#### D. Trend Information

Assuming that demand for our services continues to increase in line with recent periods, we anticipate that our RPKs will increase as a result. In terms of ASKs, we believe the trend between domestic and international markets will change as compared to previous years. In recent years, the international market presented growth opportunities for us because we were the only Brazilian carrier flying in the long haul market. We currently fly to several key international destinations and continue to examine opportunities for selective expansion of our routes. For example, we recently announced plans to operate direct flights from Rio de Janeiro to London and Frankfurt. In the event that projected demand for new routes and/or more frequent flights on existing routes meets or exceeds our expectations, we believe we have contracted sufficient capacity to meet such demands (as evidenced by the fact that we currently have firm orders with Airbus). In the domestic market, we will continue to track passenger demand in order to identify new routes and/or increase the frequency of already existing routes. We believe that domestic market capacity will grow more than the international market. In order to support our growth, both internationally and domestically, we plan to increase our fleet, the daily utilization of our aircraft and renegotiate our small and mid-sized contracts to lower our fixed costs. Joining the Star Alliance has helped us reduce the number of internal systems we use, which lowered our maintenance, service and spare parts costs. We are seeking to optimize our maintenance plan by conducting maintenance operations during the night when costs are lower and we are reducing credit card fees by increasing the number of payment methods on our website. By implementing these measures, we expect to decrease our average CASK, excluding fuel, by 6% in 2010.

#### E. Off-balance Sheet Arrangements

Our operating lease obligations are not reflected in our balance sheets. We have no other off-balance sheet arrangements.

#### F. Tabular Disclosure of Contractual Obligations

The table below analyses TAM's financial liabilities into relevant maturity groupings based on the remaining period at the balance sheet to the contractual maturity date. The amounts disclosed in the table are the contractual undiscounted cash flows and include interest, apart from the net settled derivatives, for which the fair value is disclosed.

Non-derivative financial liabilities	Less than 1 year	Between 1 and 2 years	Between 3 and 5 years	More than 5 years	Total	Effect of discounting	Carrying value
<b>At December 31, 2009</b>							
Finance lease obligations	616,179	1,238,520	1,575,462	1,801,641	5,231,802	(710,857)	4,520,945
Borrowings	466,687	33,039	3,625	6,991	510,342	(13,054)	497,288
Debentures	396,392	826,373	142,382		1,365,147	(253,683)	1,111,464
Senior notes	81,418	171,634	259,782	1,317,106	1,829,940	(790,215)	1,039,725
Other (1)	738,589				738,589		738,589
Refinanced taxes payable under Fiscal Recovery Program	22,834	45,667	68,501	205,503	342,505		342,505

(1) The amount is recorded under Suppliers and Salaries and social charges.

We believe that our operational cash generation and lines of credit with financial institutions and leasing agents will enable us to honor our contractual and financial commitments. We believe that prudent liquidity risk management should entail maintaining sufficient cash and marketable securities, the availability of funding through an adequate amount of committed credit facilities and the ability to close out market positions. Due to the dynamic nature of our businesses, Our treasury maintains flexibility in funding by maintaining availability under committed credit lines.

## ITEM 6. DIRECTORS, SENIOR MANAGEMENT AND EMPLOYEES

### A. Directors and Senior Management

In accordance with our by-laws and Brazilian corporation law, we are managed by our *Conselho de Administração* (board of directors), made up of eight members and our *Diretoria* (board of executive officers), made up of at least four and no more than eight members. We do not currently have a *Conselho Fiscal* (fiscal council).

#### Board of Directors

Our board of directors provides our general strategic management guidelines and is responsible for, among other things, setting general commercial policies and electing the executive officers (as well as for supervising their management). Our board of directors meets every month or whenever requested by the chairman, vice-chairman, or by any two members of the board of directors.

Brazilian corporation law provides that members of a company's board of directors must be shareholders in that company (although there is no specified minimum number of shares that such members must hold) and must be elected at a shareholders' meeting. Members, who may reside or be domiciled in Brazil or abroad, are elected for a period of one year and re-election is permitted. The terms of office of the current members of our board of directors end on April 30, 2010 unless they are re-elected. Our by-laws do not specify an age limit for mandatory retirement of members of our board of directors.

Brazilian corporation law together with Article 24 of our by-laws provides that members of our management may only enter into contracts with us under reasonable and equitable terms, either identical to those prevailing in the market or to those pursuant to which we would ordinarily contract with third parties. Such transactions must also be approved by at least five of our directors at a board meeting and any director may request an independent expert to evaluate whether such agreement does in fact contain arm's length terms. Brazilian corporation law also prevents such persons from voting at any shareholders' meeting or intervening in any corporate action in respect of which there is a conflict of interest between their interests and ours.

The following table sets forth the name, position and election date of the current terms of office of each member of our board of directors.

Name	Position	Election date
Maria Cláudia Oliveira Amaro	Chairman	09/18/2003
Maurício Rolim Amaro	Vice-Chairman	12/20/2004
Alexandre Goncalves Silva	Board Member	04/30/2008
André Santos Esteves	Board Member	08/18/2009
Emilio Romano	Board Member	11/19/2009
Marco Antonio Bologna	Board Member	08/18/2009
Noemy Almeida Oliveira Amaro	Board Member	04/30/2009
Waldemar Verdi Júnior	Board Member	01/23/2006

Summary biographical information for each member of our board of directors is set out below:

*Maria Cláudia Oliveira Amaro, Chairman of the Board of Directors.* Mrs. Amaro has been a member of our board of directors since September 2003 and Chairman since April 2007. Mrs. Amaro is the daughter of Mrs. Noemy Almeida Oliveira Amaro and holds the position of executive director of TEP. Mrs. Amaro formerly served as executive director of TAM Linhas Aéreas and is currently also a member of the board of directors of Aerosystem and TAM Aviação Executiva e Taxi Aéreo S.A. Mrs. Amaro has a degree in Business Administration.

*Maurício Rolim Amaro, Vice-Chairman of the Board of Directors.* Mr. Amaro has been a member of our board of directors since December 2004 and vice-chairman since April 2007. Mr. Amaro is the son of Mrs. Noemy Almeida Oliveira Amaro and holds the position of executive director of TEP. He is also currently a member of the board of directors of Aerosystem and TAM Aviação Executiva e Taxi Aéreo S.A. Mr. Amaro has a degree in business administration and Aviation Administration from Broward Community College, located in Florida, United States of America.

*Alexandre Gonçalves Silva, Board Member.* Mr. Silva has been a member of our board of directors since April 2008. He is also a board member of the following companies: Fibria, Equatorial Energia, PDG Realty, Fundicoes Tupy and is a senior advisor for Global Infrastructure Partners – GIP, headquartered in New York, and is also the chairman of the American Chamber of Commerce in Brazil. Before joining TAM, he was the chief executive officer of GE Brasil, where he retired at the end of 2007. Mr. Silva received a bachelor's degree in mechanical engineering from PUC Rio de Janeiro.

*André Santos Esteves, Board Member.* Mr. Esteves has been a board member of TAM since August 2009. He has a degree in computer science from the Federal University of Rio de Janeiro (UFRJ). Currently, Mr. Esteves is the chief executive officer and founding partner of BTG. Before joining TAM, he occupied the position of chairman and chief executive officer of UBS Pactual from 2006 to 2008. He was also the global head of fixed income and global head of fixed income, currencies and commodities of UBS AG, based in London, from August 2007 until he left UBS AG in July 2008. Mr. Esteves worked 17 years at Banco Pactual, where he became a partner in 1993. Mr. Esteves held several positions in Banco Pactual, including chief executive officer of the bank. He was also director of the Federation of Brazilian Banks (FEBRABAN) from 2003 until 2007, and a member of the board of Bolsa de Mercadorias e Futuros (Futures and Commodities Exchange) from 2002 until 2006.

*Emilio Romano, Board Member.* Mr. Romano has been a member of our board of directors since November 2009. He has a law degree from the Escuela Libre de Derecho, where he graduated Cum Laude and was a graduate student at the City of London Polytechnic. Currently, he is the president & chief executive officer of Grupo Puerta Alameda (GPA), a real estate development and investment company with operations in the United States and Mexico. From 2004 to 2007 Emilio Romano was the chief executive officer of Grupo Mexicana de Aviacion and was responsible for the largest financial restructuring in the airline's 87-year history. He also spearheaded the launch of the first low-cost carrier in Mexico: "Click Mexicana" and was a member of the board of directors of the International Air Transport Association (IATA) and the Association of Latin American Air Carriers (ALTA). In 2001 he co-founded Border Group, LLC, served as an advisor to several entertainment and media companies and was a member of the board of directors of Claxson. Between 1995-1998, he managed more than 500 people and US\$3 billion in assets as Grupo Televisa's director of mergers & acquisitions and later as vice-president of international operations. While at Televisa, Mr. Romano was a member of the board of directors of Univision Communications. From 1989 to 1994, Mr. Romano served in many roles within the Mexican Ministry of Finance, including general director of revenue policy and federal fiscal attorney. Mr. Romano served as a professor for the doctoral program in tax law at the Escuela Libre de Derecho.

*Marco Antonio Bologna, Board Member.* Mr. Bologna has been a member of our board of directors since August 2009. Mr. Bologna has a degree in production engineering from Escola Politécnica at São Paulo University (USP) and has a specialization in financial services from Manchester Business School, UK. Mr. Bologna is the current chief executive officer of TAM S.A. He is also a board member of TAM Aviação Executiva e Taxi Aéreo S.A., Suzano Papel e Celulose S.A., WTorre Empreendimentos Imobiliários S.A. and of the International Air Transport Association Training Fund in Geneva, Switzerland. Before joining our board, Mr. Bologna was chief executive officer of TAM Aviação Executiva e Taxi Aéreo S.A. (2009-2010), WTorre S.A. (2008), TAM S.A. and TLA (2004-2007), as well as of Banco VR (2003-2004). He was TAM S.A.'s chief financial officer from 2001 through 2003.

*Noemy Almeida Oliveira Amaro, Board Member.* Mrs. Amaro has been a member of TAM's board of directors since October 2008 and is the widow of its former chairman, the late Mr. Rolim Adolfo Amaro. Mrs. Amaro was previously a teacher. She is currently a director of TAM's controlling entity, TEP.

*Waldemar Verdi Júnior, Board Member.* Mr. Verdi Júnior has been a member of our board of directors since January 2006. He has a bachelor's degree in law and has taken extension courses in business administration at the University of Southern California (1977) and INSEAD (1982 and 2004). Mr. Verdi Júnior is a member of the shareholders committee of GRUPO VERDI — GV Holding S.A., and a member of the boards of directors of Banco Rodobens, Companhia Hipotecária Unibanco — Rodobens, Centro das Indústrias do Estado de São Paulo — CIESP, Associação Comercial de São Paulo, COMGÁS — Companhia de Gás de São Paulo and CDES — Conselho do Desenvolvimento Econômico e Social do Presidente Luiz Inácio Lula da Silva. Before joining us, Mr. Verdi Júnior worked for ASSOBENS — Associação Brasileira dos Distribuidores Mercedes-Benz, ABRAD — Associação Brasileira das Administradoras de Consórcio dos Distribuidores de Veículos Automotores and FENABRAVE — Federação Nacional da Distribuição de Veículos Automotores.

None of our directors has service contracts with us or any of our subsidiaries providing for any compensation or benefits on the termination of their employment.

### Executive Officers

The executive officers are responsible for our daily management and representation. The executive officers exercise the individual responsibilities provided in our by-laws and by our board of directors. Our board of executive officers is currently made up of four members, but can be made up of at least four and no more than eight members, shareholders or otherwise, residing in Brazil.

Executive officers are elected by our board of directors for a three-year term of office, with re-election permitted. Any member of our board of executive officers may be removed by the board of directors before his or her term of office ends. The current term of office of each member of our board of executive officers ends on April 30, 2012 unless re-elected.

Our Investor Relations Office is located at Avenida Jurandir, 856, Lote 4, 1º andar, CEP 04072-000, São Paulo, SP, Brazil. The person responsible for our Investor Relations Office is Mr. Líbano Miranda Barroso, elected director of finance and investor relations at a meeting of our board of directors held on May 17, 2004. The telephone number of our Investor Relations Office is +55 11 5582 9715 and the fax number is +55 11 5581 8149. The e-mail address of our Investor Relations Office is invest@tam.com.br.

On April 30, 2010, Marco Antonio Bologna became chief executive officer of TAM S.A. Líbano Barroso continues as chief executive officer of TAM Linhas Aéreas, in charge of airline operations. Mr. Barroso also continues as director of investor relations for TAM S.A.

The following table sets forth the name, position and election date of the current terms of office of each member of our board of executive officers:

Name	Position	Election date
Marco Antonio Bologna	Chief Executive Officer	04/30/2010
Líbano Miranda Barroso	Chief Financial Officer and Director of Investor Relations	05/17/2004
Paulo Cezar Bastos Castello Branco	Director	02/28/2007
José Zaidan Maluf	Director	10/9/2009

Summary biographical information for each member of our board of executive officers is set out below:

*Marco Antonio Bologna, Chief Executive Officer.* Mr. Bologna has been our chief executive officer since April 2010. Mr. Bologna has a degree in production engineering from Escola Politécnica at São Paulo University (USP) and has a specialization in financial services from Manchester Business School, UK. Mr. Bologna is also a board member of TAM S.A., TAM Aviação Executiva e Taxi Aéreo S.A., Suzano Papel e Celulose S.A., WTorre Empreendimentos Imobiliários S.A. and of the International Air Transport Association Training Fund in Geneva, Switzerland. Before joining our board, Mr. Bologna was chief executive officer of TAM Aviação Executiva e Taxi Aéreo S.A. (2009-2010), WTorre S.A. (2008), TAM S.A. and TLA (2004-2007), as well as of Banco VR (2003–2004). He was TAM S.A.'s chief financial officer from 2001 through 2003.

*Líbano Miranda Barroso Chief Financial Officer and Investor Relation Director.* Mr. Barroso has been our chief financial officer, since May 2004. He is also the chief executive officer of TLA and TAM Capital. Mr. Barroso held executive positions at major financial institutions, including Banco Nacional S.A., Banco Real S.A., and Banco Safra S.A. He was also executive officer at Companhia de Concessões Rodoviárias. Mr. Barroso holds a degree in economics, an executive MBA in finance from IBMEC Business School, and a post-graduate degree in business law from Getúlio Vargas Foundation (Fundação Getúlio Vargas, or FGV).

*Paulo Cezar Bastos Castello Branco, Director.* Mr. Castello Branco has been director since February 2007. Mr. Castello Branco joined TAM as institutional relations director in October 2004. In February 2007, he became planning and alliance director. He currently holds a position as commercial and planning vice-president at TAM Linhas Aéreas. Before joining us, he held various management positions in various companies as planning and logistics director of Varig Logística, vice-president of ECT – Empresa Brasileira de Correios e Telégrafos, financial and administration director of Casa da Moeda do Brasil and commercial department chief of INFRAERO – Empresa Brasileira de Infra-Estrutura Aeroportuária. Mr. Castello Branco has a degree in business administration from Universidade Federal do Rio de Janeiro (UFRJ) and an MBA in airport administration and logistics extensions from Nevada's University, in USA.

*José Zaidan Maluf, Director.* He has been director of TAM SA since October 2010. Mr. Maluf joined TAM in 1995 and since 2000 has served as the director of international contracts. Currently, Mr. Maluf holds a position as supply and contracts vice-president of TAM Linhas Aereas. With more than 30 years of experience in the aeronautic and airports industry, Mr. Maluf graduated with a degree in electrical engineering from the Mauá - Brazil School of Engineering (Escola de Engenharia Mauá - Brasil) and holds an MBA from IBMEC.

### **Fiscal Council**

According to Brazilian corporation law, each company's fiscal council must be an independent body that is separate from the company's management and external auditors (and may or may not be permanent). The fiscal council is installed to act during a given year at the request of shareholders representing at least 10% of the voting shares or 5% percent of non-voting shares. The fiscal council's principal function is to oversee the activities of management and to examine and provide its opinion in regard to the financial statements and certain proposals of management submitted to shareholders' meetings.

Our by-laws provide for a non-permanent fiscal council, which can be installed by a shareholders' meeting. We do not currently have a fiscal council. We have an audit committee that satisfies the audit committee requirements of the SEC and the NYSE.

### **B. Compensation**

Brazilian corporation law and our by-laws provide that our shareholders are responsible for setting the total compensation to be paid every year to our board of directors and board of executive officers. Only if the shareholders set a global figure for the total compensation to be paid, is the board of directors then solely responsible for distributing that compensation individually, in accordance with the terms of our by-laws.

The key management personnel of TAM include the members of the Board of Directors, the president, vice presidents and statutory directors. Their remuneration was as follows, including any contingent or deferred compensation accrued for the year:

	2009	2008	2007
Salaries	9,497	9,031	9,262
Profit share and bonuses	9,875	7,326	18,197
Share-based payment	11,409	16,512	11,230
Other long-term benefits	810	476	280
	31,591	33,345	38,969

Our executive management fees represent total compensation paid to the members of our board of directors and executive officers. Executive management fees were lower in 2009 compared to 2008 because profit sharing and bonuses are linked to our performance, and, in 2009, we did not achieve our targets for the main performance indicators. Executive management fees were lower in 2008 compared to 2007 because in 2007 we paid higher bonuses to certain executives.

Our officers participate in our regular share purchase option plan. See "Item 6. Directors, Senior Management and Employees — E. Share Ownership — Share Option Purchase Plan."

### **C. Board Practices**

Currently, our board of directors is comprised of eight members. The terms of office of our current directors will expire in April 30, 2010. See "Item 6. Directors, Senior Management and Employees — A. Directors and Senior Management — Board of directors."

### **Swearing-In of Members of Our Board of Directors, Board of Executive Officers and Fiscal Council**

The members of our board of directors, board of executive officers and fiscal council (i) take office upon signing our corporate register, which is itself conditional on them signing BM&FBOVESPA's agreement in respect of companies listed on the Level 2 segment of BM&FBOVESPA, and (ii) must notify BM&FBOVESPA, immediately after they are sworn in, as to how many securities issued by us they own (directly or indirectly) and the characteristics of such securities (including derivatives).

### **Audit Committee**

Our audit committee reports to our board of directors. Its main functions are to: assist the board of directors in monitoring, on behalf of our shareholders, the analysis of our financial statements; monitoring and providing oversight with the purpose of ensuring that our executive officers develop reliable internal control mechanisms; they monitor the adequate performance of internal audit; appoint external independent auditors when necessary; monitor any potential conflicts of interest in relation to our external auditors; ensure that our ethics code is being followed; monitor changes in our principal financial indicators, particularly focusing on our cash flow position; at times working with the Ethics Committee, establish receipt, retention and complaint procedures regarding accounting, internal control and audit matters and create policies for the confidential, anonymous treatment of employee concerns regarding accounting or auditing matters and review our capital, debt and cost structure. The audit committee is comprised of three members of our board of directors, elected by the board of directors for a one-year term, subject to re-election. The current members of our audit committee are: Alexandre Gonçalves Silva (independent), Waldemar Verdi (independent) and Emilio Romano (independent). Our audit committee satisfies the audit committee requirements of the SEC and the NYSE. We do not have an audit committee financial expert serving on our audit committee because we believe that our audit committee members perform, as a whole, the functions of an "audit committee financial expert" within the meaning of the rules adopted by the SEC relating to the disclosure of financial experts on audit committees in periodic filings pursuant to the U.S. Securities Exchange Act of 1934.

### **Ethics Committee**

Our ethics committee is responsible for setting ethics policies & procedures and filtering complaints, including whistleblower complaints. The ethics committee filters all complaints, following up on simpler ones and forwarding more involved ones to the audit committee for consideration.

### **Human Resources Committee**

Our human resources committee is responsible for defining strategies for the management and development of our employees. It supports the board of directors in evaluating the results and performance of the main executives and determining their remuneration. The human resources committee is comprised of three members, elected by the board of directors. The human resources committee is comprised of four members.

### **Risk Management Committee**

Our risk management committee is responsible for approving policies, processes and activities to manage the liquidity, credit, legal, fiscal and operational risks inherent in the operation of our business. The risk management committee is comprised of twelve of our officers.

### **Executive Committee on Sustainability**

Our sustainability committee is composed of a multifunctional team of senior representatives from our different corporate areas and has the support of the board of directors. Each representative has an alternate to ensure effective functioning of the committee. The committee's main duties and responsibilities are to review and approve our sustainability plan, assist in integrating sustainable procedures to management practices and analyze the impact of corporate decisions on our overall sustainability goals.

## **D. Employees**

We believe our growth potential is directly linked to our ability to attract and retain the best professionals available in our sector. For this reason, we assign high priority to selecting and developing people with potential who can add value to our operations and who we believe can adapt to our corporate culture.

The value proposal of our Human Resources Management and Information department is to contribute to our sustainable growth and competition by anticipating future needs and providing long-term solutions that attract, train and retain professionals with Passion to Fly and Serve.

One of the key roles of this department is to disseminate our values and principles, particularly the Passion to Fly and Serve, by encouraging our employees' desires to become highly qualified professionals and conscientious citizens. The aspiration to build a safe, healthy and sustainable work environment is also part of our path towards a more professional and efficient organization.

With the aim of achieving its mission, our human resources department has developed several projects related to development, sustainability and culture, training (through the Commander Rolím Amaro Service Academy) and compensation, besides direct human resources support to business initiatives proposed by the human resources internal consulting (business partner) area.

### *Sustainability and Culture Management*

We believe that our guiding motto, a Passion to Fly and Serve, encompasses the spirit of TAM's brand. Sustainability is one of our key principles. Accordingly, we seek to include sustainability in our day-to-day activities and corporate practices. To highlight our commitment to sustainability, beginning in 2009, we created an annual sustainability report where we present our sustainability objectives and achievements. We believe that by supporting and promoting internationally accepted values from the human rights, labor relations, environmental and anticorruption areas, we help to create a culture of sustainability. Several of our recent initiatives and projects highlight our serious commitment to sustainability.

To foster social sustainability, we created the framework program "Under the Wings of TAM", which organizes and funds activities promoting social sustainability. One project under this program is "On the Wings of Education - Young Apprentice TAM". Since 2005, we have prepared young people for professional practice through apprenticeship training, increasing employability and social inclusion. In 2007, we created another project, "On the Wings of Inclusion", which teaches disabled persons basic life and job skills. In 2002, we created "Lifestyles TAM", renamed "Passionate for Life" in 2009. This program focuses on encouraging and teaching our employees to manage their health. We believe this program improves our employees' quality of life, both within and outside the workplace.

We also invest and support local communities because we believe our investments promote the socioeconomic development of society. We support projects related to the environment, education, vocational training, entrepreneurship, health and anti-slavery. We are serious about our commitment to sustainability, investing nearly 2% of our EBITDA in 2009 to these projects. Some examples include our sponsorship of SOS Mata Atlântica, a non-profit organization dedicated to preserving the Atlantic forest, and our work with the Brazilian Institute of Environment and Renewable Natural Resources (*Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis*, or IBAMA) for which we voluntarily transport wild animals back to their natural habitats with the assistance of IBAMA veterinarians.

We also partner with third party entities and support their individual missions by providing free airfare and financial aid. Examples of such partnerships include: Instituto Ethos, a project reporter in Brazil; Association Asas de Socorro; Brazil Foundation; GRAACC, a support group for adolescents and children with cancer; Ayrton Senna Institute; Junior Achievement; Social Stock Exchange and the Environment (BVS & A); Luggage Project; Abring Mara Gabrielli Institute; Rodrigo Mendes Institute; Laramara; and United Way Brazil, among others.

Another key way we support sustainability is by signing important declarations and project mission statements. We became a signatory of the Carbon Disclosure Project (CDP) in 2006, a major global project that is committed to implementing direct and indirect emissions control measures and improving the reporting of greenhouse gas emissions. We were also the first airline, and one of the first 84 signatories, to join the declaration of Corporate Social Responsibility and Human Rights, a declaration sponsored by the Ethos Institute and the Special Secretariat for Human Rights of the Presidency. By signing, we announced our support of their goal to foster sustainability and social development in Brazil.

### *Qualification and Training*

We focused on personnel development in 2009 and implemented many initiatives to reach our goal of becoming one of the best companies to work for in Brazil. One initiative example was our evaluation and redesign of our human resources value proposition. We hired Fundação Dom Cabral (one of Brazil's best development consultancies) to conduct a culture mapping examination of us, and with the assistance of their diagnosis and our branding group, we developed a new value proposition. We use this proposition as a guideline for human resources strategy implementation. The new value proposition reinforces our desire to stand out through the quality of our services and it reinforces one of our core values, a Passion to Serve.

We are particularly focused on the qualification and growth of our employees, which we believe constitute our chief operating asset. Our management of our human capital, which represents a broad illustration of the wealth, complexity and diversity of Brazilian society, is a key part of our strategic planning. Our training area, the Commander Rolim Amaro Service Academy, seeks to contribute to the development and qualification of our staff. In 2009, approximately R\$17 million was invested in qualification and training programs and our employees participated in over 150 thousand trainings. Most of these training programs were live or given by electronic means (e-learning) – available via the internet or intranet. Examples of training programs offered during 2009 include foreign language programs designed to reinforce English to our crew and airport employees and finance and accounting classes designed to improve general accounting knowledge in our company.

Much of our training in 2009 was designed to prepare TAM to join the Star Alliance, and to fulfill management needs concerning information technology tools that are designed to improve performance. International trade and finance are two areas that had major system upgrades supported by our training initiatives.

In 2008, together with Fundação Dom Cabral, we more clearly defined our management duties. The first four levels of our management were then evaluated based upon those defined duties. Taking into consideration individual performance, we established a succession plan for our three senior levels, ensuring continuity in the management of our business in the event of unexpected changes. In 2009, we trained our supervisors by focusing on these defined management duties. These trainings are designed to prepare our supervisors for performance evaluations that will continue throughout 2010. The defined duties help bridge performance gaps and prepare our supervisors for succession opportunities in the future.

### *Compensation and Benefits*

- Profit Sharing and Results

The profit sharing amounts distributed in 2009 were 34% lower than the amounts distributed in 2008. Employees profit sharing is calculated based on the achievement of two performance indicators. One is a financial indicator, the EBIT (Earnings Before Interest and Taxes) and the other measures the satisfaction index of our passengers through a methodology called the Net Promotor Score (NPS). The NPS was introduced in 2008 to improve services in each and every point of contact with our clients.

The calculation of any such profit sharing is usually carried out at the end of the year, at which time the value could be measured by us in the most reliable manner. In 2009, we did not achieve our EBIT target, though profit sharing was still distributed because the NPS target was attained.

- Private Pension Obligations

We have defined contribution plans, for which contributions are transferred to public or private pension plans on a mandatory, contractual or voluntary basis. To the extent that contributions are made, we have no obligation relating to any additional payments. Regular contributions comprise the net periodic expenses for the period in which any such contributions are due and are included in administrative expenses.



- Stock Option Plan

We offer stock options plans to employees, officers and directors, based on our shares, pursuant to which we receive services in exchange for stock options. The fair value of the stock options granted is recognized as an expense, during the period in which the right is vested (period during which the specific terms and conditions for vesting of rights should be complied with). As of the balance sheet date, we review the estimates relating to the number of options which rights should be vested based on the terms and conditions. We recognize the impact of the review of the original estimates, if any, in the statement of income, recorded against the shareholders' equity on future basis.

At December 31, 2009 we had 24,282 employees, compared to 24,389 employees at December 31, 2008 and 20,469 employees at December 31, 2007. Our personnel expenses in 2009 totaled R\$1,985 million compared to R\$1,782 million in 2008. The following table shows the number of employees at December 31, 2009, 2008 and 2007 for the operations and locations indicated:

	December 31, 2009	December 31, 2008	December 31, 2007
<b>TAM Linhas Aéreas</b>			
Assistants, secretaries and dispatchers	10,125	10,762	9,056
Analysts and assistants	2,825	2,779	2,499
Supervisors/coordinators	676	844	715
Chairman, vice chairmen, directors and managers	230	320	302
Mechanics, electricians and technicians	1,705	1,858	1,522
Attendants	4,785	5,025	3,755
Captains and co-pilots	1,977	2,043	1,665
Interns	66	74	60
<b>Total</b>	<b>23,563</b>	<b>23,705</b>	<b>19,574</b>
	December 31, 2009	December 31, 2008	December 31, 2007
<b>TAM Viagens</b>			
Assistants/receptionists/secretaries/interns	37	33	42
Analysts/assistants/secretaries	80	66	46
Attendants, promoters/issuers/sales reps	143	109	83
Attorneys/coordinators/leaders/supervisors	28	21	17
Directors/managers/advisors	15	13	15
<b>Total</b>	<b>303</b>	<b>242</b>	<b>203</b>
<b>TAM Mercosur</b>			
Paraguay	442	413	516
Chile	0	0	65
Argentina	0	0	31
Uruguay	0	0	32
Bolivia	40	28	44
São Paulo	0	1	4
<b>Total</b>	<b>482</b>	<b>442</b>	<b>692</b>
<b>Grand Total</b>	<b>24,348</b>	<b>24,389</b>	<b>20,469</b>

At the end of 2009, we had 24,282 employees, of which 22,626 were in Brazil and 1,656 were abroad. We also had 66 trainees and 652 outsourced employees. In 2008, we recorded a 0.4% staff decrease compared to an 18% increase in 2007.

Our staff largely consists of young men and women, where 45% are between the ages of 18 and 29, 37% are between 30 and 39 years and 18% are above 40 years.

#### Internal Social Indicators

TAM's internal social indicators provides an overview of the volume of resources allocated to the employees, in addition to the fixed compensation. This group includes items, such as the total value invested in food, private pension, health, occupational safety and medicine, education, training and qualification of employees.

## E. Share Ownership

The following table sets forth the class, number and percentage of shares held by our directors at the date of this Annual Report:

	Number of Common Shares Held	Number of Preferred Shares Held
Maria Cláudia Oliveira Amaro	1	104,100
Maurício Rolim Amaro	1	104,100
Noemy Almeida Oliveira Amaro	1	208,200
Alexandre Gonçalves Silva	—	1
André Santos Esteves	1	—
Emilio Romano	—	1
Marco Antonio Bologna	1	—
Waldemar Verdi Júnior	1	—

We have implemented a preferred share purchase option plan for our and our controlled companies' officers and employees, as approved at our shareholders' meeting held on September 29, 2005. Other than in respect of the first grant of options (described below), the strike price per preferred share is the amount equal to 80% of the average market price of our preferred shares in the month preceding the granting of the option, adjusted for inflation. We granted 715,255 options to purchase our preferred shares in December 2005, with an exercise price of R\$14.40 per preferred share. On June 26, 2006, our board of directors granted the release of 239,750 preferred shares as a second award to be used as options under the plan, with an exercise price of R\$43.48 per preferred share. On December 14, 2007, our board of directors granted the release of 780,311 preferred shares as a third award to be used as options under the plan, with an exercise price of R\$ 39.67 per preferred share. On September 27, 2007, our board of directors granted the release of 230,000 preferred shares as an extraordinary granting, with an exercise price of R\$ 38.36 per preferred share.

The share purchase options will be granted on annual basis in accordance with our board of directors' resolution as long as the maximum amount of 2% of dilution of the participation of current shareholders is not exceeded, and certain annual value-added goals are reached. The participants of our share purchase option plan may exercise their options within seven years as of the date of the relevant grant. The vesting term will last five years and will comprise three annual installments, due on the third, fourth and fifth year, respectively. Our share purchase option plan is effective until September 29, 2010.

## ITEM 7. MAJOR SHAREHOLDERS AND RELATED PARTY TRANSACTIONS

### A. Major Shareholders

The following table shows the shareholdings of each shareholder holding 5% or more of our common or preferred shares and of the members of our board of directors as of June 18, 2010, being the most recent practicable date.

Common Shareholders	Shares Beneficially Owned	
	Number	Percent
TAM — Empreendimentos e Participações S.A. <sup>(1)</sup>	44,804,238	89.26%
Agropecuária Nova Fronteira Ltda. <sup>(2)</sup>	79,516	0.16%
Maria Cláudia Oliveira Amaro	1	0.00%
Maurício Rolim Amaro	1	0.00%
Noemy Almeida Oliveira Amaro	1	0.00%
André Santos Esteves	1	0.00%
Emilio Romano	1	0.00%
Marco Antonio Bologna	1	0.00%
Waldemar Verdi Júnior	1	0.00%
Amaro & Aviation Participações S.A	5,295,149	10.55%
Other	16,140	0.03%
<b>Total</b>	<b>50,195,049</b>	<b>100.00%</b>

Preferred Shareholders	Shares Beneficially Owned	
	Number	Percent
TAM — Empreendimentos e Participações S.A. <sup>(1)</sup>	24,768,755	24.67%
Maria Cláudia Oliveira Amaro	104,100	0.10%
Maurício Rolim Amaro	104,100	0.10%
Noemy Almeida Oliveira Amaro	208,200	0.21%
Alexandre Gonçalves Silva	1	0.00%
Treasury shares	241,224	0.24%
Minority Shareholders:		
T.Rowe	7,846,430	7.82%
Other	67,106,691	66.85%
<b>Total</b>	<b>100,390,098</b>	<b>100.00%</b>

(1) TAM – Empreendimentos e Participações S.A., is owned by the Amaro family and has its principal offices at Rua Monsenhor Antonio Pepe, 397, São Paulo, SP, Brazil. Noemy Almeida Oliveira Amaro whose business address is at Rua Monsenhor Antonio Pepe, 331, São Paulo, SP, Brazil; Maria Claudia Oliveira Amaro whose business address is at Rua Monsenhor Antonio Pepe, 397, São Paulo, SP, Brazil; Mauricio Rolim Amaro whose business address is at Rua Monsenhor Antonio Pepe, São Paulo, SP, Brazil; and João Francisco Amaro whose business address is at Rua Monsenhor Antonio Pepe, 397, São Paulo, SP, Brazil own all of the shares in the company and exercise all of the voting rights and investment power.

(2) Agropecuária Nova Fronteira Ltda. is owned by the Amaro family and has its principal offices at Fazenda Jaguarundy, Rodovia BR 463-KM 109, Ponta Porá, Mato Grosso do Sul, Brazil. Noemy Almeida Oliveira Amaro whose business address is at Rua Monsenhor Antonio Pepe, 397, São Paulo, SP, Brazil; Maria Claudia Oliveira Amaro whose business address is at Rua Monsenhor Antonio Pepe, 397, São Paulo, SP, Brazil; and Mauricio Rolim Amaro whose business

address is at Rua Monsenhor Antonio Pepe, 397, São Paulo, SP, Brazil; own all of the quotes in the company and exercise all of the voting rights and investment power.

On June 17, 2005, we completed our initial equity offering of preferred shares, pursuant to which we (and the selling shareholders in that offering) offered a total of 30,190,000 preferred shares to institutional investors in the United States and institutional and other investors elsewhere. On July 19, 2005, we and the selling shareholders in the equity offering described above issued a further 281,600 preferred shares pursuant to an over-allotment option granted to the underwriters in that offering.

On March 15, 2006, we completed a follow-on equity offering of preferred shares in Brazil and our initial public offering of ADSs in the United States and elsewhere outside Brazil. This offering of preferred shares and ADSs was registered with the SEC, and the ADSs are listed on the New York Stock Exchange. We became a reporting company under the Securities Exchange Act of 1934, or the Exchange Act. We offered 2,660,103 ADSs and 2,339,897 preferred shares, and the selling shareholders in that offering sold 21,209,462 ADSs and 9,408,636 preferred shares. On April 11, 2006, we and the selling shareholders in that offering sold an additional 1,103,000 ADSs pursuant to an over-allotment option granted to the underwriters in that offering.

All shareholders within a class of our shares have the same voting rights.

## **B. Related Party Transactions**

We believe that all of the relevant transactions we entered into with the related parties described below were performed on terms that reflected the market rate for such transactions.

### **License For Use of Trademark**

TAM Marília owned the "TAM" trademark from its incorporation until September 2004 when TAM Marília underwent a spin-off which resulted in the creation of TAM Milor. TAM's trademark (and other trademarks related thereto) were transferred to TAM Milor. Both TAM Marília and TAM Milor are companies controlled by the Amaro Family. Until March 10, 2005, the relationship we, and our subsidiaries, TAM Viagens and TAM Mercosur, had with TAM Milor did not provide for any compensation for our use of TAM trademark and was subject to revision at any time. In order to protect the use of TAM's trademark on an appropriate legal and commercial basis, on March 10, 2005, TAM S.A., TAM Milor, TAM Linhas Aéreas, TAM Viagens and TAM Mercosur entered into a License for Use of Trademark Agreement, pursuant to which TAM Milor granted the other parties a license to use the "TAM" trademark in exchange for a monthly compensation or royalty payment. The terms of this agreement provide that it may be terminated in the event (i) of bankruptcy, judicial composition with creditors or winding-up of either party, (ii) one party fails to comply with any of its obligations and fails to remedy such non-compliance within 15 days of receiving notice of such non-compliance, or (iii) we and/or our subsidiaries, TAM Viagens and TAM Mercosur, utilize TAM's trademark in a manner other than that set forth in the agreement. The current expense we, and our subsidiaries, TAM Viagens and TAM Mercosur, record on an annual basis for the use of the trademark is R\$16.7 million, compared to R\$15.4 million in 2008. This amount is adjusted annually by reference to the IGP-M inflation index. This agreement is effective until December 9, 2011, following which, provided that TAM Linhas Aéreas' concession is itself renewed, the license to use the trademark will automatically be renewed for an equivalent period. The recording of the transfer of ownership of TAM trademarks from TAM Marília to TAM Milor and the License for Use of Trademark Agreement are currently in the process of review and registration, respectively, with the INPI. The intention of recording both the transfer and the registration of the License for Use of Trademark Agreement before the INPI is to provide third parties with notice of the existence of such rights.

The license for use was granted exclusively in relation to the classes of the activities we currently perform. TAM Milor may grant a license to use TAM's trademark to other parties for different activities that do not involve the scheduled transportation of passengers. In addition, the agreement does not impose any limitation on the right of TAM Milor to dispose of or pledge the trademarks subject to the agreement to third parties and TAM Milor may enter into such transactions without our prior knowledge or consent. In addition, the terms of the License for Use of Trademark Agreement grant us an exclusive license for the use of TAM's trademark as a symbol for securities traded on stock exchanges.

#### Service Agreement — TAM Marília

In September 2002, we entered into a service agreement with TAM Marília for the sharing of our general management activities, relating mainly to human resources, purchasing and procurement, marketing and information technology systems. Pursuant to the terms of this service agreement, we received payments from TAM Marília in the amounts of R\$65 thousand in the year ended December 31, 2009, R\$130 thousand in the year ended December 31, 2008 and R\$820 thousand in the year ended December 31, 2007.

On May 11, 2007, TLA and TAM Marília agreed to share the use of a hangar located near Congonhas airport in São Paulo for a period of 10 years. TLA paid R\$16 million up front to TAM Marília and is entitled to use the facilities and the infrastructure of the hangar. TLA provides the same cargo services as those it previously provided in the cargo terminal. The fee was established based on valuation reports performed by independent companies, reflecting the economic premium obtained by the use of such a location in TAM's cargo activities. The amount recognized in our income statement for the year ended December 31, 2009 totaled R\$2 million, the same amount as for the year ended December 31, 2008.

#### C. Interests of Experts and Counsel

Not applicable.

### ITEM 8. FINANCIAL INFORMATION

#### A. Consolidated Statements and Other Financial Information

See "Item 3. Key Information — A. Selected Financial Data" and "Item 18. Financial Statements."

#### Legal Proceedings

We are involved in various judicial and administrative proceedings arising from the normal course of our businesses. We have established provisions for all amounts in dispute that represent a probable loss in the view of our legal advisors and in relation to those disputes that are covered by laws, administrative decrees, decrees or court rulings that have proven to be unfavorable. The table below sets forth the total estimated value of amounts claimed, provisions for contingencies and court deposits at December 31, 2009 and December 31, 2008:

	<b>Total Estimated Amount Claimed December 31, 2009</b>	<b>Total Estimated Amount Claimed December 31, 2008</b>	<b>Provision for Contingencies December 31, 2009</b>	<b>Provision for Contingencies December 31, 2008</b>	<b>Court Deposits December 31, 2009</b>	<b>Court Deposits December 31, 2008</b>
	<i>(R\$ thousands)</i>					
Tax proceedings	1,699,434	2,439,142	690,774	945,027	77,189	59,901
Labor proceedings	256,306	221,703	18,675	24,181	21,848	15,758
Civil proceedings	99,295	71,351	67,380	63,520	11,218	9,267
<b>Total.</b>	<b>2,055,035</b>	<b>2,732,196</b>	<b>776,829</b>	<b>1,032,728</b>	<b>110,256</b>	<b>84,926</b>

We believe that our results of operations and financial condition would not be significantly affected by any unfavorable single decision in such lawsuits because we have established provisions in respect of the amounts at risk in the tax and civil proceedings and because any future cash disbursement we may be liable for in respect of any unfavorable decisions in tax proceedings may be paid in installments over a long period.

### ***Proceedings filed against us***

#### *Civil proceedings*

We are party to approximately 11,000 civil proceedings arising from the normal course of our business and the total amount claimed in these proceedings as at December 31, 2009 was estimated at R\$99.2 million, compared to R\$71.3 million at December 31, 2008. The vast majority of these proceedings involve minor cases relating to customer relations. The more significant actions relate to civil liability and disputes resulting from cancellation of agreements to provide services and commercial representation. At December 31, 2009, we had established provisions to address the potential liability from the civil proceedings classified with "probable risk" in the total amount of R\$67.4 million (compared to R\$63.5 million at December 31, 2008).

#### *Damage claims relating to accidents*

TAM Linhas Aéreas is party to 10 actions filed by relatives of victims of the accident that occurred in October 1996 involving one of our Fokker 100 aircraft which crashed during departure, in addition to 49 actions filed by residents of the region of the accident's location, who are claiming pain and suffering. *Unibanco Seguros S.A.* is party to all of these actions because any damages resulting from the aforementioned legal claims are covered by the civil liability guarantee provided for in our insurance policy with them. We believe that the cap of U.S.\$400 million in that insurance policy is sufficient to cover any penalties and judicial or extrajudicial agreements arising as a result of this matter.

The insurance coverage related to the risks and liabilities from the accident that occurred in July 2007 with an Airbus A320 aircraft has, as of December 31, 2009, been sufficient, with settlements being made directly between the insurance company and the victims' families. As of December 31, 2009, approximately 192 settlements had been made and others were under negotiation with the insurance company. Our management believes that the insurance coverage is adequate and that we did not incur any expenses that were not contemplated by the scope of the insurance policy that would result in TAM's obligation to pay.

#### *Tax proceedings*

We are party to various administrative proceedings or court actions in which we are claiming non-application of a specific tax or reimbursement of taxes paid improperly, or in which we are contesting the charging of specific taxes resulting from the normal course of our business; the total amount claimed in these proceedings as at December 31, 2009 was estimated at R\$1,699 million (compared to R\$2,439 million at December 31, 2008). We cannot guarantee that we will succeed in obtaining these tax credits or securing a favorable outcome in respect of the application of those taxes. At December 31, 2009, we had established provisions totaling R\$690 million for tax proceedings involving probable loss to us, including those listed below. In respect of certain proceedings, we have made court deposits, while in respect of others we have court protection that allows us to dispute the cases without need for partial payments or judicial deposits. In the event there is a difference between the amounts we have paid and deposited and the timing of payments required to satisfy the obligation recorded, we have the ability to fund any difference using cash from our operations and to the extent necessary, we are prepared to liquidate our financial investments to pay any such obligation.

#### *PIS and COFINS*

We challenged the constitutionality of the change in the tax basis of the PIS and the increase in the contribution and basis of calculation of COFINS, introduced under Law No. 9,718/98. On November 9, 2005, the Supreme Court of Justice ruled that the change in the tax basis of the PIS was unconstitutional. During 2006, we were successful in obtaining one favorable ruling which enabled us to partially reverse a provision of R\$46 million that we had established. In November 2009, Brazil established the Fiscal Recovery Program (REFIS) to refund amounts previously required to be paid under Law No. 9,718/98. TAM Linhas Aéreas has applied to REFIS to settle its outstanding tax debt relating to Law No. 9,718/98.

*Tariff surplus*

We have filed a court injunction aimed at suspending payment of the tariff supplement, which is collected monthly at the rate of 1.0% of our domestic revenues. Currently, the case is awaiting a ruling on the appeal filed by the Brazilian government against the judgment handed down on the injunction that we filed, which suspended application of the taxes. The approximate value of that proceeding at December 31, 2009 was R\$515 million. In the opinion of our legal advisors, the chance of loss in this proceeding is considered probable. On the basis that payment of this tariff is supported by both Presidential Decree and ANAC Administrative Decree, our management established a provision of R\$515 million in relation to this.

*ICMS on the importation of aircraft*

Proceedings had been filed against TAM Linhas Aéreas concerning the alleged failure to pay ICMS due on imported aircraft, parts and engines. In response, we had filed the appropriate challenges on the basis that ICMS should not be payable on leased aircraft. On May 30, 2007, the *Supremo Tribunal Federal* (Federal Supreme Court) ruled in our favor in respect of one of these cases. On the basis of this precedent decision and of recent rulings of the Superior Tribunal of Justice, we believe our chance of loss in respect of the other pending cases is remote. We had not established any provisions for the amounts in question.

*Airline worker fund*

We have filed an ordinary action with a request for an injunctive relief for non-payment of the Airline Workers Fund, a tax charged monthly at the rate of 2.5% of an airline's payroll. Payment of the tax credit is suspended by virtue of the injunctive relief in our favor. Currently, the proceeding is in the expert witness phase. In 2004, the INSS issued an assessment notice in order to toll the Statute of Limitations of the social security credit as a result of non-payment of the Airline Workers Fund. The administrative proceeding has been suspended until completion of the judicial process. The approximate adjusted value of this proceeding at December 31, 2009 was R\$135 million. In the opinion of our legal advisors, the chance of loss in respect of this proceeding is considered probable. On the basis that payment of this tax is required by law, our management established a provision in accordance in the amount of R\$135 million until the final judicial outcome of the matter.

*Labor actions*

At December 31, 2009 we were party to 1,406 labor claims filed by our employees, former employees or service providers arising from the normal course of our business (compared to 1,307 labor claims at December 31, 2008). We do not believe that such claims (individually or collectively) will have a material adverse effect on our results of operations in the event of unfavorable rulings. Of those 1,406 labor claims, 917 are against TAM Linhas Aéreas, and 489 are against service providers or sales representatives and TAM Linhas Aéreas. In the case of the individual labor claims, the principal disputes refer to demands for the payment of hazard supplements, overtime and make-up work, as well as requests for the payment of wage differentials in specific cases involving crew members. We are party to seven class actions, one by Panama's union of tourism companies and the remaining six by the national airline workers' union. The total assessed value of those actions was approximately R\$256 thousand at December 31, 2009, and according to our legal advisors, R\$6 thousand correspond to claims with a remote chance of loss, R\$231 thousand correspond to claims with a possible chance of loss, and R\$19 thousand correspond to claims with a probable chance of loss. We have established provisions totaling R\$19 thousand at December 31, 2009 in respect of all of these claims. For specific actions we have made court deposits totaling R\$22 thousand to address labor claims. The provision is based on our management's estimate as to likely losses we might incur as a result of the various labor claims filed by current or former employees. We believe the provisioned amount is sufficient as to cover probable losses, estimated as applicable, in the event that the rulings are unfavorable to us.

***Proceedings instituted by us***

***Damages relating to price freezes***

We are plaintiffs in an action filed against the Brazilian government in 1993 seeking damages for the breaking-up of the economic-financial equilibrium of an air transport concession agreement as a result of having to freeze our prices from 1988 to September 1993 in order to maintain operations with the prices set by the Brazilian government during that period. The process is currently being heard before the Federal Regional Court and we are awaiting judgment on appeals we have lodged requesting clarification of the initial decision (which we challenged). The estimated value of the action is R\$245 million, based on a calculation made by an expert witness of the court. This sum is subject to delinquent interest since September 1993 and inflation adjustment since November 1994. Based on the opinion of our legal advisors and recent rulings handed down by the Supreme Court of Justice in favor of airlines in similar cases (specifically, actions filed by Transbrasil and Varig) we believe that our chance of success is probable. Our management has not recognized these credits to our accounts and will only do so when the aforementioned decision is made final.

***Claims on amounts paid in error relating to ICMS***

We consider payments of ICMS made between 1989 and 1994 to be amounts paid in error because we believe it was unconstitutional to charge ICMS on air navigation services. TAM Linhas Aéreas has filed claims against various states in Brazil to claim the amounts paid in error. Rulings on these claims are pending. The total value involved in these claims is R\$55 million. Our policy is to only adjust the value of these claims for inflation at the time that payment in respect thereto are recorded in our financial statements.

***Additional airport tariffs — ATAERO***

We also filed an ordinary claim, with a request for early judgment, in relation to a dispute concerning the legality of charging the *Adicional das Tarifas Aeroportuárias* (Additional Airport Tariffs, or ATAERO), which are charged at a rate of 50% on the value of tariffs and airport tariffs. The total amount involved, adjusted for inflation, at December 31, 2010 totaled R\$777 million.

**Dividends and Dividend Policy**

***Amounts available for distribution***

At each general shareholders' meeting, our board of directors must propose the allocation of net profits earned during the preceding year (based on our non-consolidated annual financial statements). Brazilian corporation law provides that a company's net profit is defined as the results from the year, after deductions of income tax and social contribution on the net profit for that year, net of accumulated losses from preceding years and amounts allocated to profit-sharing plans. Brazilian corporation law also provides that the amounts available for distribution of dividends are the amounts corresponding to the net profit:

- less the amount allocated to the legal reserve; and
- less the amount allocated to the contingency reserve, if any.

The payment of dividends may be limited to the amount of net profit earned, provided the difference is recorded as a future profit reserve, as discussed below. The calculation of our net income for this purpose is made in accordance with Brazilian GAAP, which differs from IFRS in certain significant respects.

According to the Brazilian corporation law and our by-laws, we must maintain a legal reserve to which we must allocate 5% of our profit for each year until we reach 20% of the paid-up capital. We are not required to allocate any amount to the legal reserve in any year in which that reserve, when added to the others, is equal to or greater than 30% of our total capital. Accumulated losses, if any, can be offset by the legal reserve. If not utilized for these purposes, the legal reserve can only be utilized for a capital increase. The legal reserve is subject to approval of the shareholders at a regular shareholders' meeting, and can be transferred to the capital, but it is not available for the payment of dividends in subsequent years. Our net-profit calculations and allocations to reserves for any year are determined based on the non-consolidated (parent company) annual financial statements prepared in accordance with Brazilian GAAP.



Brazilian corporation law provides that part of a company's net profit can be utilized to constitute discretionary or statutory reserves, which must be described in the company's by-laws, precisely and comprehensively indicating the purpose of such reserves, the criteria for determining the annual portion of net profits that will be allocated for constituting the reserves and the maximum limit of the reserves. Currently, our by-laws do not provide for the constitution of statutory reserves or contingency reserves.

According to Brazilian corporation law, the amount of mandatory dividend that exceeds the net profit realized in any year can be allocated for future-profit reserves and the payment of mandatory dividends can be limited to the amount of net profit earned in the year. The profits from any future year consist of the sum of (i) the portion of positive net profit equal to the net worth equivalency in that year, if any, and (ii) profit derived from transactions in respect of which the due date for repayment occurs after the end of the following year. To the extent that amounts allocated for future profits reserve are earned in subsequent years, those amounts must be added to the payment of dividends relative to the year in which they were earned. The profits recorded in the future profits reserve, when earned and if not absorbed by losses in later years, must be added to the first dividends declared after they are earned.

A company is permitted to allocate to the future profit reserves all income from equity gains in subsidiaries that are not distributed to the company in the form of cash dividends. When such gains are distributed to the company in the form of cash dividends, the company is required to reverse the reserve. Under Brazilian corporate law, our shareholders may decide, upon a proposal of our board of directors, to allocate a discretionary amount of our net profits to a contingency reserve for estimated future losses which are deemed probable.

The distributable amount may be further increased by the reversal of such reserve in the fiscal year when the reasons that justified the creation of such reserve cease to exist or in which the anticipated loss occurs. Accordingly, there is no specific percentage of net profit allocable to this type of reserve.

The amounts available for distribution can be increased by reversing the contingency reserve for losses considered probable, established in previous years, but not realized. Allocations to the contingency reserve are also subject to the approval of shareholders at a shareholders' meeting.

The balance of the profit reserve accounts (except for contingency reserves and future profit reserves) must not exceed our total capital. In the event that the balance of the profit reserve accounts does exceed our capital, a shareholders' meeting must decide if the excess amount will be utilized to pay the subscribed but not paid-up capital, subscription of new shares or the distribution of dividends.

Brazilian corporation law provides that any net profit not allocated for the accounts set out above must be distributed as dividends.

#### ***Mandatory dividend***

Brazilian corporation law generally requires that the by-laws of each company must specify the minimum available percentage of profit to be distributed to shareholders as dividends, also known as the mandatory dividend.

The compulsory dividend is based on a percentage of adjusted profit (and must be a minimum of 25%) instead of being based on a fixed monetary amount per share. In the event that a company's by-laws do not specifically address this issue, Brazilian corporation law provides that the applicable percentage is 50%. Our by-laws provide that at least 25% of the balance of the net profit from the preceding year (as calculated in accordance with Brazilian corporation law and Brazilian GAAP) must be distributed as mandatory dividends. Brazilian corporation law allows us, however, to suspend the mandatory dividend in any year in the event that our board of directors informs the shareholders' general meeting that the distribution would not be feasible in light of our financial situation. Any such suspension of the compulsory dividend is subject to both the review of our fiscal council and approval of the shareholders' meeting. In the case of a public company, the board of directors must file a specific justification for the suspension with the CVM within five days of the shareholders' meeting. Any dividends not distributed as a result of any such suspension must be allocated to a special reserve. If not absorbed by subsequent losses, that amount must be distributed in the form of dividends as soon as the company's financial situation allows such distribution.

### ***Distribution of dividends***

Brazilian corporation law provides that we must hold a general shareholders' meeting by April 30th of each year at which, in addition to other matters, shareholders must make decisions regarding the allocation of our net profit with respect to the fiscal year ended immediately prior to our shareholders' meeting and the distribution of our annual dividends. Interim dividends may also be declared by our board of directors. Any payment of an interim dividend may be set off against the amount of the mandatory dividend distribution for that fiscal year. Any holder of shares at the time of the declaration of dividends has the right to receive those dividends. Dividends corresponding to shares held by custodians are paid to the custodian for distribution to shareholders. According to Brazilian corporation law, dividends must generally be paid to owners within 60 days after the dividend is declared, unless shareholders elect a different payment date which, in any case, must occur before the end of the year in which the dividend was declared. Dividends attributed to shareholders and not claimed shall not earn interest or be subject to inflation adjustment and the statute of limitations in respect of receiving such dividends will expire (in our favor) three years from the date such dividends were attributed to the shareholders.

### ***Interest on shareholders' equity***

According to current Brazilian tax law, companies have been authorized since January 1, 1996 to distribute interest on shareholders' equity instead of dividends and treat such distributions as deductible expenses for the purposes of income tax. Since 1998, such distributions may also be treated as deductible expenses for the purposes of social contributions. Such interest, which may be paid at the discretion of our board of directors, subject to approval of the shareholders' meeting, is limited to the daily variations in the TJLP on a pro-rated basis and may not exceed the greater of:

- 50% of net income (after deducting provisions for social contribution on the net profit and before provision for income tax and interest on the company's own capital) for the period for which the payment is made; or
- 50% of retained profits and profit reserves at the beginning of the year in relation to which the payment is made.

For accounting purposes, although the deductible expense must be reflected in our statement of income in order to be deductible, the expense is immediately reversed before calculating net profit for the statutory financial statements and deducted from net worth in a manner similar to a dividend. Income tax of 15% (or 25% in the event that the shareholder resides in a tax haven jurisdiction) is withheld at source and owed by shareholders upon receipt of the interest; however the tax is normally paid by the companies on behalf of the shareholders upon distribution of the interest.

Our by-laws and article 9, paragraph 7, of Law No. 9,249/95 provide that interest on Net Equity can be attributed to the payment of dividends for purposes of the mandatory dividend.

### ***Our dividend policy***

We did not distribute dividends or interest on capital to our shareholders between 1997 and 2004 because we had accumulated losses for those years. Our board of directors declared a dividend payment of R\$137,268,869.54 in respect of the year ended December 31, 2006, which was approved by our shareholders on April 27, 2007. Our directors declared a dividend payment of R\$72,093,006.90 in respect of the year ended December 31, 2007, which was approved by our shareholders on April 30, 2008. Our board of directors declared that no dividends or interest on share capital would be distributed to our shareholders with respect to 2008 because we recorded a net loss in 2008. Our board of directors declared a dividend payment in the gross amount of R\$236,722 in respect of the year ended December 31, 2009, which was approved by our shareholders on April 30, 2010.

We intend that any distribution of dividends or interest on capital be made in future will be made in accordance with Brazilian corporation law and our by-laws. Our board of directors may declare dividends and elect that they be paid against either accumulated profits or existing profits reserves, following approval at a shareholders' meeting. The amount distributed will depend on various factors such as our financial condition and results of our operations, our cash requirements, prospects and other factors considered relevant by our board of directors and shareholders. Holders of our ADSs will be entitled to the same rights in respect of any distribution of dividends as holders of our preferred shares.

In addition, the payment of dividends to our shareholders is contingent upon the net profit distributed as dividends by our operating subsidiaries. We may not be able to pay dividends to our shareholders in the event that our operational subsidiaries are unable to distribute dividends. See "— Amounts available for distribution."

## B. Significant Changes

See the disclosures in other Items of the Annual Report, as well as our disclosures on Form 6-K filed with the SEC after December 31, 2008.

## ITEM 9. THE OFFER AND LISTING

### A. Offer and Listing Details

In the United States, our preferred shares trade in the form of ADSs. As of December 31, 2009, the ADSs represented approximately 41.6% of our preferred shares and 27.7% of our current global public float, compared to 40.0% and 26.7%, respectively, as of December 31, 2008.

The following tables set forth the reported high and low closing sales prices for our ADSs on the NYSE for the periods indicated.

Quarter	Low	U.S.\$ per ADS Average <sup>(1)</sup>	High
First quarter 2009	5.50	7.19	10.18
Second quarter 2009	5.63	8.57	11.03
Third quarter 2009	10.09	12.78	14.19
Fourth quarter 2009	12.85	17.10	22.46
First quarter 2010	15.80	19.12	24.85

(1) Calculated as the average of closing prices for the period.

Month	Low	U.S.\$ per ADS Average <sup>(1)</sup>	High
December 2009	17.99	20.56	22.46
January 2010	18.24	22.05	24.85
February 2010	17.16	18.53	19.52
March 2010	15.80	17.19	18.87
April 2010	16.73	17.81	18.94
May 2010	12.86	18.64	17.11

(1) Calculated as the average of closing prices for the period.

The following table sets forth the reported high and low closing sale prices for our preferred shares on the BM&FBOVESPA for the periods indicated.

Year	Low	R\$ per Preferred Share <sup>(1)</sup> Average <sup>(2)</sup>	High
2005	15.75	27.31	47.50
2006	40.15	57.15	75.00
2007	39.64	54.42	68.71
2008	13.70	31.42	42.00
2009	12.70	21.89	39.20

(1) These figures have not been adjusted to reflect the share split agreed on May 16, 2005, pursuant to which holders of our existing shares received two shares of the same class and type for each share held.

(2) Calculated as the average of closing prices for the period.

Quarter	R\$ per Preferred Share <sup>(1)</sup>		
	Low	Average <sup>(2)</sup>	High
First quarter 2007	51.16	63.13	70.80
Second quarter 2007	50.42	57.85	66.93
Third quarter 2007	39.64	50.39	65.50
Fourth quarter 2007	40.81	47.93	52.35
First quarter 2008	29.66	36.22	42.00
Second quarter 2008	29.52	34.49	40.30
Third quarter 2008	24.25	32.95	40.53
Fourth quarter 2008	13.70	22.09	37.65
First quarter 2009	12.70	16.66	22.63
Second quarter 2009	12.87	17.65	21.25
Third quarter 2009	20.20	23.81	26.15
Fourth quarter 2009	23.00	29.44	39.20

(1) These figures have not been adjusted to reflect the share split agreed on May 16, 2005, pursuant to which holders of our existing shares received two shares of the same class and type for each share held.

(2) Calculated as the average of closing prices for the period.

Month	R\$ per Preferred Share		
	Low	Average <sup>(1)</sup>	High
December 2008	16.00	19.57	21.70
January 2009	17.25	19.13	22.63
February 2009	15.74	16.19	16.58
March 2009	12.70	14.69	15.51
April 2009	12.87	15.30	17.59
May 2009	15.50	18.16	20.21
June 2009	17.45	19.41	21.25
July 2009	20.20	22.67	25.20
August 2009	23.00	24.68	26.15
September 2009	23.00	24.15	25.50
October 2009	23.00	24.98	27.50
November 2009	25.35	28.14	29.94
December 2009	30.40	35.36	39.20
January 2010	34.47	39.17	42.99
February 2010	31.15	33.98	36.10
March 2010	28.40	30.74	33.95
April 2010	29.45	31.39	33.30
May 2010	23.75	26.89	30.91

(1) Calculated as the average of closing prices for the period.

## B. Plan of Distribution

Not applicable.

## C. Markets

### Trading on BM&FBOVESPA

BM&FBOVESPA is a closely-held company owned by the Securities, Commodities and Futures Exchange (*BM&FBOVESPA S.A. – Bolsa de Valores, Mercadorias e Futuros*) ("BM&FBOVESPA"), which is a publicly-held company. Trading on such exchanges is limited to member brokerage firms and to a limited number of authorized non-members.

The CVM and BM&FBOVESPA have discretionary authority to suspend trading in shares of a particular issuer under certain circumstances. Trading in securities listed on BM&FBOVESPA, including the *Novo Mercado* and Levels 1 and 2 segments, may be effected off the exchanges in the unorganized over-the-counter market in certain circumstances.

The shares of all companies listed on BM&FBOVESPA, including *Novo Mercado* and Level 1 and Level 2 companies, are traded together.

Settlement of transactions occurs three business days after the trade date. Delivery of and payment for shares is made through the facilities of separate clearing houses for each exchange, which maintain accounts for member brokerage firms. The seller is ordinarily required to deliver the shares to the clearing house on the second business day following the trade date. The clearing house for BM&FBOVESPA is the CBLC.

In order to reduce volatility, BM&FBOVESPA has adopted a "circuit breaker" system pursuant to which trading sessions may be suspended for a period of 30 minutes or one hour whenever specified indices of BM&FBOVESPA fall below the limits of 10% and 15%, respectively, in relation to the index levels for the previous trading session.

Although the Brazilian equity market is Latin America's largest in terms of market capitalization, it is smaller and less liquid than the major U.S. and European securities markets. Moreover, BM&FBOVESPA is less liquid than the New York Stock Exchange and other major exchanges in the world. Although any of the outstanding shares of a listed company may trade on a Brazilian stock exchange, in most cases fewer than half of the listed shares are actually available for trading by the public, the remainder being held by small groups of controlling persons, governmental entities or one principal shareholder.

Trading on Brazilian stock exchanges by non-residents of Brazil is subject to registration procedures. See "Item 10. Additional Information — D. Exchange Controls."

### **Regulation of Brazilian Securities Markets**

The Brazilian securities markets are principally governed by Law No. 6,385, of December 7, 1976, and Brazilian corporation law, each as amended and supplemented, and by regulations issued by the CVM, which has authority over stock exchanges and the securities markets generally; the National Monetary Council; and the Central Bank, which has, among other powers, licensing authority over brokerage firms and regulates foreign investment and foreign exchange transactions.

These laws and regulations, among others, provide for licensing and oversight of brokerage firms, governance of the Brazilian stock exchanges, disclosure requirements applicable to issuers of traded securities, restrictions on price manipulation and protection of minority shareholders. They also provide for restrictions on insider trading. However, the Brazilian securities markets are not as highly regulated and supervised as the U.S. securities markets or securities markets in some other jurisdictions. Accordingly, any trades or transfers of our equity securities by our officers and directors, our controlling shareholders or any of the officers and directors of our controlling shareholders must comply with the regulations issued by the CVM.

Under Brazilian corporation law, a corporation is either public (*companhia aberta*), as we are, or closely held (*companhia fechada*). All public companies are registered with the CVM and are subject to reporting requirements. Our preferred shares are listed on the Level 2 segment of BM&FBOVESPA. See "—BM&FBOVESPA's Different Corporate Governance Levels."

We have the option to ask that trading in securities on BM&FBOVESPA be suspended in anticipation of a material announcement. Trading may also be suspended on the initiative of BM&FBOVESPA or the CVM, based on or due to, among other reasons, a belief that a company has provided inadequate information regarding a material event or has provided inadequate responses to inquiries by the CVM or BM&FBOVESPA.

The Brazilian over-the-counter market consists of direct trades between individuals in which a financial institution registered with the CVM serves as intermediary. No special application, other than registration with the CVM, is necessary for securities of a public company to be traded in this market. The CVM requires that it be given notice of all trades carried out in the Brazilian over-the-counter market by the respective intermediaries.

### **BM&FBOVESPA's Different Corporate Governance Levels**

BM&FBOVESPA, in carrying out its self-regulatory functions, has established three differentiated levels of corporate governance: Level 1, Level 2 and *Novo Mercado*.

Each of the different corporate governance levels includes companies that agree, on a voluntarily basis, to adopt the corporate governance practices established for the level they have adopted. These corporate governance practices go beyond those required by law.

The entry of a company into any one of the special listing segments of the BM&FBOVESPA occurs through the signing of a contract that obliges the company to abide by the rules of corporate governance established in the regulations for the relevant level.

### ***BM&FBOVESPA Level 2***

#### *Preferred shares with restricted voting rights*

Voting rights are guaranteed to holders of preferred shares with respect to the following issues: (i) transformation, merger, consolidation or spin-off of the company, (ii) valuation of assets to be used for payment of capital increases by the company, (iii) selection of a specialized company to determine the economic value of our shares for the purpose of our delisting or discontinuation of our Level 2 registration, (iv) the approval in shareholders meetings of agreements between the company and its controlling shareholders, both directly and through third parties, as well as with other companies in which the controlling shareholders may have an interest, whenever required by law, (v) amending or changing terms in the company's by-laws that result in a failure on the part of the company to meet the requirements established under the Level 2 regulations.

#### *Tag along rights*

A change of control of a Level 2 listed company must be conditioned on the acquiror undertaking, within a maximum period of 90 days from the date of the acquisition of the controlling interest, to make a public offer to purchase (i) 100% of the common shares at a price per share equal to the highest price offered per common share so as to guarantee that all common shareholders are treated equally for purposes of the change of control, and (ii) 100% of the preferred shares at a price per share of 70% of the price offered to the holders of the common shares. In the event of a change of control, we have voluntarily adopted a provision in our bylaws, according to which we will offer to the preferred shareholders 100% of the price per share paid to the controlling shareholder group.

Similarly, any party that acquires a controlling interest in the company through successive purchases of shares will be obliged to make a public offer to purchase the remaining shares as described above, and to pay the difference between the price it paid for the shares acquired during the previous six months, duly adjusted in accordance with the inflation index or any other monetary correction applicable to the relevant period, and the price to be paid to the other shareholders as described above.

#### *Free float*

Companies listed on Level 2 segment of the BM&FBOVESPA must maintain a minimum percentage of shares in circulation (free float), equal to at least 25% of its total share capital. This percentage must be maintained for the duration of the Level 2 registration.

#### *Public offers of shares through mechanisms that favor broad distribution*

In each public offer of shares, we must make every effort to ensure the broad distribution of our shares, through the adoption of special procedures that must appear in the relevant prospectus, such as guaranteeing access to all qualified interested investors and distribution of at least 10% of the offer to private individuals or non-institutional investors.

#### *Introduction of improvements in financial statements*

We must present our quarterly information report (ITR), or other unaudited financial information, including information reconciled to U.S. GAAP or IFRS standards, in each case translated into English, within a maximum of 15 days after the time established by law for the publication of quarterly information. The ITR must include, in addition to the obligatory information established by law:

- (i) a consolidated balance sheet, a consolidated income statement and a report on consolidated performance, if obliged to present consolidated annual financial statements at the end of the financial year;
- (ii) information on the equity positions of all investors, including private individuals, holding, directly or indirectly, over 5% of our voting capital;

(iii) consolidated information on the number and characteristics of securities issued by us, and whether held, directly or indirectly, by individuals or groups forming the controlling shareholder group, by directors or by members of the audit committee;

(iv) information on the acquisition and disposition of securities over the 12 immediately preceding months by investors covered in item (iii) above with respect to relevant securities;

(v) in the explanatory notes, company and consolidated cash flow statements, if we are obliged to present consolidated statements at the end of the financial year; and

(vi) information on the number of outstanding shares and the percentage of total issued shares that they represent.

In the Annual Information Report (IAN), the company should include, in addition to legal requirements, the information listed in items (iii), (iv) and (vi) above.

The quarterly information must be accompanied by a special review report issued by an independent auditor that is duly registered with the CVM, observing the methodology specified in the regulations published by the CVM.

As of 2006 onward, we must, in addition to the terms of current legislation and regulations in Brazil, release (i) financial information prepared in accordance with international standards of U.S. GAAP or IFRS or release financial information, in English, also disclosing the net income and shareholders' equity at the end of the respective year, as determined according to accounting practices adopted in Brazil; or (ii) financial statements, in English, prepared in accordance with Brazilian corporation law, together with additional notes demonstrating the reconciliation of results of operations and equity according to Brazilian GAAP and U.S. GAAP or IFRS, as the case may be, evidencing the main differences between the applied accounting criteria. In addition, the annual financial statements must include, in the explanatory notes, a company cash flow statement and a consolidated cash flow statement, if applicable.

*Compliance with transparency rules on the part of controlling shareholders and managers in transactions involving our shares*

Our directors, our controlling shareholder group and members of our audit committee must report to BM&FBOVESPA the number and characteristics of our securities which they hold, directly or indirectly, including associated derivatives. This information must be provided to the BM&FBOVESPA immediately after any such person is elected, or acquires control, as the case may be.

In the same way, any transactions that may be effected with respect to securities and associated derivatives dealt with in this item must be communicated in detail to the BM&FBOVESPA, including pricing information, within ten days of the end of the month in which the transaction occurs. These obligations are extended to securities and their associated derivatives that may be held, directly or indirectly, by spouses, partners and dependents who are included in the annual income tax declaration of directors, controlling shareholders, and members of the audit committee.

*Shareholders' agreement, stock option programs and contracts with companies in the same economic group*

We must submit to BM&FBOVESPA a copy of any shareholders' agreement filed at our headquarters. Accordingly, whenever we sign new shareholders' agreements or amendments to any existing shareholders' agreement, the submission to BM&FBOVESPA must occur within five days following its filing and/or signing. The date of filing and/or registration of any shareholders' agreement at our headquarters must be indicated on the copy.

Details of stock option programs or other programs for the acquisition of any of our securities by our employees or directors must also be submitted to BM&FBOVESPA and disclosed.

Finally, we must publish information setting out details of each agreement (a) between us and our subsidiaries and associated companies, directors and members of our controlling shareholder group, (b) between us and any company controlled by or associated with the directors and any member of the controlling shareholder group, as well as with other companies that form, in conjunction with any one of these parties, the same group, whether *de facto* or *de jure*, in each case, whenever a single agreement, or a group of successive agreements, with or without the same purpose, in any period of one year, represents values of (i) R\$200,000 or more, or (ii) 1% of our net stockholders' equity, whichever is greater.

*Resolution of disputes through arbitration*

We and our controlling shareholder group, directors and members of our audit committee must resolve through arbitration all disputes or controversies related to the Level 2 regulations, our by-laws, Brazilian corporation law and any other regulations regarding the financial markets or securities, in each case in accordance with the terms of the Market Arbitration Chamber (*Câmara de Arbitragem do Mercado*).

*Cancellation of Level 2 registration*

In the event we cancel the registration of our shares on Level 2 of BM&FBOVESPA, or de-list as a publicly listed company, a public offering by the controlling shareholder group for the acquisition of all our outstanding shares will be required. The minimum price to be paid per share will be determined through a report on the valuation of our shares, which must be prepared by a specialized company of proven experience that is independent of us, our directors and our controlling shareholder group, in addition to satisfying the applicable terms of and carrying responsibility under Brazilian corporation law.

The choice of the specialized company responsible for determining the economic value of our shares is to be determined at a shareholders' meeting at which preferred shareholders will be entitled to vote, following presentation by the board of directors of a list of three specialized companies nominated for such purpose. The selection must be made on the basis of a majority vote of the free float shares, excluding abstentions. The cost of the valuation report will be borne in full by the controlling shareholders.

In the event that the valuation report is available by the date of the shareholders' meeting called for the purpose of canceling our listing as a public company, the controlling shareholders must disclose the value per share or per 1,000 shares on the basis of which the offer to purchase will be made. Unless the price per share announced by the controlling shareholder group in the shareholders' meeting is greater than or equal to the value determined in the valuation report, the meeting will automatically be cancelled, and timely notification of this fact must be given to the market, unless the controlling shareholders expressly agree to make the offer to purchase at a price per share equal to the economic value per share as set forth in the valuation report.

The cancellation of registration as a listed company must follow the procedures and meet the other requirements established in the regulations applicable under the terms of current law applicable to a Brazilian company, particularly those appearing in regulations published by the CVM on the subject.

*Divestment of control following abandonment of Level 2 listing*

In the event that we abandon or cancel our Level 2 listing and in the subsequent 12 months there is a change in our control, the controlling shareholders relinquishing control and the acquiror undertake, jointly and with joint responsibility, to acquire the shares of all shareholders at the price per share and pursuant to the same terms and conditions obtained by the controlling shareholder group in the sale of their own shares in accordance with the inflation index or any other monetary connection applicable to the relevant period. In the event that the price obtained by the controlling shareholder group for their shares is higher than the price per share offered to the other shareholders in the offer to purchase made in accordance with Level 2 regulations (see "— Cancellation of Level 2 registration"), the controlling shareholders relinquishing control and the acquiror undertake, jointly and with joint responsibility, to pay the difference between the proceeds in the operation for the transfer of control and the value paid to those shareholders who accept the terms of the offer.

In addition, we and our controlling shareholders are obliged to register in our share registry book the obligation to fulfill the provision described in the paragraphs above.



## **Significant Differences Between Our Corporate Governance Practices and NYSE Corporate Governance Standards**

We are subject to the NYSE corporate governance listing standards. As a foreign private issuer, the standards applicable to us are considerably different to the standards applied to U.S. listed companies. Under the NYSE rules, we are required only to (i) have an audit committee or audit board, pursuant to an applicable exemption available to foreign private issuers, that meets certain requirements, as discussed below, (ii) provide prompt certification by our chief executive officer of any material non-compliance with any corporate governance rules, and (iii) provide a brief description of the significant differences between our corporate governance practices and the NYSE corporate governance practices required to be followed by U.S. listed companies. The discussion of the significant differences between our corporate governance practices and those required of U.S. listed companies follows below.

### ***Majority of Independent Directors***

The NYSE rules require that a majority of the board must consist of independent directors. Independence is defined by various criteria, including the absence of a material relationship between the director and the listed company. Brazilian law does not have a similar requirement. Under Brazilian law, neither our board of directors nor our management is required to test the independence of directors before their election to the board. However, both Brazilian corporation law and the CVM have established rules that require directors to meet certain qualification requirements and that address the compensation and duties and responsibilities of, as well as the restrictions applicable to, a company's executive officers and directors. Our directors meet the qualification requirements of Brazilian corporation law and the CVM, and a majority of our directors would be considered independent under the NYSE test for director independence. Brazilian corporation law and our bylaws require that our directors be elected by our shareholders at a general shareholders' meeting.

### ***Executive Sessions***

NYSE rules require that the non-management directors must meet at regularly scheduled executive sessions without management present. Brazilian corporation law does not have a similar provision. According to Brazilian corporation law, up to one-third of the members of the board of directors can be elected from management. The remaining non-management directors are not expressly empowered to serve as a check on management, and there is no requirement that those directors meet regularly without management. As a result, the non-management directors on our board do not typically meet in executive session.

### ***Nominating/Corporate Governance Committee***

NYSE rules require that listed companies have a nominating/corporate governance committee composed entirely of independent directors and governed by a written charter addressing the committee's required purpose and detailing its required responsibilities, which include, among other things, identifying and selecting qualified board member nominees and developing a set of corporate governance principles applicable to the company.

### ***Compensation Committee***

NYSE rules require that listed companies have a compensation committee composed entirely of independent directors and governed by a written charter addressing the committee's required purpose and detailing its required responsibilities, which include, among other things, reviewing corporate goals relevant to the chief executive officer's compensation, evaluating the chief executive officer's performance, approving the chief executive officer's compensation levels and recommending to the board non-chief executive officer compensation, incentive-compensation and equity-based plans. We are not required under applicable Brazilian law to have a compensation committee. Under Brazilian corporation law, the total amount available for compensation of our directors and executive officers and for profit-sharing payments to our executive officers is established by our shareholders at the annual general meeting. The board of directors is then responsible for determining the individual compensation and profit-sharing of each executive officer, as well as the compensation of our board and committee members. In making such determinations, the board reviews the performance of the executive officers, including the performance of our chief executive officer, who typically excuses himself from discussions regarding his performance and compensation.

### ***Audit Committee***

NYSE rules require that listed companies have an audit committee that (i) is composed of a minimum of three independent directors who are all financially literate, (ii) meets the SEC rules regarding audit committees for listed companies, (iii) has at least one member who has accounting or financial management expertise, and (iv) is governed by a written charter addressing the committee's required purpose and detailing its required responsibilities. However, as a foreign private issuer, we need only to comply with the requirement that the audit committee meet the SEC rules regarding audit committees for listed companies. Brazilian corporation law requires companies to have a non-permanent *Conselho Fiscal* composed of three to five members who are elected at the general shareholders' meeting.

Our statutory Fiscal Board is primarily charged with certain advisory, oversight and review functions with respect to the company's financial statements. However, the statutory Fiscal Board, as required by Brazilian Corporate Law, has only an advisory role and does not participate in the management of the company. Decisions of the statutory Fiscal Board are not binding on the company under Brazilian Corporate Law.

As Brazilian Corporate Law does not specifically grant our statutory Fiscal Board the power to establish receipt, retention and complaint procedures regarding accounting, internal control and audit matters, or create policies for the confidential, anonymous treatment of employee concerns regarding accounting or auditing matters, we have also established an Audit Committee as a best corporate governance practice to address, at times working with the Ethics Committee, issues such as this, among others. See "Item 6.C — Directors, Senior Management and Employees — Board Practices — Audit Committee." We expect that there are some similar functions between the Audit Committee and our statutory Fiscal Board but we do not believe that our use of a fiscal board that complies with Brazilian Corporate Law, in combination with our Audit Committee, materially adversely affects the ability of our Audit Committee to act independently, satisfy the other applicable requirements of Exchange Act Rule 10A-3.

### ***Shareholder Approval of Equity Compensation Plans***

NYSE rules require that shareholders be given the opportunity to vote on all equity compensation plans and material revisions thereto, with limited exceptions. Under Brazilian corporation law, shareholders must approve all stock option plans. In addition, any issuance of new shares that exceeds our authorized share capital is subject to shareholder approval.

NYSE rules require that listed companies adopt and disclose corporate governance guidelines. We have not adopted any formal corporate governance guidelines beyond those required by applicable Brazilian law. We have adopted and observe a disclosure policy, which requires the public disclosure of all relevant information pursuant to guidelines set forth by the CVM, as well as an insider trading policy, which, among other things, establishes black-out periods and requires insiders to inform management of all transactions involving our securities.

### ***Code of Business Conduct and Ethics***

NYSE rules require that listed companies adopt and disclose a code of business conduct and ethics for directors, officers and employees, and promptly disclose any waivers of the code for directors or executive officers. Applicable Brazilian law does not have a similar requirement. We have, however, adopted a Code of Ethics applicable to our officers, directors and employees. See "Item 16B. Code of Ethics."

### ***Internal Audit Function***

NYSE rules require that listed companies maintain an internal audit function to provide management and the audit committee with ongoing assessments of the company's risk management processes and system of internal control.

### **Sarbanes-Oxley Act of 2002**

We maintain controls and procedures designed to ensure that we are able to collect the information we are required to disclose in the reports we file with the SEC, and to process, summarize and disclose this information within the time periods specified in the rules of the SEC. Our officer certifications under Section 404 of the U.S. Sarbanes-Oxley Act of 2002 are included as Exhibits 12.1 and 12.2 to this Annual Report.

**D. Selling Shareholders**

Not applicable.

**E. Dilution**

Not applicable.

**F. Expenses of the Issue**

Not applicable.

**ITEM 10. ADDITIONAL INFORMATION**

**A. Share Capital**

Not applicable.

**B. Memorandum and Articles of Association**

We set forth below a brief summary of certain significant provisions of our by-laws, Brazilian corporation law and the rules and regulations of the CVM. Because this is a summary, it may not contain all information that is important to you. Accordingly, this description is qualified entirely by references to our by-laws and Brazilian corporation law.

In addition, holders of our preferred shares will be entitled to all shareholders' rights provided to shareholders of companies listed on the Level 2 segment of BM&FBOVESPA. For a summary description of these shareholder rights, see "Item 9. The Offer and Listing — C. Markets — BM&FBOVESPA's Differentiated Corporate Governance Practices."

**General**

Our corporate name is TAM S.A. and our head office is located in the city of São Paulo, state of São Paulo, Brazil. We were registered with the Board of Trade of the state of São Paulo under NIRE number 35,300,150,007 and have been registered with the CVM as a public stock corporation under number 01639-0 since 1997.

All of our shares are registered with no par value and are indivisible. Our entire capital stock is fully paid-up. We currently hold 402,311 treasury shares.

**Corporate purpose**

Pursuant to article 3 of our by-laws, our corporate purposes are the participation (as either a shareholder or quotaholder) in companies engaged in scheduled air transportation services or related activities (including TAM Linhas Aéreas). Our by-laws provide that any sale of more than 50% of our holding of voting capital in TAM Linhas Aéreas to a third party is considered a change in corporate purpose and, accordingly, would allow shareholders to exercise their right to withdraw their shareholdings and receive in consideration the economic value of their shares, subject to the provisions of our by-laws and the Brazilian corporation law. See "Reimbursement and right of withdrawal."

**Rights of our common and preferred shares**

Each of our common shares gives the holder the right to vote on decisions of our shareholders' meetings. Our preferred shares carry no right to vote on decisions of the shareholders' meetings, except (as long as we are listed on the Level 2 segment of BM&FBOVESPA) with regard to certain matters. See "— Voting Rights."

Our preferred shares shall have the following advantages as compared to our common shares:

- priority in the reimbursement of capital, without premium, in the event of our liquidation; and
- the right to be included in public offerings derived from the transfer of our control, at the same price paid per each common share of the controlling block.

#### **Reimbursement and right of withdrawal**

For purposes of the right of withdrawal, Brazilian corporation law provides that a dissident shareholder includes not only shareholders who vote against a specific resolution, but also those that have abstained from voting or failed to appear at the shareholders' meeting. Brazilian corporation law provides that a dissident shareholder or shareholder with no voting rights has the right to withdraw from shareholding in a company upon receiving full reimbursement for all shares held in the event that the first invitation published for attending such shareholders' meeting is made (by a qualified quorum of shareholders representing at least 50% of the shares with the right to vote) to approve any of the following matters:

- create preferred shares or increase an already existing class of preferred shares, without maintaining the same proportion in relation to the other classes of shares, unless already provided or authorized in the by-laws;
- alter the preference, privilege, or conditions for redemption or amortization granted to one or more classes of preferred classes, or create a new class of shares with greater privileges than the existing classes of preferred shares;
- reduce the mandatory dividend;
- consolidate or merge with another company, including one of our controlling companies;
- participate in a group of companies;
- change of corporate purpose;
- transfer all shares to another company or receive shares in another company in such a way as to make the company whose shares were transferred to a wholly-owned subsidiary of the merged company;
- perform a spin-off that results in (i) a change in the company's corporate purpose (unless the company's assets and liabilities are transferred to a company that has substantially the same corporate purpose), (ii) a reduction in the compulsory dividend, or (iii) participation in a group of companies, as defined in Brazilian corporation law; or
- acquire control of another company for a price that exceeds the limits provided in Brazilian corporation law (and subject to the conditions set forth in Brazilian corporation law).

In the case of the first two items set out above, only the holders of shares adversely affected may exercise the right of withdrawal.

Whenever a company resulting from the consolidation, merger of shares, or spin-off of a public stock corporation fails to obtain registration as a public stock corporation (and, if applicable, fails to obtain registration of its shares for trading on the stock exchange within 120 days of the date of the shareholders meeting that approved that decision), the dissident shareholders or shareholders without voting rights may also exercise the right of withdrawal.

In the event that our shareholders approve any resolution for us to (i) consolidate or merge with another company, (ii) transfer all our shares to another company so as to transform our company into a wholly-owned subsidiary of that company, or (iii) become part of a group of companies, the right of withdrawal may be exercised only if our shares fail to satisfy certain liquidity tests at the time of the shareholders' meeting.

The right of withdrawal expires 30 days after publication of the minutes of the shareholders' meeting which approved any of the matters set out above. In the case of the first two items above, the decision taken at the shareholders' meeting only becomes legally effective upon confirmation by shareholders holding preferred shares, which must be obtained at a special shareholders' meeting held within one year.

In such cases, the 30-day deadline begins on the date of publication of the minutes of the special shareholders meeting. In the event that any redemption of shares held by dissident shareholders would potentially be prejudicial to our financial stability, we would have ten days following the expiration of that 30 day deadline to reconsider the resolution that caused the exercise of the right of withdrawal.

Brazilian corporation law also provides that the value of any shares to be withdrawn by dissident shareholders, or shareholders with no voting rights who have exercised the right to withdraw, shall be valued in an amount greater than the portion of our net worth attributed to those shares, as demonstrated by reference to our assets in the latest balance sheet approved at a shareholders meeting (in the event that more than 60 days have passed since the date of that balance sheet, the dissident shareholders have the right to request that the value of their shares be calculated by reference to our assets on our most recent balance sheet).

The change in the rights and benefits of our preferred shares was discussed at an extraordinary general shareholders' meeting held on September 19, 2008.

The sale of more than 50% of our common stake in TAM Linhas Aéreas to a third party would be considered a change in our corporate purpose and would give our shareholders the right (subject to Brazilian corporation law and our by-laws) to withdraw their shareholdings and receive the economic value of their shares.

### **Increases in capital and preemptive rights**

Each shareholder has preemptive right in respect of any issuance of new shares we conduct for the purpose of increasing our capital (as well as in respect of subscribing to debentures convertible to shares and warrants). The extent of the preemptive right is in direct proportion to the equity interest held by the shareholder and may be exercised at least 30 days after the publication of the notice of capital increase. In the case of an increase of equal proportion in the number of shares of all existing types and classes, each shareholder may exercise the preemptive right only over the same type and class of shares already held. In the event that the shares to be issued are of existing types and classes but the exercise of the preemptive right would result in a change in the respective proportions of our capital stock, the preemptive right may only be exercised over the types and classes identical to those already held by the shareholders and may only extend to any other shares in the event that these are insufficient to assure the shareholders the same proportion in our capital stock they had prior to the increase in capital. In the event that there is an issuance of shares of types and classes different from those already existing, each shareholder may exercise their preemptive rights (in proportion to the same number of shares already held) over the shares of all types and classes in the capital increase.

Our by-laws provide that, in accordance with Brazilian corporation law and criteria set forth by our board of directors, preemptive rights may be excluded, or the deadline for exercise may be brought forward, in respect of any issuance of shares, subscription bonuses, debentures or other securities convertible to shares where such issuance is placed (a) via sale on the stock exchange or public subscription, or (b) in exchange for shares in a public offering of control acquisition, in accordance with applicable laws. In addition, Brazilian corporation law provides that granting an option to purchase shares in relation to certain plans is not subject to preemptive rights.

### **Shareholders' meetings**

Our board of directors is the competent body for calling our shareholders' meetings. Notice of our shareholders' meetings must be published at least three times in the *Diário Oficial do Estado*, the official newspaper of the state where our headquarters are located and another newspaper in general circulation, currently *Valor Econômico*. Our shareholders' meetings take place in our headquarters, in the city of São Paulo, in the State of São Paulo. Shareholders attending a shareholders' meeting must produce proof of their status as shareholders and proof that they hold the shares entitling them to vote.

## Voting rights

Each common share grants the holder the right to one vote at shareholders' meetings.

Our preferred shares do not grant their holders general voting rights except, for so long as we are listed on the Level 2 segment of BM&FBOVESPA, in relation to the following matters:

- any direct conversion, consolidation, spin-off or merger of TAM;
- agreements between us and our controlling shareholder(s), as well as other companies in which our controlling shareholder(s) have an interest, so long as such matters have been approved in a general shareholders' meeting to the extent required by law or statute;
- the evaluation of assets in relation to any capital increase;
- the appointment of any company specializing in evaluating the economic value of our shares in case of a mandatory tender offer launched by us or by our controlling shareholders if we elect to go private or if we elect to cease to follow the requirements of BM&FBOVESPA's Level 2 regulation;
- any change in our corporate purpose; and
- any change in, or the revocation of, provisions of our by-laws resulting in any violation of certain requirements of BM&FBOVESPA's Level 2 regulation. See "Item 9. The Offer and Listing — C. Markets — BM&FBOVESPA's Differentiated Corporate Governance Practices."

Brazilian corporation law provides that shares with no voting rights or restricted voting rights (which would include our preferred shares) must now carry unrestricted voting rights in the event we should fail to distribute, for three consecutive years, any fixed or minimum dividends granted by these shares until such time as the respective distribution is completed. As a result of the fact that our by-laws do not provide for any fixed or minimum dividend, such unrestricted voting rights do not apply to our preferred shares.

Brazilian corporation law also provides that any change in the rights of preferred shareholders, or any creation of a class of shares with priority over the preferred shares must be approved by the owners of our common shares at a shareholders' meeting. Any such approval will only become legally effective upon approval by the majority of our preferred shareholders at a special shareholders' meeting, at which preferred shareholders vote as a special class of shareholder.

Brazilian corporation law grants the right to elect members of our board of directors (and alternates) at general shareholders' meetings to the holders of (i) preferred shares with no voting rights (or with restricted voting rights) representing at least 10% of the total capital, and (ii) common shares that are not part of the controlling group, representing at least 15% of the total voting capital. In the event that the non-controlling holders of preferred shares or common shares do not represent the respective thresholds set out above, Brazilian corporation law provides that holders of preferred shares and common shares representing at least 10% of our capital may combine their holdings in order to elect a member (and alternate) to our board of directors.

Shareholders have certain rights that may not be altered by provisions of our by-laws or resolutions of shareholders' meetings. These rights are (i) in the case of common shares only, the right to vote at general shareholders' meetings, (ii) the right to participate in the distribution of dividends and interest paid on our own capital and to share in our remaining assets in the case of liquidation, (iii) rights to subscribe for shares or securities convertible to shares under certain circumstances, and (iv) withdrawal rights in certain cases. Our by-laws and a resolution of the majority of the shareholders with voting rights have the ability to establish as well as remove certain additional rights.

## **Registration of Our Shares: Form and Transfer**

Our preferred shares are held in registered book-entry form, using the book-entry form services of Banco Itaú S.A., as custodian. Transfer of our preferred shares is carried out by means of an entry in their books, by debiting the share account of the transferor and crediting the share account of the transferee.

Transfer of shares by a foreign investor are made in the same way and executed by the investor's local agent on the investor's behalf except that, if the original investment was registered with the Central Bank pursuant to foreign investment regulations, the foreign investor should also seek amendment, if necessary, through its local agent, of the Certificate of Registration to reflect the new ownership.

The São Paulo Stock Exchange operates a central and fungible clearing system through the CBLC. A holder of our preferred shares may choose, at its discretion, to participate in these systems and all shares elected to be put into the systems will be deposited in custody with the relevant stock exchange (through a Brazilian institution that is duly authorized to operate by the Central Bank and maintains a clearing account with the relevant stock exchange). The fact that such shares are subject to custody with the relevant stock exchange will be reflected in our registry of shareholders. Each participating shareholder will, in turn, be registered in our register of beneficial shareholders that is maintained by the relevant stock exchange and will be treated in the same way as registered shareholders.

## **American Depositary Receipts**

JPMorgan Chase Bank, N.A., as depositary has executed and delivered the ADRs representing our preferred shares. Each ADR is a certificate evidencing a specific number of American Depositary Shares, or ADSs. Each ADS represents an ownership interest in one preferred share which we have deposited with the custodian, as agent of the depositary. Each ADS also represents any securities, cash or other property deposited with the depositary but which they have not distributed directly to you. Unless specifically requested by you, all ADSs will be issued on the books of our depositary in book-entry form and periodic statements will be mailed to you which reflect your ownership interest in such ADSs. In our description, references to American depositary receipts or ADRs shall include the statements you will receive which reflects your ownership of ADSs.

The depositary's office is located at 4 New York Plaza, New York, NY 10004.

You may hold ADSs either directly or indirectly through your broker or other financial institution. If you hold ADSs directly, by having an ADS registered in your name on the books of the depositary, you are an ADR holder. If you hold the ADSs through your broker or financial institution nominee, you must rely on the procedures of such broker or financial institution to assert the rights of an ADR holder. You should consult with your broker or financial institution to find out what those procedures are.

Because the depositary's nominee will actually be the registered owner of the shares, you must rely on it to exercise the rights of a shareholder on your behalf. The obligations of the depositary and its agents are set out in the deposit agreement. The deposit agreement and the ADSs are governed by New York law.

## **C. Material Contracts**

Our material contracts are directly related to our operating activities, such as contracts relating to aircraft leasing and fuel supply. We do not have material contracts that are not related to our operating activities.

### **Airbus Purchase Contracts**

In 1998, we entered into a purchase agreement with Airbus S.A.S. for the purchase of 38 A319-100 and A320-200 aircraft, plus 5 options to lease these aircraft. The last aircraft under this purchase agreement was delivered in February 2008.

In 2005, we entered into a purchase agreement with Airbus S.A.S. for the purchase of 10 A350-900 aircraft. We later renegotiated this agreement and agreed to lease 22 A350, plus 10 options to lease these aircraft. The A350 aircraft under this lease are scheduled to start being delivered in 2013.

#### **TAY Engine Maintenance Contract**

In 2000, we entered into an engine maintenance contract with MTU Motoren-und Turbinen-Union München GmbH, or MTU, pursuant to which MTU agreed to provide certain maintenance, refurbishment, repair and modification services with respect to approximately 105 TAY650-15 aircraft engines. This contract is complemented by a novation and amendment agreement between us and Rolls-Royce Brazil Ltda. pursuant to which Rolls-Royce Brazil Ltda., replaced MTU as contract counterparty. This agreement terminates on June 30, 2015.

#### **V2500 Engine Maintenance Contract**

In 2000, we entered into an engine maintenance contract with MTU Maintenance Hanover GmbH, or MTU Hanover, pursuant to which MTU Hanover agreed to provide certain maintenance, refurbishment, repair and modification services with respect to certain V2500-A5 engines. This agreement terminates on June 30, 2014.

#### **PW4168A Engine Maintenance Contract**

In 2000, we entered into an engine maintenance contract with United Technologies Inc., Pratt and Whitney Division, or Pratt and Whitney, pursuant to which Pratt and Whitney agreed to perform maintenance, modification and/or overhaul of PW4168A engines, engine modules and the parts and components thereof. This agreement terminates on September 14, 2010.

#### **GE Contract**

In 2001, we entered into a general terms agreement with GE Engine Services Distribution, L.L.C., or GE, pursuant to which we have agreed to purchase certain spare engines and support equipment for both the spare engines that we have purchased from GE and certain engines that have already been installed on our operating fleet. We have also agreed to purchase certain product support services from GE. This agreement has no fixed termination date.

#### **Sabre Contract**

In October 2003, we entered into a general services agreement with Sabre Travel International Limited, pursuant to which we were granted a license (relating to the provision of maintenance services) for electronic reservation technology and database backup. This agreement was supposed to remain in force for ten years, unless early cancelled by either party. In March 2009, we announced that we would exercise our right to early terminate the agreement as of March 2010.

#### **D. Exchange Controls**

Investors residing outside Brazil are authorized to purchase equity instruments, including our preferred shares, or as foreign portfolio investments on BM&FBOVESPA, provided that they comply with the registration requirements set forth in Resolution No. 2,689 of the National Monetary Council, (or Resolution No. 2,689) and CVM Instruction No. 325; or register their investment as foreign direct investments under Law No. 4,131/62.



With certain limited exceptions, Resolution No. 2,689 investors are permitted to carry out any type of transaction in the Brazilian financial capital market involving a security traded on a stock, future or organized over-the-counter market. Investments and remittances outside Brazil of gains, dividends, profits or other payments under our preferred shares are made through the foreign exchange market.

In order to become a Resolution No. 2,689 investor, an investor residing outside Brazil must:

- appoint a representative in Brazil with powers to take actions relating to the investment;
- appoint an authorized custodian in Brazil for the investments, which must be a financial institution duly authorized by the Central Bank and CVM; and
- through its representative, register itself as a foreign investor with the CVM and the investment with the Central Bank.

Securities and other financial assets held by foreign investors pursuant to Resolution No. 2,689 must be registered or maintained in deposit accounts or under the custody of an entity duly licensed by the Central Bank or the CVM. In addition, securities trading by foreign investors is generally restricted to transactions involving securities listed on the Brazilian stock exchanges or traded in organized over-the-counter markets licensed by the CVM.

Foreign direct investors under Law No. 4,131/62 may sell their shares in both private or open market transactions, but these investors will generally be subject to less favorable tax treatment on gains.

A foreign direct investor under Law No. 4,131/62 must:

- register as a foreign direct investor with the Central Bank;
- obtain a taxpayer identification number from the Brazilian tax authorities;
- appoint a tax representative in Brazil; and
- appoint a representative in Brazil for service of process in respect of suits based on the Brazilian corporation law.

Resolution No. 1,927 of the National Monetary Council, which restated and amended Annex V to Resolution No. 1,289 of the National Monetary Council, provides for the issuance of depositary receipts in foreign markets in respect of shares of Brazilian issuers. We filed an application to have the ADSs approved under Resolution 1,927 by the Central Bank and the CVM, and we received final approval on March 6, 2006.

If a holder of ADSs decides to exchange ADSs for the underlying preferred shares, the holder will be entitled to (i) sell the preferred shares on the BM&FBOVESPA and rely on the depositary's electronic registration for five business days from the date of exchange to obtain and remit U.S. dollars abroad upon the holder's sale of our preferred shares, (ii) convert its investment into a foreign portfolio investment under Resolution No. 2,689/00, or (iii) convert its investment into a foreign direct investment under Law No. 4,131/62.

If a holder of ADSs wishes to convert its investment into either a foreign portfolio investment under Resolution No. 2,689/00 or a foreign direct investment under Law No. 4,131/62, it should begin the process of obtaining his own foreign investor registration with the Central Bank or with the CVM as the case may be, in advance of exchanging the ADSs for preferred shares.

The custodian is authorized to update the depositary's electronic registration to reflect conversions of ADSs into foreign portfolio investments under Resolution No. 2,689/00. If a holder of ADSs elects to convert its ADSs into a foreign direct investment under Law 4,131/62, the conversion will be effected by the Central Bank after receipt of an electronic request from the custodian with details of the transaction.

If a foreign direct investor under Law No. 4,131/62 wishes to deposit its shares into the ADR program in exchange for ADSs, such holder will be required to present to the custodian evidence of payment of capital gains taxes. The conversion will be effected by the Central Bank after receipt of an electronic request from the custodian with details of the transaction. Please refer to "Item 10. Additional Information – E. Taxation – Brazilian Tax Considerations" for a description of the tax consequences to an investor residing outside Brazil of investing in our preferred shares in Brazil.

## **E. Taxation**

The summary below is based upon tax laws of Brazil and the United States as in effect on the date of this Annual Report, which are subject to change (possibly with retroactive effect).

There is at present no income tax treaty between Brazil and the United States. In recent years, the tax authorities of the two countries held discussions that did not, but may eventually, culminate in such a treaty. No assurance can be given as to whether or when such a treaty might enter into force or how it would affect the United States holders of our preferred shares.

### **Brazilian Tax Considerations**

The following discussion summarizes the material Brazilian tax consequences of the acquisition, ownership and disposition of our preferred shares or ADSs by a holder that is not domiciled in Brazil for purposes of Brazilian taxation and, in the case of preferred shares, which has registered its investment in such securities with the Central Bank as a U.S. dollar investment (in each case, a Non-Brazilian Holder). Pursuant Brazilian law, investors may invest in the preferred shares under Resolution No. 2,689.

Resolution No. 2,689 allows foreign investors to invest in almost all financial assets and to engage in almost all transactions available in the Brazilian financial and capital markets, provided that some requirements are fulfilled.

In accordance with Resolution No. 2,689, the definition of foreign investor includes individuals, legal entities, mutual funds and other collective investment entities, domiciled or headquartered abroad.

Pursuant to Resolution No. 2,689, foreign investors must: (a) appoint at least one representative in Brazil with powers to perform actions relating to the foreign investment; (b) complete the appropriate foreign investor registration form; (c) register as a foreign investor with the Brazilian securities commission; and (d) register the foreign investment with the Central Bank.

Securities and other financial assets held by foreign investors pursuant to Resolution No. 2,689 must be registered or maintained in deposit accounts or under the custody of an entity duly licensed by the Central Bank or the CVM. In addition, securities trading is restricted to transactions carried out in the stock exchanges or organized over-the-counter markets licensed by the CVM, except for transfers resulting from a corporate reorganization, occurring upon the death of an investor by operation of law or will or as a consequence of the delisting of the relevant shares from a stock exchange and the cancellation of the registration with the CVM.

#### ***Taxation of Dividends***

Dividends, including dividends in kind, paid by us to the depositary in respect of the preferred shares underlying the ADSs or to a Non-Brazilian Holder in respect of preferred shares generally will not be subject to Brazilian income withholding tax provided that they are paid out of profits generated as of or after January 1, 1996. Dividends relating to profits generated prior to December 31, 1995 are subject to a Brazilian withholding tax of 15% to 25% according to the tax legislation applicable to each corresponding year.

#### ***Taxation of Gains***

Gains realized outside Brazil by a Non-Brazilian Holder on the disposition of ADSs to another Non-Brazilian Holder are not currently subject to Brazilian tax. However, according to Law No. 10,833, enacted on December 29, 2003, or Law No. 10,833, the disposition of assets located in Brazil by a Non-Brazilian Holder, whether to other Non-Brazilian Holders or Brazilian holders, may become subject to taxation in Brazil. Although we believe that the ADSs do not fall within the definition of assets located in Brazil for purposes of Law No. 10,833, considering the general and unclear scope of such provisions and the lack of a judicial court ruling in respect thereto, we are unable to predict whether such understanding will ultimately prevail in the courts of Brazil.

For purposes of Brazilian taxation, there are two types of Non-Brazilian Holders of preferred shares or ADSs: (a) Non-Brazilian Holders that are not resident or domiciled in a tax haven jurisdiction (*i.e.*, a country or location that does not impose income tax or where the maximum income tax rate is lower than 20% or where the internal legislation imposes restrictions to disclosure of shareholding composition or the ownership of the investment), and that, in the case of holders of preferred shares, are registered before the Central Bank and the CVM to invest in Brazil in accordance with Resolution No. 2,689; and (b) other Non-Brazilian Holders, which include any and all non-residents of Brazil who invest in equity securities of Brazilian companies through any other means and all types of investors that are located in tax haven jurisdiction. The investors mentioned in item (a) above are subject to a favorable tax regime in Brazil, as described below.

The deposit of preferred shares in exchange for ADSs may be subject to Brazilian tax on capital gains at the rate of 15%, if the amount previously registered with the Central Bank as a foreign investment in the preferred shares is lower than (a) the average price per preferred share on a Brazilian stock exchange on which the greatest number of such shares were sold on the day of deposit; or (b) if no preferred shares were sold on that day, the average price on the Brazilian stock exchange on which the greatest number of preferred shares were sold in the 15 trading sessions immediately preceding such deposit. In such case, the difference between the amount previously registered and the average price of the preferred shares calculated as above will be considered to be a capital gain. Such taxation is not applicable in case of investors registered under Resolution No. 2,689 which are not located in a tax haven jurisdiction, which are currently tax exempt from income tax in such transaction.

The withdrawal of ADSs in exchange for preferred shares is not subject to Brazilian tax. Upon receipt of the underlying preferred shares, a Non-Brazilian Holder registered under Resolution No. 2,689 will be entitled to register the U.S. dollar value of such shares with the Central Bank as described below.

As a general rule, Non-Brazilian Holders registered under Resolution No. 2,689 that are not located in a tax haven jurisdiction are subject to income tax at a rate of 15% on gains realized on sales or exchanges of preferred shares outside a Brazilian stock exchange. With reference to proceeds of a redemption or of a liquidating distribution with respect to the preferred shares, the difference between the amount effectively received by the shareholder and the amount of foreign currency registered with the Central Bank, translated into *reais* at the commercial market rate on the date of the redemption or liquidating distribution, will be also subject to income tax at a rate of 15% once such transactions are treated as a sale or exchange not carried out on Brazilian stock exchange. In both cases, if the Non-Brazilian Holders are located in tax haven jurisdictions, the applicable rate is 25%. Gains realized arising from transactions on a Brazilian stock exchange by an investor registered under Resolution No. 2,689 that is not located in a tax haven jurisdiction are exempt from Brazilian income tax. This preferential treatment under Resolution No. 2,689 does not apply to Non-Brazilian Holders of the preferred shares or ADSs that are resident in a tax haven jurisdiction, in which case, gains realized on transactions performed by such holder on the Brazilian stock exchange are subject to the same tax rate that is applicable to a Brazilian resident. Pursuant to Law No. 11,033 of December 21, 2004, the rate applicable to Brazilian residents in transactions entered as of January 1, 2005 was established at 15%, being also subject to a withholding tax of 0.005% (to be offset against tax due on eventual capital gains).

Therefore, Non-Brazilian Holders are subject to income tax at a rate of 15% on gains realized on sales or exchanges in Brazil of preferred shares that occur on a Brazilian stock exchange, unless such sale is made by a Non-Brazilian Holder that is not resident in a tax haven jurisdiction, and (a) such a sale is made within five business days of the withdrawal of such preferred shares in exchange for ADSs and the proceeds of such sale are remitted abroad within such five-day period, or (b) such a sale is made under Resolution No. 2,689 by Non-Brazilian Holders that register with the CVM. In these two cases the transaction will be tax exempt.

The "gain realized" as a result of a transaction on a Brazilian stock exchange is the difference between the amount in Brazilian currency realized on the sale or exchange of the shares and their acquisition cost, without any correction for innovation. The "gain realized" as a result of a transaction that occurs other than on a Brazilian stock exchange, with shares that are registered under a certificate of registration of investment (other than under Resolution No. 2,689), will be calculated based on the foreign currency amount registered with the Central Bank which will be translated into *reais* at the commercial market rate of the date of such sale or exchange. There can be no assurance that the current preferential treatment for holders of ADSs and Non-Brazilian Holders of preferred shares under Resolution No. 2,689 will continue or will not be changed in the future. Reductions in the tax rate provided for by Brazil's tax treaties do not apply to tax on gains realized on sales or exchanges of preferred shares.

Any exercise of preemptive rights relating to the preferred shares or ADSs will not be subject to Brazilian taxation. Any gain on the sale or assignment of preemptive rights relating to preferred shares by the depositary on behalf of holders of ADSs will be subject to Brazilian income taxation according to the same rules applicable to the sale or disposition of preferred shares.

#### ***Distributions of Interest Attributable to Shareholders' Equity***

In accordance with Law No. 9,249, dated December 26, 1995, as amended Brazilian corporations may make payments to shareholders characterized as distributions of interest on the company's shareholders' equity. Such interest is calculated by reference to the TJLP as determined by the Central Bank from time to time and cannot exceed the greater of:

- 50% of net income (after social contribution on profits and before taking such distribution and any deductions for corporate income tax into account) for the period in respect of which the payment is made; or
- 50% of the sum of retained profits and profit reserves, as of the date of the beginning of the period in respect of which the payment is made.

Distributions of interest on shareholders' equity in respect of the preferred shares paid to shareholders who are either Brazilian residents or non-Brazilian residents, including holders of ADSs, are subject to Brazilian income withholding tax at the rate of 15%, or 25% in case of shareholders domiciled in a tax haven jurisdiction. The distribution of interest on shareholders' equity may be determined by our board of directors. We cannot assure you that our board of directors will not determine that future distributions of profits may be made by means of interest on shareholders' equity instead of by means of dividends.

The amounts paid as distribution of interest on shareholders' equity are deductible for corporate income tax and social contribution on profit, both of which are taxes levied on our profits, as far as the limits and rules described above are observed by us.

#### ***Other Relevant Brazilian Taxes***

There are no Brazilian inheritance, gift or succession taxes applicable to the ownership, transfer or disposition of preferred shares or ADSs by a Non-Brazilian Holder except for gift and inheritance taxes which are levied by some states of Brazil on gifts made or inheritances bestowed by individuals or entities not resident or domiciled in Brazil or domiciled within the state to individuals or entities resident or domiciled within such state in Brazil. There are no Brazilian stamp, issue, registration or similar taxes or duties payable by holders of preferred shares or ADSs. Pursuant to Decree 6,306 of December 14, 2007, the conversion into foreign currency or the conversion into Brazilian currency of the proceeds received by a Brazilian entity from a foreign investment in the Brazilian securities market, including those in connection with the investment in the preferred shares and ADSs and those made under Resolution No. 2,689, is potentially subject to an exchange transactions tax (*Imposto Sobre Operações Financeiras – IOF/Câmbio*), although at present the rate of such tax is generally 0.38%, which the Minister of Finance has the legal power to increase at any time to a maximum of 25%, but any such increase will only be applicable to transactions occurring after such increase becomes effective.

Pursuant to Decree 6,306/07, the Tax on Bonds and Securities Transactions (*IOF/Títulos*), which may be imposed on any transactions involving bonds and securities effected in Brazil, even if there transactions are performed on a Brazilian stock exchange. As a general rule, the rate of this tax is currently zero but the executive branch may increase such rate up to 1.5% per day, but only with respect to future transactions.

Until December 31, 2007 financial transfers were taxed by the *Contribuição Provisória sobre Movimentação Financeira*, or CPMF, at a rate of 0.38%. The CPMF was levied upon the remittance of proceeds on the amount converted in *reais* of the transaction and was required to be withheld by the financial institution that carries out the transaction. Currently, the funds transferred from a bank account to acquire shares on the Brazilian stock exchange are exempt from CPMF. In addition, Provisional Measure 281 of February 15, 2006 provided that the CPMF rate assessable on an acquisition of shares in a non-organized over-the-counter transaction was to be reduced to zero (provided that such acquisition relates to a public offering of shares made by a publicly-traded company). However, since January 1, 2008, CPMF was no longer in force, as the Brazilian Senate did not approve the Constitutional Amendment that would extend the term of CPMF collection. Therefore, CPMF should not be levied on any debit to bank accounts carried out after such date.

## United States

The following summary describes the material U.S. federal income tax consequences of the ownership and disposition of our ADSs or preferred shares as of the date hereof. Except where noted, this discussion deals only with U.S. Holders (as defined below) that hold our ADSs or preferred shares as capital assets for U.S. federal income tax purposes (generally, property held for investment). This summary does not represent a detailed description of the U.S. federal income tax consequences applicable to you if you are subject to special treatment under the U.S. federal income tax laws, including if you are:

- a financial institution;
- a dealer or trader in securities or currencies;
- a regulated investment company;
- a real estate investment trust;
- an insurance company;
- a tax-exempt organization;
- a person holding our ADSs or preferred shares as part of a hedging, integrated or conversion transaction, a constructive sale or a straddle;
- a person liable for alternative minimum tax;
- a person who actually or by attribution owns 10% or more of our voting stock;
- a partnership or other pass-through entity for U.S. federal income tax purposes; or
- a person whose "functional currency" is not the U.S. dollar.

The discussion below is based upon the provisions of the Internal Revenue Code of 1986, as amended (which we refer to as the Code), and regulations, rulings and judicial decisions thereunder as of the date hereof, and such authorities may be repealed, revoked or modified so as to result in U.S. federal income tax consequences different from those discussed below. If you are considering the purchase, ownership or disposition of our ADSs or preferred shares, you should consult your own tax advisors concerning the U.S. federal income tax consequences to you in light of your particular situation as well as any consequences arising under the laws of any other taxing jurisdiction.

As used herein, "U.S. Holder" means a holder of our ADSs or that is for U.S. federal income tax purposes:

- a citizen or resident alien of the United States;
- a corporation created or organized in or under the laws of the United States or any political subdivision thereof;
- an estate, the income of which is subject to U.S. federal income taxation regardless of its source;  
or

- a trust which is subject to the primary supervision of a court within the United States and one or more U.S. persons have the authority to control all substantial decisions of the trust (or otherwise if the trust has a valid election in effect under current Treasury regulations to be treated as a U.S. person).

If a partnership (or other entity treated as a partnership for U.S. federal income tax purposes) holds our ADSs or preferred shares, the tax treatment of a partner will generally depend on the status of the partner and the activities of the partnership. If you are a partner of a partnership holding our ADSs or preferred shares, you should consult your tax advisors.

In general, for U.S. federal income tax purposes, U.S. Holders of the ADSs will be treated as the beneficial owners of the underlying preferred shares that are represented by such ADSs. Accordingly, deposits or withdrawals of preferred shares by U.S. Holders for the ADSs will not be subject to the U.S. federal income tax. This summary is based, in part, upon representations made by the depository to us and assumes that the deposit agreements, and all other related agreements, will be performed in accordance with their terms.

The U.S. Treasury has expressed concerns that parties involved in transactions where depository shares are pre-released may be taking actions that are inconsistent with the claiming of foreign tax credits for U.S. Holders of ADSs. Accordingly, the analysis of the creditability of Brazilian taxes and the availability of the reduced dividend rate discussed below could be affected by future actions that may be taken by the U.S. Treasury.

### ***Taxation of dividends***

Subject to the discussion under "— Passive foreign investment company rules" below, distributions on our ADSs or preferred shares, including distributions paid in the form of payments of interest on capital for Brazilian tax purposes, before reduction for any Brazilian income tax withheld by us, will be taxable as dividends to the extent paid out of our current or accumulated earnings and profits, as determined for U.S. federal income tax purposes. Such dividends, including any withheld taxes, will be includable as ordinary income on the day received by the depository. Such dividends will not be eligible for the dividends received deduction allowed to corporations. Under current law, dividends received before January 1, 2011 by non-corporate U.S. investors on shares of certain foreign corporations will be subject to U.S. federal income tax at a maximum rate of 15% if certain conditions are met. A U.S. Holder will be eligible for this reduced rate only if it has held the ADSs or preferred shares for more than 60 days during the 121-day period beginning 60 days before the ex-dividend date. A U.S. Holder will not be able to claim the reduced rate for any year in which the company is treated as a PFIC. See "— Passive foreign investment company rules" below.

Based on existing guidance, it is not entirely clear whether dividends received with respect to the preferred shares will be treated as qualified dividends because the preferred shares are not themselves listed on a U.S. exchange. In addition, the U.S. Treasury has announced its intention to promulgate rules pursuant to which holders of ADSs and intermediaries through whom such securities are held will be permitted to rely on certifications from issuers to establish that dividends are treated as qualified dividends. Because such procedures have not yet been issued, it is not clear whether the company will be able to comply with them. Holders of ADSs should consult their own tax advisers regarding the availability of the reduced dividend tax rate in the light of their own particular circumstances.

The amount of any dividend paid in *reais* will equal the U.S. dollar value of the *reais* received calculated by reference to the exchange rate in effect on the date the dividend is actually or constructively received by the depository, regardless of whether the *reais* are converted into U.S. dollars at that time. A U.S. Holder should not recognize any foreign currency gain or loss in respect of such distribution if the *reais* is converted into U.S. dollars on the date received. If any *reais* received are not converted into U.S. dollars on the date of receipt, you will have a tax basis in the *reais* equal to their U.S. dollar value on the date of receipt. Any gain or loss realized on a subsequent conversion or other disposition of the *reais* will be treated as U.S. source ordinary income or loss.

Subject to generally applicable limitations and restrictions, Brazilian withholding taxes on dividends may be treated as foreign taxes eligible for credit against your U.S. federal income tax liability. In the event that you do not elect to claim a credit for foreign taxes, you may instead claim a deduction in respect of such Brazilian taxes. For purposes of calculating the foreign tax credit, dividends paid on our ADSs or preferred shares will be treated as income from sources outside the United States. The limitation on foreign taxes eligible for credit is calculated separately for specific categories of income. The rules governing the foreign tax credit are complex. You are urged to consult your tax advisors regarding the availability of the foreign tax credit under your particular circumstances.

### ***Taxation of capital gains***

Subject to the discussion under "— Passive foreign investment company rules" below, you will recognize capital gain or loss for U.S. federal income tax purposes on any sale, exchange or redemption of our ADSs or preferred shares in an amount equal to the difference between the amount realized for the ADSs or preferred shares and your tax basis in the ADSs or preferred shares. This gain or loss will be long-term capital gain or loss if you held the ADSs or preferred shares for more than one year at such time. The deductibility of capital losses is subject to limitations. Any gain or loss recognized by you will generally be treated as U.S. source gain or loss. Consequently, you may not be able to use the foreign tax credit arising from any Brazilian tax imposed on the disposition of our ADSs or preferred shares unless such credit can be applied (subject to applicable limitations) against tax due on other income treated as derived from foreign sources in the appropriate income category. Alternatively, you may take a deduction for the Brazilian tax.

If Brazilian tax is withheld on the sale or disposition of our ADSs or preferred shares, your amount realized will include the gross amount of the proceeds of such sale or disposition before deduction of Brazilian tax.

### ***Passive foreign investment company rules***

Based on the information available, including our current market capitalization, we do not expect to be considered a passive foreign investment company for U.S. federal income tax purposes. Passive foreign investment company status depends on a foreign company not earning more than a permitted amount of gross income that is considered "passive income" (such as interest, dividends and certain rents and royalties) and not holding more than a permitted percentage of assets, determined by value, that produce or are held to produce passive income. These tests depend on our income and the fair market value of our assets from time to time, which include a significant number of passive assets. Accordingly, there can be no assurance that we will not be considered a passive foreign investment company for any taxable year due, among other factors, to a decline in our market capitalization. If you are a taxable U.S. Holder and we are treated as a passive foreign investment company for any taxable year during which you own preferred shares or ADSs, you could be subject to materially adverse consequences including the imposition of significantly greater amounts of U.S. tax liability on disposition gains and certain distributions as well as additional tax form filing requirements.

### ***Other Brazilian taxes***

You should note that any Brazilian IOF/Exchange Tax, IOF/Bonds Tax or the recently extinguished CPMF Tax (as discussed above under "— Brazilian Tax Considerations" above) may not be treated as a creditable foreign tax for U.S. federal income tax purposes, although you may be entitled to deduct such taxes, subject to applicable limitations under the Code. You should consult your tax advisors regarding the U.S. federal income tax consequences of these taxes.

### ***Information reporting and backup withholding***

Information returns may be filed with the Internal Revenue Service in connection with distributions on our ADSs or preferred shares and the proceeds from their sale, exchange or redemption unless you establish that you are exempt from the information reporting rules. If you do not establish this, you may be subject to backup withholding on these payments if you fail to provide your taxpayer identification number or comply with certain certification procedures. The amount of any backup withholding from a payment to you will be allowed as a credit against your U.S. federal income tax liability and may entitle you to a refund, provided that the required information is timely furnished to the Internal Revenue Service.

Recent legislation has introduced new reporting requirements for certain U.S. Holders. The penalty for failing to comply with these, or existing, reporting requirements can be significant. You should consult their own tax advisors concerning any U.S. reporting requirements that may arise out of their ownership or disposition of ADSs or preferred shares in light of your particular circumstances.

#### **F. Dividends and Paying Agents**

Not applicable.

#### **G. Statement by Experts**

Not applicable.

#### **H. Documents on Display**

We are subject to the informational requirements of the U.S. Securities Exchange Act of 1934, which is also known as the Exchange Act. Accordingly, we are required to file and/or furnish reports and other information with the SEC, including Annual Reports on Form 20-F and reports on Form 6-K. You may inspect and copy reports and other information to be filed with the SEC at the public reference facilities maintained by the SEC at 100 F Street, N.E., Washington D.C. 20549. Copies of the materials may be obtained from the Public Reference Room of the SEC at 100 F Street, N.E., Washington, D.C. 20549 at prescribed rates. The public may obtain information on the operation of the SEC's Public Reference Room by calling the SEC in the United States at 1-800-SEC-0330. In addition, the SEC maintains an internet website at <http://www.sec.gov>, from which you can electronically access these materials. In addition, such reports, proxy statements and other information concerning us can be inspected at the offices of the New York Stock Exchange, Inc., 20 Broad Street, New York, New York 10005, on which our equity securities are listed.

As a foreign private issuer, we are not subject to the same disclosure requirements as a domestic U.S. registrant under the Exchange Act. For example, we are not required to prepare and issue quarterly reports. However, we furnish our shareholders with Annual Reports containing financial statements audited by our independent registered public accounting firm and make available to our shareholders quarterly reports containing unaudited financial data for the first three quarters of each fiscal year. We file Annual Reports on Form 20-F within the time period required by the SEC, which is currently six months from December 31, the end of our fiscal year.

We will send the depositary a copy of all notices that we give relating to meetings of our shareholder or to distributions to shareholders or the offering of rights and a copy of any other report or communication that we make generally available to our shareholders. The depositary will make all these notices, reports and communications that it receives from us available for inspection by registered holders of ADSs at its office. The depositary will mail copies of those notices, reports and communications to you if we ask the depositary to do so and furnish sufficient copies of materials for that purpose.

We also file financial statements and other periodic reports with the CVM located at Rua de Setembro, 111, Rio de Janeiro, RJ 20159-900, Brazil.

#### **I. Subsidiary Information**

Not applicable.

### **ITEM 11. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

We are exposed to market risks from our normal commercial activities. These market risks principally relate to changes in interest rates, exchange rates or oil prices. Any such changes may adversely affect the value of our financial assets and liabilities or our future cash flow and income. Market risk is the possible loss derived from variations in market prices. We have entered into derivative contracts and other financial instruments for the purpose of hedging against variations in these factors. We have also implemented policies and procedures in order to evaluate such risks and approve and monitor our derivative transactions, including a policy that stipulates that we will only enter into derivative transactions with counterparties who have a high credit rating. The counterparties to our derivative transactions are major financial institutions. We do not have significant exposure to any single counterparty in relation to derivative transactions.



### Interest rate risk

Our earnings are affected by changes in interest rates due to the impact those changes have on interest expense from variable-rate debt instruments, variable-rate leasing contracts and on interest income generated from our cash and short-term investment balances. To minimize possible impacts from interest rate fluctuations, TAM diversifies its debt among fixed and variable rate (such as LIBOR and CDI) agreements.

As of December 31, 2009, our variable-rate debt totaled in the aggregate approximately R\$5,167 million (consisting of debentures in the outstanding principal amount of R\$1,100 million and other variable-rate debt and leasing contracts in the total aggregate amount of R\$4,067 million). A hypothetical 100 basis point increase in market interest rates at December 31, 2009 would have increased our annual variable-rate interest expense by approximately R\$52 million.

### Exchange rate risk

A significant part of our costs and operating expenses, such as aircraft and engine maintenance services, aircraft lease payments and aircraft insurance, are denominated in U.S. dollars. To manage exchange rate risk, we may enter into derivatives contracts with various counterparties to protect ourselves against a possible depreciation or devaluation of the *real* against the U.S. dollar. While renegotiated some of our existing contracts in the first quarter of 2009, one of our counterparties required a deposit denominated in U.S. dollars as collateral. Regulations in Brazil do not permit us to make deposits in foreign currencies, so we entered into a non-deliverable forward to provide the deposit. We were required to provide additional collateral for this non-deliverable forward.

At December 31, 2009, if the Brazilian *real* had weakened/strengthened by 10% against the U.S. dollar, assuming all other variables (such as LIBOR and outstanding value) remained constant, net finance results for the year would have been R\$510 million higher/lower, mainly as a result of exchange gains/losses (in respect of U.S. dollar-denominated financial assets (valued at fair value), borrowings, finance leases and derivatives instruments). Management does not consider our exposure to foreign currencies other than the U.S. dollar to be significant to our financial position and results of operations.

### Risks relating to variations in the price of oil

Our results of operation are affected by changes in the price of oil. We have entered into oil derivatives contract in order to hedge ourselves against this risk. Our policy is to enter into oil derivatives contracts to hedge our projected fuel consumption. In 2006, we began to enter into arrangements intended to hedge a minimum of 30% and a maximum of 80% of our projected fuel consumption for up to a rolling 24-month period. Due to new market and macroeconomic conditions, we decided to modify this policy. We now plan to hedge our fuel requirements over rolling 24-month periods with between 20% and 60% of our future fuel requirements hedged over the first 12 months, and 10% to 60% hedged over the second 12 months.

At December 31, 2009, we were party to outstanding oil derivatives contracts corresponding to approximately 3.6 million barrels of oil. In 2009, we recorded liability of R\$221 million in respect of these contracts.

We enter into derivatives contracts only with counterparties rated at least A- (A3) by S&P, Moody's or Fitch. The fair values of our oil derivatives contracts according to the credit rating of the counterparties at December 31, 2009 are:

	Fair value of derivatives
AAA	(86,088)
AA+, AA or AA-	(105,056)
A+, A or A-	(29,817)
	(220,961)

In Brazil, the price of jet kerosene is determined by a state-controlled oil company, Petrobras, and is based on international jet fuel prices. We attempt to hedge against the volatility of kerosene prices through oil derivatives based on crude oil (West Texas Intermediate or "WTI"). WTI is highly correlated with our average Jet Fuel Price and is arguably the most actively traded commodity.

A hypothetical 10% increase/decrease in the price of WTI of US\$79.40 million at December 31, 2009 would lead to an increase/decrease of approximately R\$45 million in the fair value of our WTI derivatives. This assumes that the inherent components, interest rates and the exchange rates with respect to the contracts remain constant and that the 10% variation in WTI price is uniform along the future curve of WTI. We calculate the fair value of our oil derivatives contracts individually using specific models for each contract, which include simple discounted cash flow models, Monte-Carlo's simulation models and other analytical models.

Such a 10% increase/decrease would also directly influence our financial results. In terms of cash flow, for the year 2010, such changes in WTI price would be more than offset by a decrease/increase in our jet fuel costs. To calculate the impact on our cash flows, we estimate our average Jet Kerosene price as a function of WTI prices (through a simple linear regression analysis of prices over periodic 24-month periods). Assuming a base monthly consumption of 1.1 million barrels of fuel and an average strike price of US\$115 per barrel of fuel under our derivatives contracts, a 10% increase/decrease in the price of WTI would increase/decrease our jet fuel expenses by R\$395 million (including the relevant effects of settlements on our derivatives contracts).

## ITEM 12. DESCRIPTION OF SECURITIES OTHER THAN EQUITY SECURITIES

### D. American Depositary Shares

In the United States, our preferred shares trade in the form of ADSs. Each ADS represents an ownership interest in one preferred share, which we have deposited with the custodian, as agent of the depositary, JPMorgan Chase Bank, N.A.

#### *Direct and indirect fees and charges paid to the depositary*

The following table summarizes the fees and expenses payable by holders of our ADSs:

<u>Depositary action</u>	<u>Associated fees paid by our ADS holders</u>
Issuing ADSs, including issuances resulting from a stock dividend, stock split, merger, exchange, or other similar transaction	U.S.\$5.00 for every 100 ADSs
Cancelling ADSs for the purpose of withdrawal or surrender	U.S.\$5.00 for every 100 ADSs
Cash distributions to an ADS holder pursuant to the terms of the deposit agreement between TAM and the depositary	U.S.\$0.02 for each ADS
Transferring ADSs	U.S.\$1.50 for each ADS
Distributing or selling preferred shares to holders of preferred shares which are distributed by the depositary to ADS holders	U.S.\$5.00 for every 100 ADSs
Depositary services (not chargeable more than once a year)	U.S.\$0.02 for each ADS
Delivering preferred shares in connection with the depositary's, or the depositary's custodian's, compliance with applicable law, rule or regulation	Expenses of the depositary
Transferring and registering preferred shares	Expenses of the depositary, including taxes, other governmental charges and registration fees
Cable, telex and facsimile transmissions	Expenses of the depositary
Converting foreign currencies into U.S. dollars	Expenses of the depositary
Servicing the ADSs or preferred shares	Expenses of the depositary

***Reimbursement of fees and direct and indirect payments paid by the depositary***

In 2009, we received approximately R\$260 thousand from the depositary for NYSE listing fees, SEC filing fees, investor relation support services, primarily being our access to the Thomson Reuters service and conference call facilities, distribution of certain press releases and travel expenses for non-deal roadshows and investor conferences.



## PART II

### ITEM 13. DEFAULTS, DIVIDEND ARREARAGES AND DELINQUENCIES

None.

### ITEM 14. MATERIAL MODIFICATIONS TO THE RIGHTS OF SECURITY HOLDERS AND USE OF PROCEEDS

None.

### ITEM 15. CONTROLS AND PROCEDURES

#### Disclosure Controls and Procedures

We carried out an evaluation under the supervision of, and with the participation of, our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures, including those defined in United States Exchange Act Rule 13a 15(e), as of the year ended December 31, 2009. There are inherent limitations to the effectiveness of any system of disclosure controls and procedures, including the possibility of human error and the circumvention or overriding of the controls and procedures. Accordingly, even effective controls and procedures can only provide reasonable assurance of achieving their control objectives.

As a result of this evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were not effective as of December 31, 2009, and that the design and operation of our disclosure controls and procedures were not effective to provide reasonable assurance that all material information relating to our company was reported as required because material weaknesses in the current operation of our internal control over financial reporting were identified as described below.

#### Management's Annual Report on Internal Control over Financial Reporting and Attestation Report of Registered Public Accounting Firm

Our management's annual report on internal control over financial reporting is included in this annual report on page F-2 and the opinion by our independent registered public accounting firm on the effectiveness of our internal control over financial reporting is included in the report of PricewaterhouseCoopers Auditores Independentes that is included in this annual report on page F-3.

Our management assessed the effectiveness of our internal controls over financial reporting as of December 31, 2009. In making this assessment, our management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in "Internal Control—Integrated Framework." Based on this assessment, our management concluded that, as of December 31, 2009, our internal control over financial reporting did not operate effectively because there were two material weaknesses in our internal controls:

- (i) our controls related to the classification of leases of aircraft and flight equipment and their initial recognition were not designed with a level of detail or the level of information necessary to ensure that leases are properly classified and initially recognized in accordance with the requirements of IAS 17, and our controls related to the subsequent accounting for aircraft and flight equipment under finance leases did not specifically control our accounting entries related to changes in fair value of leased assets during each reporting period and their appropriate recognition, either in our stockholders' equity or our net income, and the computation of depreciation for the period; and
- (ii) we lacked sufficient controls to compile and prepare our financial statements and related disclosures, as required by IFRS, within the required timeframe and at a level of detail commensurate with the complexity of our business and transactions, including timely reviews of our financial statements and related disclosures with an appropriate level of detail.

These control deficiencies could result in a misstatement of our aircraft and flight equipment accounts or misstatements in our financial statements and related disclosures. Such misstatements could result in a material misstatement of our annual financial statements that may not be prevented or detected in a timely manner.

Notwithstanding management's assessment that our disclosure controls and procedures were not effective and that there were material weaknesses as identified above, we believe that our financial statements contained in this annual report fairly present our financial position, results of operations and cash flows for the years covered thereby in all material respects.

### Remediation Plan for Material Weakness

In order to remedy the material weakness related to classifying and accounting for aircraft and flight equipment leases, we are reviewing, designing and redesigning, as appropriate, our controls and risk matrixes to: (i) include further detail and increase the level of information required to perform a classification, reducing the risk of an error in the classification of leases in accordance with IAS 17, and (ii) create specific controls over accounting entries related to changes in fair value of leased assets, the recognition of those changes and the computation of any depreciation.

In order to remedy the material weakness related to our lack of sufficient controls to compile and prepare our financial statements and related disclosures, as required by IFRS, within the required timeframe and at a level of detail commensurate with the complexity of our business and transactions, (i) we designed and restructured our accounting closing procedures to enhance the quality of our accounting process, particularly by increasing the amount of time our accounting staff will have available to analyze and review our financials statements, (ii) we shall be redesigning our existing procedures with respect to the review of our financial statements to require more detailed reviews and to provide each reviewer with a specific area of focus for the review, (iii) hired additional senior accounting officers with appropriate expertise creating additional levels of review and increasing focus on the analysis of our financial statements, rather than the preparation of our financial statements, and (iv) we are developing an IFRS training program to increase the number of our accounting employees with knowledge of international accounting rules, permitting additional accounting staff to perform appropriate reviews in the timeline required to release our financial statements.

### Changes in Internal Control over Financial Reporting

Other than as set forth above, there have been no changes in our internal control over financial reporting that occurred during the year ended December 31, 2009 that have materially affected or are reasonably likely to materially affect our internal control over financial reporting as of December 31, 2009.

### ITEM 15T. CONTROLS AND PROCEDURES

Not applicable.

### ITEM 16A. AUDIT COMMITTEE FINANCIAL EXPERT

We do not have an audit committee financial expert serving on our audit committee because we believe that our audit committee members perform, as a whole, the functions of an "audit committee financial expert" within the meaning of the rules adopted by the SEC relating to the disclosure of financial experts on audit committees in periodic filings pursuant to the U.S. Securities Exchange Act of 1934. For a discussion of the role of our audit committee, see "Item 6. Directors, Senior Management and Employees C. Board Practices — Audit Committee."

### ITEM 16B. CODE OF ETHICS

Our board of directors has adopted a Code of Ethics applicable to our directors, officers and employees, including our principal executive officer and principal financial officer. Our Code of Ethics can be found at [www.tam.com.br](http://www.tam.com.br) under the heading "Investor Relations". Information found at this website is not incorporated by reference into this document.

### ITEM 16C. PRINCIPAL ACCOUNTANT FEES AND SERVICES

The following table sets forth by category of service the total fees for services provided by PricewaterhouseCoopers Auditores Independentes during the fiscal years ended December 31, 2009, 2008 and 2007.

	2009	2008	2007
	<i>(R\$ millions)</i>		
Audit Fees	5.4	5.8	3.7
Audit-Related Fees	—	—	—
Tax Fees	—	—	—
All Other Fees	0.2	—	—
<b>Total</b>	<b>5.6</b>	<b>5.8</b>	<b>3.7</b>

### Audit Fees

Audit fees consist of the aggregate fees billed by PricewaterhouseCoopers Auditores Independentes in connection with the audit of our annual financial statements, internal control reviews, interim reviews of our quarterly financial information, the issuance of comfort letters, procedures related to the audit of income tax provisions in connection with the audit and the review of our financial statements.

**Audit-Related Fees**

No audit-related fees were paid to PricewaterhouseCoopers Auditores Independentes for the fiscal years ended December 31, 2009, 2008 and 2007.

**Tax Fees**

No tax fees were paid to PricewaterhouseCoopers Auditores Independentes for the fiscal years ended December 31, 2009, 2008 and 2007.

**All Other Fees**

In 2009, we paid PricewaterhouseCoopers Auditores Independentes R\$198 thousand pursuant to a contract where PricewaterhouseCoopers Auditores Independentes performed security tests on web applications B2C and B2B, with the purpose of identifying security vulnerabilities on those applications. No other fees were paid to PricewaterhouseCoopers Auditores Independentes for the fiscal years ended December 31, 2008 and 2007.

**Pre-Approval Policies and Procedures**

Our audit committee approves all audit, audit-related services, tax services and other services provided by PricewaterhouseCoopers Auditores Independentes. Any services provided by PricewaterhouseCoopers Auditores Independentes that are not specifically included within the scope of the audit must be pre-approved by the audit committee in advance of any engagement. Pursuant to Rule 2-01 of Regulation S-X, audit committees are permitted to approve certain fees for audit-related services, tax services and other services pursuant to a *de minimis* exception prior to the completion of an audit engagement. Our management periodically reports to our audit committee the nature and scope of audit and non-audit services rendered by our independent auditors. In 2009, 2008 and 2007, none of the fees paid to PricewaterhouseCoopers Auditores Independentes were approved pursuant to the *de minimis* exception.

**ITEM 16D. EXEMPTIONS FROM THE LISTING STANDARDS FOR AUDIT COMMITTEES**

None.

**ITEM 16E. PURCHASES OF EQUITY SECURITIES BY THE ISSUER AND AFFILIATED PURCHASERS**

None.

**ITEM 16F. CHANGE IN REGISTRANT'S CERTIFYING ACCOUNTANT**

Not applicable.

**ITEM 16G. CORPORATE GOVERNANCE**

See "Item 9. The Offer and Listing — C. Markets — Significant Differences Between Our Corporate Governance Practices and NYSE Corporate Governance Standards."





## PART III

### ITEM 17. FINANCIAL STATEMENTS

See "Item 18. Financial Statements."

### ITEM 18. FINANCIAL STATEMENTS

See our consolidated financial statements beginning on page F-1.

### ITEM 19. EXHIBITS

- [1.1](#) [By-laws of TAM S.A. \(English translation\), incorporated herein by reference from our fourth pre-effective amendment to our Registration Statement on Form F-1, filed February 17, 2006, File No. 333-131938.](#)
- 1.2 By-laws of TAM Linhas Aéreas S.A. (English translation), incorporated herein by reference from our second pre-effective amendment to our Registration Statement on Form F-4, filed October 29, 2007, File 333-145838-01.
- 1.3 By-laws of TAM Capital Inc. (English translation), incorporated herein by reference from our second pre-effective amendment to our Registration Statement on Form F-4, filed October 29, 2007, File 333-145838-02.
- 2.1 Form of Deposit Agreement among TAM S.A., JPMorgan Chase Bank, N.A., as depository, and the Holders from time to time of American Depositary Shares issued thereunder, including the form of American Depositary Receipts, incorporated herein by reference from our sixth pre-effective amendment to our Registration Statement on Form F-1, filed March 2, 2006, File No. 333-131938.
- 2.2 Indenture, dated as of April 25, 2007, among TAM Capital Inc., Tam S.A., TAM Linhas Aéreas S.A., The Bank of New York and The Bank of New York (Luxembourg) S.A., incorporated herein by reference from our second pre-effective amendment to our Registration Statement on Form F-4, File No. 333-131938.
- [2.3](#) [Indenture, dated as of October 29, 2009, among TAM Capital 2 Inc., TAM S.A., TAM Linhas Aéreas S.A., The Bank of New York Mellon and The Bank of New York Mellon \(Luxembourg\) S.A.](#)
- [2.4](#) [Shareholders' Agreement entered into by certain key shareholders of TAM S.A., dated August 27, 2007, incorporated herein by reference from our Annual Report for the fiscal year ended December 31, 2008 on Form 20-F, filed June 30, 2009, File. No. 333-131938.](#)
- [2.5](#) [First Amendment to the Shareholders' Agreement entered into by certain key shareholders of TAM S.A., dated June 17, 2009.](#)
- 4.1 A320 Family Purchase Agreement, dated March 19, 1998, between Airbus S.A.S. (formerly known as Airbus Industrie GIE) and TAM Linhas Aéreas S.A. (formerly known as TAM Transportes Aéreos Meridionais S.A. and as successor in interest in TAM-Transportes Aéreos Regionais S.A.), incorporated herein by reference from our sixth pre-effective amendment to our Registration Statement on Form F-1, filed March 2, 2006, File No. 333-131938.
- 4.2 A350 Family Purchase Agreement, dated December 20, 2005, between Airbus S.A.S. and TAM Linhas Aéreas S.A., incorporated herein by reference from our sixth pre-effective amendment to our Registration Statement on Form F-1, filed March 2, 2006, File No. 333-131938.
- 4.3 Tay Engine Maintenance Agreement, dated September 14, 2000, between TAM Linhas Aéreas S.A. and MTU Motoren-und Turbinen-Union Muchen GmbH, incorporated herein by reference from our sixth pre-effective amendment to our Registration Statement on Form F-1, filed March 2, 2006, File No. 333-131938.
- 4.4 V2500 Maintenance Agreement, dated September 14, 2000, between TAM Transportes Aéreos Regionais S.A. (incorporated by TAM Linhas Aéreas S.A.) and MTU Maintenance Hannover GmbH (MTU), incorporated herein by reference from our sixth pre-effective amendment to our Registration Statement on Form F-1, filed March 2, 2006, File No. 333-131938.
- 4.5 PW4168A Maintenance Service Agreement, dated September 14, 2000, between TAM Linhas Aéreas S.A. and United Technologies International, Inc., Pratt & Whitney Division, incorporated herein by reference from our sixth pre-effective amendment to our Registration Statement on Form F-1, filed March 2, 2006, File No. 333-131938.
- 4.6 Novation and Amendment Agreement, dated November 8, 2001, between Rolls-Royce, MTU Aero Engines GmbH and TAM Linhas Aéreas S.A., incorporated herein by reference from our sixth pre-effective amendment to our Registration Statement on Form F-1, filed March 2, 2006, File No. 333-131938.
- 4.7 General Terms Agreement N° GE-00-0059, dated May 2001, among General Electric Company, GE Engine Services Distribution LLC and TAM Linhas Aéreas S.A., incorporated herein by reference from our sixth pre-effective amendment to our Registration Statement on Form F-1, filed March 2,

2006, File No. 333-131938.

- 4.8 General Services Agreement, dated October 3, 2003, between Sabre Travel Information Limited and TAM Linhas Aéreas S.A., incorporated herein by reference from our sixth pre-effective amendment to our Registration Statement on Form F-1, filed March 2, 2006, File No. 333-131938.
- 8.1 List of subsidiaries.
- [12.1 Rule 13a-14\(a\)/15d-14\(a\) Certification of Chief Executive Officer of TAM S.A.](#)
- [12.2 Rule 13a-14\(a\)/15d-14\(a\) Certification of Chief Financial Officer of TAM S.A.](#)
- [12.3 Rule 13a-14\(a\)/15d-14\(a\) Certification of Chief Executive Officer of TAM Linhas Aéreas S.A.](#)
- [12.4 Rule 13a-14\(a\)/15d-14\(a\) Certification of Chief Financial Officer of TAM Linhas Aéreas S.A.](#)
- [12.5 Rule 13a-14\(a\)/15d-14\(a\) Certification of Chief Executive Officer of TAM Capital Inc.](#)
- [12.6 Rule 13a-14\(a\)/15d-14\(a\) Certification of Chief Financial Officer of TAM Capital Inc.](#)
- [13.1 Section 1350 Certification of Chief Executive Officer of TAM S.A.](#)
- [13.2 Section 1350 Certification of Chief Financial Officer of TAM S.A.](#)
- [13.3 Section 1350 Certification of Chief Executive Officer of TAM Linhas Aéreas S.A.](#)
- [13.4 Section 1350 Certification of Chief Financial Officer of TAM Linhas Aéreas S.A.](#)
- [13.5 Section 1350 Certification of Chief Executive Officer of TAM Capital Inc.](#)
- [13.6 Section 1350 Certification of Chief Financial Officer of TAM Capital Inc.](#)
- [15.1 Consent of Engeval Engenharia de Avaliações Ltda.](#)
- [15.2 Consent of PricewaterhouseCoopers Auditores Independentes.](#)



## SIGNATURES

The Registrant hereby certifies that it meets all of the requirements for filing on Form 20-F and that it has duly caused and authorized the undersigned to sign this amended Annual Report on its behalf.

### TAM S.A.

By: /s/ Marco Antonio Bologna  
Name: Marco Antonio Bologna  
Title: Chief Executive Officer  
Date: June 30, 2010

By: /s/ Lbano Miranda Barroso  
Name: Lbano Miranda Barroso  
Title: Chief Financial Officer  
Date: June 30, 2010

### TAM LINHAS AREAS S.A.

By: /s/ Lbano Miranda Barroso  
Name: Lbano Miranda Barroso  
Title: Chief Executive Officer  
Date: June 30, 2010

By: /s/ Ricardo Froes Alves Ferreira  
Name: Ricardo Froes Alves Ferreira  
Title: Chief Financial Officer  
Date: June 30, 2010

### TAM CAPITAL INC.

By: /s/ Lbano Miranda Barroso  
Name: Lbano Miranda Barroso  
Title: Chief Executive Officer  
Date: June 30, 2010

By: /s/ Lbano Miranda Barroso  
Name: Lbano Miranda Barroso  
Title: Chief Financial Officer  
Date: June 30, 2010

**TAM S.A.**  
**Consolidated Financial Statements**  
**at December 31, 2009, 2008 and 2007 and**  
**Report of independent auditors**

## Management's Report on Internal Control over Financial Reporting

To the Board of Directors and Stockholders of TAM S.A.

The management of TAM S.A. ("TAM" or the "Company"), including the CFO and CEO, is responsible for establishing and maintaining adequate internal control over financial reporting.

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

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

TAM's management has assessed the effectiveness of the Company's internal control over financial reporting as of December 31, 2009 based on the criteria established in "Internal Control - Integrated Framework" issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO") and, based on such criteria, TAM's management has concluded that, as of December 31, 2009, the Company's internal control over financial reporting was not effective because material weaknesses existed. A material weakness is a control deficiency, or combination of control deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of the annual financial statements will not be prevented or detected on a timely basis. The material weaknesses are related to the process of preparing financial statements in accordance with International Financial Reporting Standards ("IFRS") as issued by the International Accounting Standards Board ("IASB") from the base accounting records of the Company, maintained in accordance with accounting practices adopted in Brazil, and were: (i) our controls related to the classification of leases of aircraft and flight equipment leases and over their initial recognition were not designed with a level of detail or the level of information necessary to ensure that leases are properly classified and initially recognized in accordance with the requirements of IAS 17, and our controls related to the subsequent accounting for aircraft and flight equipment under finance leases did not specifically control our accounting entries related to changes in fair value of leased assets during each reporting period and their appropriate recognition, either in stockholders' equity or net income, and the computation of depreciation for the period, and (ii) we lacked sufficient controls to compile and prepare our financial statements and related disclosures, as required by IFRS, within the required timeframe and at a level of detail commensurate with the complexity of our business and transactions, including timely reviews of our financial statements and related disclosures with an appropriate level of detail. These control deficiencies could result in a misstatement of our aircraft and flight equipment accounts or misstatements in our financial statements and related disclosures. Such misstatements could result in a material misstatement of our annual financial statements that may not be prevented or detected in a timely manner.

The effectiveness of the Company's internal control over financial reporting as of December 31, 2009 has been audited by PricewaterhouseCoopers Auditores Independentes, an independent registered public accounting firm, as stated in their report which appears herein.

São Paulo, June 30, 2010

By: /s/ Marco Antonio Bologna  
Chief Executive Officer, TAM S.A.

By: /s/ Líbano Miranda Barroso  
Chief Financial Officer, TAM S.A.

**Report of the Independent Registered Public  
Accounting Firm to the Stockholders of TAM S.A.**

To the Board of Directors and Stockholders of TAM S.A.

In our opinion, the accompanying consolidated statements of financial position and the related consolidated income statements, consolidated cash flow statements, consolidated statements of changes in equity, consolidated statements of comprehensive income (loss) present fairly, in all material respects, the financial position of TAM S.A. and its subsidiaries at December 31, 2009 and 2008 and the results of their operations and their cash flows for each of the three years in the period ended December 31,

2009, in conformity with International Financial Reporting Standards (“IFRS”) as issued by the International Accounting Standards Board (“IASB”). Also, in our opinion the Company did not maintain, in all material respects, effective internal control over financial reporting as of December 31, 2009, based on criteria established in Internal Control - Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (“COSO”) because material weaknesses in internal control over financial reporting related to the process of preparing financial statements in accordance with IFRS as issued by the IASB from the base accounting records of the Company maintained in accordance with accounting practices adopted in Brazil existed as of that date. A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the annual or interim financial statements will not be prevented or detected on a timely basis. The material weaknesses referred to above are described in the accompanying “Management's Report on Internal Control over Financial Reporting”. We considered these material weaknesses in determining the nature, timing, and extent of audit tests applied in our audit of the 2009 consolidated financial statements, and our opinion regarding the effectiveness of the Company’s internal control over financial reporting does not affect our opinion on those consolidated financial statements. The Company’s management is responsible for those financial statements, for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying “Management's Report on Internal Control over Financial Reporting” as set out on page F-2.

Our responsibility is to express opinions on these financial statements and on the Company's internal control over financial reporting based on our integrated audits. We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement and whether effective internal control over financial reporting was maintained in all material respects. Our audits of the consolidated financial statements included examining, on a test basis, evidence supporting the amounts and disclosures in the consolidated financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall consolidated financial statement presentation. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

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

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

São Paulo, Brazil, June 29, 2010

/s/PricewaterhouseCoopers Auditores Independentes

PricewaterhouseCoopers

Auditores Independentes

F-3

**TAM S.A.**  
**Consolidated Statements of Financial Position**  
In thousands of reais, unless otherwise indicated

Assets	Note	December 31, 2009	December 31, 2008	January 01, 2008	Liabilities	Note	December 31, 2009	December 31, 2008	January 01, 2008
			(Restated)	(Restated)				(Restated)	(Restated)
<b>Current assets</b>					<b>Current liabilities</b>				
Cash and cash equivalents	5	1,075,172	671,785	466,538	Suppliers		430,982	486,095	426,856
Financial assets at fair value through profit and loss	6	1,011,022	1,242,271	2,140,339	Financial liabilities	15	1,244,685	910,153	1,197,986
Trade accounts receivable	7	1,121,979	1,157,239	937,928	Salaries and social charges		307,607	317,951	236,707
Inventories	8	195,092	169,422	100,185	Deferred income	16	1,698,321	1,105,719	1,049,514
Non-current assets held for sale			62,134	62,286	Taxes, charges and contributions		179,662	246,337	129,135
Taxes recoverable		99,268	120,712	87,017	Proposed interest on own capital and dividends		233,985	599	32,052
Derivative financial instruments				62,967	Derivative financial instruments	17	235,727	1,021,928	
Prepaid expenses		148,910	149,281	195,886	Other current liabilities	18	123,696	149,091	130,765
Other receivables		142,971	97,944	74,104					
		<u>3,794,414</u>	<u>3,670,788</u>	<u>4,127,250</u>			<u>4,454,665</u>	<u>4,237,873</u>	<u>3,203,015</u>
<b>Non-current assets</b>					<b>Non-current liabilities</b>				
Restricted cash		79,370			Financial liabilities	15	5,924,737	7,178,873	3,908,700
Deposits in guarantee	10	59,520	116,135	161,488	Derivative financial instruments	17	6,288	107,057	
Deferred income tax and social contribution	11	621,788	306,969	4,770	Deferred income	16	100,169	369,210	357,769
Prepaid aircraft maintenance	12	408,628	383,593	119,633	Provisions for contingencies	19	666,573	947,800	769,696
Other receivables		28,549	157,904	104,709	Refinanced taxes payable under Fiscal Recovery Program	20	319,671		
Property, plant and equipment including aircraft pre-delivery payments	13	6,910,496	9,663,452	5,781,076	Other non-current liabilities	18	173,948	282,993	185,277
Intangible assets	14	241,701	152,092	34,248					
		<u>8,350,052</u>	<u>10,780,145</u>	<u>6,205,924</u>			<u>7,191,386</u>	<u>8,885,933</u>	<u>5,221,442</u>
					<b>Total liabilities</b>		<u>11,646,051</u>	<u>13,123,806</u>	<u>8,424,457</u>
					<b>Equity</b>				
					Capital and reserves attributable to equity holders of TAM S.A.				
					Share capital	21	675,497	675,497	675,497
					Revaluation reserve	22	116,504	1,146,829	284,465
					Other reserves	23	131,583	92,092	885,383
					Retained earnings / (Accumulated deficit)		(428,577)	(591,525)	60,743
							495,007	1,322,893	1,906,088
					Non-controlling interest		3,408	4,234	2,629
					<b>Total equity</b>		<u>498,415</u>	<u>1,327,127</u>	<u>1,908,717</u>



Total assets	<u>12,144,466</u>	<u>14,450,933</u>	<u>10,333,174</u>	Total liabilities and equity	<u>12,144,466</u>	<u>14,450,933</u>	<u>10,333,174</u>
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The accompanying notes are an integral part of these consolidated financial statements.

**TAM S.A.**  
**Consolidated Income Statements**  
**Years Ended December 31**  
In thousands of reais, unless otherwise indicated

	<u>Note</u>	<u>2009</u>	<u>2008</u> (Restated)	<u>2007</u> (Restated)
<b>Revenue</b>	24	9,765,506	10,513,044	8,018,819
Operating expenses	25	<u>(9,595,826)</u>	<u>(9,954,107)</u>	<u>(7,698,478)</u>
<b>Operating profit before movements in fair value of fuel derivatives and revaluation of aircraft</b>		<u>169,680</u>	<u>558,937</u>	<u>320,341</u>
Movements in fair value of fuel derivatives		316,852	(1,273,461)	130,410
Gains/(losses) on revaluation of aircraft recognized in the income statement	13 4	<u>(1,207,608)</u>	<u>242,370</u>	<u>(224,701)</u>
<b>Operating (loss)/profit</b>		<u>(721,076)</u>	<u>(472,154)</u>	<u>226,050</u>
Finance income	27	2,412,686	1,410,361	1,006,868
Finance costs	27	<u>(1,041,414)</u>	<u>(3,006,220)</u>	<u>(755,198)</u>
<b>Profit/(Loss) before income tax and social contribution</b>		<u>650,196</u>	<u>(2,068,013)</u>	<u>477,720</u>
Income tax and social contribution	28	<u>(212,781)</u>	<u>634,243</u>	<u>(145,941)</u>
<b>Profit/(Loss) for the year (all continuing operations)</b>		<u>437,415</u>	<u>(1,433,770)</u>	<u>331,779</u>
<b>Attributable to</b>				
Non-controlling interest		1,681	868	177
Equity holders of TAM		<u>435,734</u>	<u>(1,434,638)</u>	<u>331,602</u>
<b>Earnings/(loss) per share (common and preferred) – in R\$</b>				
Basic	29	2.90	(9.54)	2.20
Diluted	29	2.90	(9.54)	2.19

**TAM S.A.**  
**Consolidated Statements of Comprehensive Income (Loss)**  
**Years Ended December 31**  
In thousands of reais, unless otherwise indicated

	<u>Note</u>	<u>2009</u>	<u>2008</u> (Restated)	<u>2007</u> (Restated)
Revaluation of property, plant and equipment, net of tax	22	(1,017,255)	885,921	(17,370)
Currency translation gains/(losses), no tax effect		<u>(20,104)</u>	<u>13,152</u>	<u>(3,537)</u>
<b>Net income/(expense) recognized directly in equity, net of tax</b>		<u>(1,037,359)</u>	<u>899,073</u>	<u>(20,907)</u>
<b>Profit/(Loss) for the year (all continuing operations)</b>		<u>437,415</u>	<u>(1,433,770)</u>	<u>331,779</u>
<b>Total comprehensive income/(Loss)</b>		<u>(599,944)</u>	<u>(534,697)</u>	<u>310,872</u>
<b>Attributable to</b>				
Non-controlling interest		1,681	868	177
Equity holders of TAM		<u>(601,625)</u>	<u>(535,565)</u>	<u>310,695</u>

The accompanying notes are an integral part of these consolidated financial statements.



**TAM S.A.**  
**Consolidated Statement of Changes in Equity**  
**Years Ended December 31**  
In thousands of reais, unless otherwise indicated

	Share capital	Revaluation Reserve (Note 22)	Other reserves (Note 23)	Retained earnings (Accumulated deficit)	Total	Non- controlling interest	Total
<b>At January 01, 2007</b>	<u>675,000</u>	<u>326,035</u>	<u>615,041</u>		<u>1,616,076</u>	<u>2,744</u>	<u>1,618,820</u>
Total comprehensive income (loss) for the year, net of tax year, net of tax (as originally presented)		27,713	(3,537)	258,392	282,568	177	282,745
Total comprehensive income (loss) for the year, net of tax year, net of tax (correction of prior period error)		(45,083)		73,210	28,127		28,127
Total comprehensive income (loss) for the year, net of tax year, net of tax (Restated)		(17,370)	(3,537)	331,602	310,695	177	310,872
Revaluation reserve depreciation of aircraft (as originally presented)		(24,200)		36,667	12,467		12,467
Revaluation reserve depreciation of aircraft (correction of prior period error)				(12,467)	(12,467)		(12,467)
Revaluation reserve depreciation of aircraft (Restated)		(24,200)		24,200			
Other movements						(292)	(292)
Transactions with owners:							
Capital increase through issuance of shares	497				497		497
Stock option plan			11,230		11,230		11,230
Movement in treasury shares			(882)		(882)		(882)
Dividends (note 30)				(31,528)	(31,528)		(31,528)
Appropriation of net income			263,531	(263,531)			
Subtotal transactions with owners	<u>497</u>		<u>273,879</u>	<u>(295,059)</u>	<u>(20,683)</u>		<u>(20,683)</u>
<b>At December 31, 2007 (Restated)</b>	<u>675,497</u>	<u>284,465</u>	<u>885,383</u>	<u>60,743</u>	<u>1,906,088</u>	<u>2,629</u>	<u>1,908,717</u>
Total comprehensive income (loss) for the year, net of tax year, net of tax (as originally presented)		938,474	13,152	(1,392,463)	(440,837)	868	(439,969)
Total comprehensive income (loss) for the year, net of tax year, net of tax (correction of prior period error)		(52,553)		(42,175)	(94,728)		(94,728)
Total comprehensive income (loss) for the year, net of tax year, net of tax (Restated)		885,921	13,152	(1,434,638)	(535,565)	868	(534,697)
Revaluation reserve depreciation of aircraft (as originally presented)		(23,557)		35,693	12,136		12,136
Revaluation reserve depreciation of aircraft (correction of prior period error)				(12,136)	(12,136)		(12,136)
Revaluation reserve depreciation of aircraft (Restated)		(23,557)		23,557			
Other movements						737	737
Transactions with owners:							
Stock option plan - credit			16,512		16,512		16,512
Options exercised			(9,336)		(9,336)		(9,336)
Movement in treasury shares			(11,370)	(2,899)	(14,269)		(14,269)
Dividends (note 30)				(40,537)	(40,537)		(40,537)
Appropriation of net income			(802,249)	802,249			
Subtotal transactions with owners			<u>(806,443)</u>	<u>758,813</u>	<u>(47,630)</u>		<u>(47,630)</u>
<b>At December 31, 2008 (Restated)</b>	<u>675,497</u>	<u>1,146,829</u>	<u>92,092</u>	<u>(591,525)</u>	<u>1,322,893</u>	<u>4,234</u>	<u>1,327,127</u>
Total comprehensive income (loss) for the year, net of tax		(1,017,255)	(20,104)	435,734	(601,625)	1,681	(599,944)
Revaluation reserve depreciation of aircraft		(13,070)		13,070			
Other movements						(2,507)	(2,507)
Transactions with owners:							
Stock option plan			11,409		11,409		11,409
Unvested options forfeited			(948)		(948)		(948)
Interest on own capital (note 30)				(24,998)	(24,998)		(24,998)
Dividends (note 30)				(211,724)	(211,724)		(211,724)
Transfer to Legal reserve (note 23.2)			49,134	(49,134)			

Subtotal transactions with owners			<u>59,595</u>	<u>(285,856)</u>	<u>(226,261)</u>		<u>(226,261)</u>
<b>At December 31, 2009</b>	<u>675,497</u>	<u>116,504</u>	<u>131,583</u>	<u>(428,577)</u>	<u>495,007</u>	<u>3,408</u>	<u>498,415</u>

The accompanying notes are an integral part of these consolidated financial statements.

**TAM S.A.**  
**Consolidated Cash Flow Statements**  
**Years Ended December 31, 2009 and 2008**  
In thousands of reais, unless otherwise indicated

	<u>Note</u>	<u>2009</u>	<u>2008</u>	<u>2007</u>
<b>Cash generated from operating activities</b>	31	587,165	1,904,477	724,760
Tax paid		(83,429)	(58,443)	(65,528)
Interest paid		(312,633)	(303,525)	(286,559)
<b>Net cash generated from operating activities</b>		<u>191,103</u>	<u>1,542,509</u>	<u>372,673</u>
<b>Cash flows from investing activities</b>				
Investments in restricted cash		(79,370)		
Proceeds from sale property, plant and equipment (PPE)		35,869	8,204	4,558
Purchases of property, plant and equipment (PPE)		(334,896)	(637,483)	(311,852)
Purchases of intangible assets		(135,296)	(133,469)	(37,071)
Deposits in guarantee				
Reimbursement		60,697	106,292	21,011
Deposits made		(27,922)	(30,503)	(65,383)
Pre delivery payments				
Reimbursement			261,302	401,977
Payments			(217,688)	(451,456)
<b>Net cash (used in) investing activities</b>		<u>(480,918)</u>	<u>(643,345)</u>	<u>(438,216)</u>
<b>Cash flows from financing activities</b>				
Proceeds from issuance of common shares				497
Purchase of treasury shares			(14,269)	
Dividends paid to the Company's stockholders			(72,065)	(137,629)
Short and long-term borrowings				
Issuance		236,581	208,692	638,105
Repayment		(70,714)	(471,390)	(591,857)
Capital element of finance leases		(567,649)	(340,092)	(263,664)
Debentures				
Issuance		592,686		
Repayment			(4,793)	(19,957)
Issuance of senior notes		502,298		607,080
<b>Net cash (used in) from financing activities</b>		<u>693,202</u>	<u>(693,917)</u>	<u>232,575</u>
<b>Net increase in cash and cash equivalents</b>		403,387	205,247	167,032
<b>Cash and cash equivalents at beginning of year</b>		<u>671,785</u>	<u>466,538</u>	<u>299,506</u>
<b>Cash and cash equivalents at end of year</b>		<u>1,075,172</u>	<u>671,785</u>	<u>466,538</u>
<b>Supplementary information on cash flows:</b>				
<b>Non cash investing and financing activities – acquisition of aircrafts under finance lease</b>				
		<u>181,201</u>	<u>2,360,295</u>	<u>1,325,685</u>

The accompanying notes are an integral part of these consolidated financial statements.

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

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**1 General Information**

TAM S.A. ("TAM" or the "Company") was incorporated on May 12, 1997, to invest in companies which carry out air transportation activities. The Company wholly owns TAM Linhas Aéreas S.A. ("TLA"), a company that operates in the transportation of passengers and cargo in Brazil and on international routes, and 94.98% of Transportes Aéreos del Mercosur S.A. ("Mercosur"), an airline headquartered in Assunción, Paraguay, which operates in Paraguay, Argentina, Brazil, Chile, Uruguay and Bolivia. TAM is incorporated and domiciled in Brazil and its registered office is in Av. Jurandir, 856, Lote 4, 1st floor, São Paulo, SP.

In July 15, 2005, the Company concluded a public offering of shares on the São Paulo Stock Exchange – BOVESPA. On March 10, 2006 the Company made an additional public offering – this time on the BOVESPA and the New York Stock Exchange – NYSE (in the form of American Depositary Shares – ADS), which was concluded on April 6, 2006.

The Company, through its subsidiary TLA, controls the companies TAM Capital Inc. ("TAM Capital"), TAM Capital Inc. 2 ("TAM Capital 2"), TAM Financial Services 1 Limited ("TAM Financial 1") and TAM Financial Services 2 Limited ("TAM Financial 2"), all headquartered in the Cayman Islands, whose main activities involve aircraft acquisition and financing and issuance of debt. Debt issued by these wholly-owned companies is wholly and unconditionally guaranteed by TAM. TLA also controls the company Fidelidade Viagens e Turismo Ltda. ("Fidelidade"), whose corporate purpose is to carry out the activities of a travel and tourism agency, under the name TAM Viagens.

The Company also controls TP Participações Ltda. ("TP Participações") which on July 20, 2009, changed its name to TP Franchising Ltda. and modified its corporate purpose to the development of franchises. This company has not recorded any transaction since October 23, 2004, when it was established.

On October 28, 2009 the Company acquired all the shares of QXSPE S.A., a dormant company without any activity and it modified its corporate name to Multiplus S.A. ("Multiplus"), whose corporate purpose is to carry out of customer loyalty programs. A public offering of shares of this subsidiary was concluded on February 05, 2010 (note 35 (a)).

On December 19, 2009 the company signed an agreement for the acquisition of all the shares of Pantanal Linhas Aéreas S.A. for a total amount of R\$ 13 million. The Company communicated the agreement to the *Comissão de Valores Mobiliários* ("CVM") and to others regulatory authorities (note 35 (b)). The acquisition was authorized by ANAC in March 18, 2010.

These consolidated financial statements, of TAM and its subsidiaries, were approved by the Board of Executive Officers (*Diretoria*) on March 30, 2010.

**2 Summary of Significant Accounting Policies**

The significant accounting policies applied in the preparation of these consolidated financial statements are set out below. These policies have been consistently applied to all years presented.

**2.1 Basis of preparation**

The consolidated financial statements of TAM have been prepared and are being presented in accordance with International Financial Reporting Standards - IFRS as issued by the International Accounting Standards Board - IASB.

The financial statements are prepared under the historical cost convention unless otherwise indicated, for example in respect of revaluation of flight equipment and measurement of financial instruments at fair value.

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

TAM also prepares financial statements in accordance with accounting practices adopted in Brazil (BRGAAP) on an unconsolidated parent-company basis and also on a consolidated basis. A reconciliation of assets, liabilities, revenue, net income (loss) and equity between BR GAAP and IFRS is included in note 34.

The financial statements are presented in thousands of Brazilian reais, except where indicated otherwise.

**2.2 Consolidation**

All the entities in which the Company has investments are subsidiaries of the Company. Subsidiaries are all entities (including special purpose entities) over which TAM has the power to govern the financial and operating policies, generally accompanying a shareholding of more than one half of the voting rights. The existence and effect of potential voting rights that are currently exercisable or convertible are considered when assessing whether TAM controls another entity. Subsidiaries are fully consolidated from the date on which control is transferred to TAM. They are de-consolidated from the date that control ceases.

Intercompany transactions, balances and unrealized gains on transactions between the companies are eliminated. Unrealized losses are also eliminated but are considered as an impairment indicator of the asset transferred. Accounting policies of subsidiaries have been changed where necessary to ensure consistency with the policies adopted by TAM.

**(a) Companies included in the consolidated financial statements**

	Reporting date	Ownership	Ownership and voting power %		
			2009	2008	2007
TLA	12.31.2009	Direct	100.00	100.00	100.00
Fidelidade (i)	12.31.2009	Indirect	99.99	99.99	99.99
TAM Capital (i)	12.31.2009	Indirect	100.00	100.00	100.00
TAM Capital 2 (i) (see note 15.2 (ii))	12.31.2009	Indirect	100.00		
TAM Financial 1 (i)	12.31.2009	Indirect	100.00	100.00	100.00
TAM Financial 2 (i)	12.31.2009	Indirect	100.00	100.00	100.00
TP Franchising	12.31.2009	Direct	100.00	99.99	99.99
Fundo <i>Spitfire</i> II (exclusive investment fund) (ii)	12.31.2009	Indirect	100.00	100.00	100.00
Mercosur	11.30.2009	Direct	94.98	94.98	94.98
Multiplus S.A.	12.31.2009	Direct	100.00		

(i) TAM's investments are held indirectly through TLA.

(ii) TAM's investment is held 30% directly and 70% through TLA.

**(b) Transactions and non-controlling interests**

TAM applies a policy of treating transactions with non-controlling interests as transactions with parties external to TAM. Non-controlling interests represent the portion of profit or loss and of net assets in subsidiaries that are not held by TAM and are presented separately within equity in the consolidated statement of financial position.

**2.3 Foreign currency translation**

**(a) Functional and presentation currency**

Items included in the financial statements of each of TAM's entities are measured using the currency of the primary economic environment in which the entity operates ("the functional currency"). The consolidated financial statements are presented in Brazilian reais ("Real"), which is also the Company's functional currency.



**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

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**(b) Transactions and balances**

Foreign currency transactions are translated into the functional currency using the exchange rates prevailing at the dates of the transactions. Assets and liabilities balances are translated at the exchange rate on the statement of financial position date. Exchange gains and losses on the settlement of such transactions and the translation of monetary assets and liabilities in foreign currencies are taken to income.

**(c) Translation**

In preparing the consolidated financial statements, the income statement, the cash flow statement and all other movements in assets and liabilities of the subsidiary Mercosur (the only subsidiary that has a functional currency different than the Brazilian *reais*) are translated at annual average rates of exchange, which are considered a good approximation to the exchange rates prevailing on the dates of the underlying transaction. The statement of financial position is translated at year-end rates of exchange.

The effects of exchange rate changes during the year on net assets at the beginning of the year are recorded as a movement in stockholders' equity, as is the difference between profit of the year retained at average rates of exchange and at year-end rates of exchange.

Cumulative exchange differences arising are reported as a separate component of equity within other reserves. In the event of disposal or part disposal of an interest in a group company either through sale or as a result of a repayment of capital, the cumulative exchange difference is recognized in the income statement as part of the profit or loss on disposal.

**2.4 Cash and cash equivalents**

Cash and cash equivalents presented in the cash flow statement include cash in hand, deposits held at call with banks and other short-term highly liquid investments with original maturities of three months or less.

**2.5 Restricted cash**

Restricted cash represents pledged deposits with the purpose of guaranteeing some of Company's derivatives and long-term financings.

**2.6 Financial assets**

TAM classifies its financial assets in the following categories: at fair value through profit or loss (including derivative financial instruments) and loans and receivables. The classification depends on the purpose for which the financial assets were acquired. Management determines the classification of its financial assets at initial recognition.

**(a) Financial assets at fair value through profit or loss**

This category has two sub-categories: financial assets held for trading, and those designated at fair value through profit or loss - FVTPL at inception. A financial asset is classified in this category if acquired principally for the purpose of selling in the short-term. Assets in this category are measured at fair value and gains or losses arising from changes in the fair value are recognized immediately in the income statement. Assets in this category are classified as current assets.

**(b) Loans and receivables**

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. They are valued at amortized cost, and are included in current assets, except for those with maturities greater than 12 months after the statement of financial position date. These are classified as non-current assets. TAM's loans and receivables comprise "Trade account receivables", "Other receivables" and "Cash and cash equivalents" in the statement of financial position, except for certain short term investments that meet the definition of assets at fair value through profit and loss.

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

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**(c) Derivative financial instruments**

Derivatives are initially recognized at fair value on the date a derivative contract is entered into and are subsequently remeasured at their fair value. Transaction costs are expensed when incurred.

While TAM uses derivatives to mitigate the economic effects of international petroleum prices, TAM does not apply hedge accounting. Changes in the fair value of derivative instruments are recognized immediately in the income statement.

Gains and losses due to fair value movements of fuel derivatives are presented as a separate line item on the face of the income statement.

**(d) Measurement of financial assets**

The fair values of quoted investments are based on current bid prices. For unlisted and for listed securities where the market for a financial asset is not active TAM establishes fair value using valuation techniques. These include the use of recent arm's length transactions, reference to other instruments that are substantially the same and discounted cash flow analysis.

**(e) Impairment of financial assets**

At each statement of financial position date TAM assesses whether there is objective evidence that its financial assets are impaired.

**2.7 Trade receivables**

Trade receivables are recognized initially at fair value and subsequently measured at amortized cost using the effective interest method, less provision for impairment. In practice, due to the short term nature of the receivables, they are usually recognized at the invoiced amount. A provision for impairment of trade receivables (allowance for doubtful receivables) is established when there is objective evidence that the Company will not be able to collect all amounts due according to the original terms of the receivables.

The carrying amount of the asset is reduced through the use of an allowance account, and the amount of the loss is recognized in the income statement. When a trade receivable is uncollectible, it is written off against the allowance account for trade receivables. Subsequent recoveries of amounts previously written off are credited to the income statement.

**2.8 Inventories**

Inventories, consisting mainly of spare parts and materials to be used in maintenance and repair activities, are stated at the average acquisition cost, or realizable value where lower, net of provisions to write down the value of obsolete items.

**2.9 Non-current assets held for sale**

Assets are classified as 'held for sale' when all of the following criteria are met: a decision has been made to sell, the assets are available for sale immediately, the assets are being actively marketed, and a sale has been or is expected to be concluded within twelve months of the statement of financial position date. Assets held for sale are valued at the lower of book value or fair value less disposal costs. Assets held for sale are not depreciated. For the balance outstanding as of December 31, 2009 an impairment charge has been made for the full amount of non-current assets held for sale.

**2.10 Intangible assets**

**(a) Computer software and IT projects**

Expenses related to software maintenance are recognized as expenses as they are incurred. Expenses directly related to

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

internally developed software and other IT projects include materials, costs incurred with software development companies and other direct costs. They are capitalized as intangible assets when they will probably generate economic benefits greater than their costs, considering their economic and technological viability. Computer software development costs recognized as assets are amortized on a straight-line basis over their estimated useful life, which does not usually exceed 5 years.

**(b) Other intangible assets**

Other intangible assets include licenses and other contractual rights acquired from third parties. They are capitalized as intangible assets and amortized over their estimated useful lives.

The carrying value of intangible assets is reviewed for impairment if events or changes in circumstances indicate the carrying value may not be recoverable, or if the intangible assets have not yet started to be used and amortized.

**2.11 Property, plant and equipment including aircraft pre-delivery payments**

**(a) Property, plant and equipment**

Property, plant and equipment (PPE) is stated at either cost less depreciation or revalued amounts. Depending on the type of asset, and when it was acquired, cost either refers to historical purchase cost; deemed cost based on a revaluation performed under previous GAAP (which was BR GAAP); or historical purchase cost adjusted for the effects of hyperinflation during the years when Brazil's economy was considered to be hyperinflationary. Brazil was considered to be hyperinflationary for IFRS purposes until 1997.

Revaluations are performed periodically for flight equipment based on independent appraisers' reports. Increases in the carrying amount arising on revaluation of flight equipment are recognized in the Statement of Comprehensive Income (Loss), except where the increase reverses a decrease of the same asset previously recognized in the income statement. Decreases that offset previous increases of the same asset are recognized in the Statement of Comprehensive Income (Loss); all other decreases are recognized in the income statement.

Each year the difference between depreciation charged to income statement based on the revalued amount and depreciation based on the assets' original cost is transferred from the revaluation reserve to retained earnings (accumulated deficit)

Land is not depreciated. Depreciation on other assets is calculated using the straight-line method to allocate their cost or revalued amounts to their residual values over their estimated useful lives, as follows:

	<u>Years</u>
Flight equipment – Aircraft (*)	25 - 30
Flight equipment – Engines	10
Overhaul	4 - 6
Buildings	25
Machinery and equipment	10
Computers	5

(\*)Certain aircraft held under finance leases are being depreciated over the period of the respective lease contracts which vary between 6 and 8 years

Major overhaul expenditure, including replacement spares and labor costs, is capitalized and amortized over the average expected life between major overhauls (the "built-in overhaul method"). All other replacement spares and other costs relating to maintenance of flight equipment assets, including all amounts payable under "power by the hour" maintenance contracts, are charged to the income statement on consumption or as incurred respectively, as described below in Note 2.23.

Borrowing costs, including interest and applicable foreign exchange differences, associated with the acquisition of qualifying assets such as aircraft are capitalized as part of the cost of the asset to which they relate.

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

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The carrying value of PPE is reviewed for impairment when events or changes in circumstances indicate the carrying value is greater than its estimated recoverable amount.

Gains and losses on disposals are determined by comparing the proceeds with the carrying amount and are recognized in the income statement. When revalued assets are sold, the amounts included in the revaluation reserves are transferred to retained earnings.

**(b) Pre-delivery payments**

Pre-delivery Payments (PDPs) paid to aircraft manufacturers under the terms of purchase agreements for aircraft are denominated in US dollars and are recognized in the financial statement at the amount paid translated at the exchange rate ruling at the date of payment. Borrowing costs, including interest and applicable foreign exchange differences incurred for the construction of qualifying assets are capitalized during the period which the aircraft are built.

In the event that a decision is taken that the aircraft will not be purchased by TAM, but rather it will be leased and it is agreed that the PDPs will be returned to TAM, then the related PDPs are reclassified to other receivables and are remeasured to the present value of the amount expected to be returned to TAM. This amount will, if it is denominated in a foreign currency, be translated at the exchange rate ruling at the reporting date, and any resulting difference recognized in the income statement.

**(c) Commercial leasing**

Commercial leasing agreements of property, plant and equipment where the Company bears substantially all risks and benefits of ownership are classified as finance leases. Finance leases are recorded as if they were a financed purchase and, at the lease's inception, a property, plant and equipment asset and a financing liability (leasing) are recognized. Property, plant and equipment purchased under finance leases are depreciated at the rates shown in Note 2.11.(a).

Commercial leasing agreements where a significant portion of ownership risks and benefits remains with the lessor are classified as operating leases. Payments made for operating leases (net of all incentives received from the lessor) are recognized as an expense on a straight-line basis over the lease term.

**2.12 Impairment of non-current assets**

Property, plant and equipment including aircraft pre-delivery payments and other non-current assets, including intangible assets, are reviewed for impairment whenever events or changing circumstances suggest that their book value may not be recoverable. Impairment losses are recognized as the excess of the asset book value over its recoverable value, which is the higher of fair value less cost to sell and value in use. For impairment testing purposes, assets are grouped at the lowest level for which cash flows can be separately identified (cash generating units or "CGUs").

**2.13 Trade payables**

Trade payables are recognized initially at fair value and subsequently measured at amortized cost using the effective interest method. In practice, due to the short term nature of most trade payables, they are usually recognized at the invoiced amount.

**2.14 Borrowings**

Borrowings are included within financial liabilities, and are recognized initially at fair value, net of transaction costs incurred. Borrowings are subsequently stated at amortized cost, including charges and interest using the effective interest rate method, net of repayments made.

Borrowings are classified as current liabilities unless TAM has an unconditional right to defer settlement of the liability for at least 12 months after the statement of financial position date.

Non-convertible debentures and senior bonds are recorded similarly to borrowings.

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

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**2.15 Provisions**

Provisions are recognized when TAM has a legal or constructive obligation as a result of past events a reliable estimate can be made and it is probable that an outflow of economic benefits will be required to settle the obligation. Provisions are measured at the present value of the expenditure expected to be required to settle the obligation, using where appropriate a discount rate based on current market interest rates and that reflects the risks related to the liability. Provisions are presented net of the corresponding judicial deposits made.

**2.16 Income tax and social contribution**

Income tax and social contribution, current and deferred, are recognized in the statement of operations for the year, except when they are related to items recognized directly in stockholders' equity.

Deferred income tax and social contribution are calculated on temporary differences arising from differences between the tax bases of assets and liabilities and their carrying amounts.

The rates currently defined for the determination of income tax and social contribution, current and deferred, are 25% and 9%, respectively (Note 28).

Deferred tax assets are recognized to the extent that it is probable sufficient future taxable income will be available for offset against tax losses, considering projections of future income based on internal assumptions and future economic scenarios which may, therefore, suffer changes. The Company's management revises these projections annually.

**2.17 Employee benefits**

**(i) Share-based payment**

TAM operates an equity-settled share-based compensation plan. The fair value of the employee services received in exchange for the grant of the options is recognized as an expense. The total amount to be expensed over the vesting period is determined by reference to the fair value of the options granted, excluding the impact of any non-market vesting conditions (for example, profitability and sales growth targets). Non-market vesting conditions are included in assumptions about the number of options that are expected to vest. At each statement of financial position date, TAM revises its estimates of the number of options that are expected to vest, recognizing the impact of the revision of original estimates, if any, in the income statement, with a corresponding adjustment to equity.

When share options are satisfied by issuing treasury shares, the proceeds received from the exercise of options, net of any directly attributable transaction costs are credited to treasury shares; the difference between the book value of the treasury shares awarded to the employee and the exercise price is recognized in retained earnings.

**(ii) Pension plans**

TAM only operates defined contribution plans. Once the contributions are made, the Company has no further liability for additional payments. Regular contributions comprise the net periodic costs of the period when they are due and, accordingly, are included in personnel expenses.

**2.18 Deferred income**

Deferred income comprises advances from ticket sales, gains on sale and leaseback transactions resulting in finance leases (see also Note 2.21 below) and revenue related to TAM Loyalty Program frequent flyer scheme (see Note 2.20 below).

Advances from ticket sales represent the liabilities connected with tickets sold in the last 12 months and not yet used. Such amounts are recognized as income when the service is actually rendered or when the tickets expire.

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

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**2.19 Share capital**

Common shares and non-redeemable preferred shares are classified as stockholder's equity.

Where any group company purchases the Company's equity share capital (treasury shares), the consideration paid, including any directly attributable incremental costs (net of income taxes) is deducted from stockholders' equity until the shares are cancelled or reissued.

**2.20 Revenue**

Air transportation revenues (passengers and cargo) are recognized when transportation services are rendered. Revenue in respect of passenger tickets sold but not yet used (advance ticket sales) is treated as deferred income, classified within current liabilities. Revenue for unused tickets is recognized on the ticket expiration date, which is 12 months after the issuance date of the ticket.

The Company sponsors a program (TAM Loyalty Program) to award frequent flyers, whereby points are accumulated when flying with TAM or partner airline companies, or when making purchases using TAM Loyalty Program credit card, or using the services and products of commercial partners. The Loyalty Program award credits are recognized as a separately identifiable component of revenue based on the estimated fair value of the points awarded. This revenue is deferred, considering the points that are expected to be redeemed based on historical experience, and is recognized in the income statement as passenger revenue when the points are redeemed and passengers uplifted.

As mentioned in Note 1, beginning on January 1, 2010, the Company transferred the management of the loyalty program to its subsidiary Multiplus. As from January 1, 2010 points will be issued by Multiplus who will sell points to TAM in order to grant such points to its flying customers, as well as to commercial partners. TLA remains responsible for the redemption of points issued up to December 31, 2009.

Other operating revenues, represented by fees arising from alterations to flight reservations, sub-lease of aircraft, maintenance services provided to other airlines and other services, are recognized when the service is provided.

Interest income is recognized using the effective interest rate method, taking into account the principal outstanding and interest rates in effect up to maturity or the statement of financial position date.

**2.21 Lease agreements**

Leases are classified at inception. Leases of assets under which TAM has substantially all the risks and rewards of ownership are classified as finance leases. All other types of leases are classified as operating leases. Finance leases are capitalized at the lease's commencement at the lower of the fair value of the leased asset and the present value of the minimum lease payments. Each lease payment is allocated between the liability and finance charges. The corresponding rental obligations, net of finance charges, are included within financial liabilities. The interest element of the finance cost is charged to the income statement over the lease period so as to produce a constant periodic rate of interest on the remaining balance of the liability for each period. The long-term assets acquired under finance leases are depreciated over the shorter of the asset's useful life and the period for which the asset will be leased.

Payments made under operating leases are charged to the income statement on a straight-line basis over the period of the lease.

Any gains arising on sale and leaseback transactions resulting in finance leases are deferred and recognized in the income statement on a straight-line basis over the period of the lease; gains arising on sale and leaseback transactions resulting in operating leases are generally recognized in the income statement immediately.

**2.22 Dividends**

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

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Dividends payable are recognized as a liability in the financial statements when there is a legal obligation for them to be paid. This is either when the dividends are approved by TAM's stockholders or to comply with Brazilian corporate law. TAM's by-laws establish that all stockholders are entitled at a minimum dividend of 25% of net income for each year, calculated in accordance with Brazilian corporate law.

**2.23 Aircraft and engine maintenance**

Engine maintenance contracts cover all significant engine maintenance activity. The Company recognizes maintenance expenses for its engine maintenance contracts on an as-incurred basis. The basis on which maintenance expenses are considered incurred is dependant on the nature of the services provided:

- For contracts under which amounts are payable to the maintenance provider, and are recognized in the income statement, based on actual maintenance activities performed by the maintenance providers, the costs incurred reflect the actual amount of time incurred by the maintenance providers and the cost of the materials and components used in the maintenance activities. These maintenance contracts are referred to as "time and materials" contracts.
- For contracts under which amounts are contractually payable to the maintenance provider based on hours flown, "power by the hour" contracts, a liability and a corresponding expense in the income statement are recognized as the hours are flown.

**2.24 Segmental information**

Operating segments are reported in a manner consistent with the internal reporting provided to the chief operating decision-maker ("CODM"). The CODM, who is responsible for allocating resources and assessing performance of the operating segments, has been identified as the Chief Executive Officer. Due to the essentially fixed cost base of TAM's operations, while the CODM reviews for all the periods presented revenue information at a number of levels, the CODM only assesses the performance of TAM's group as a whole, and so TAM has determined that there is only one operating segment. However, the financial information provided to the CODM is BR GAAP rather than IFRS. Reconciliations between the amounts presented under BR GAAP and IFRS are included in Note 34.

As a result of the transaction by which Multiplus shares were offered to the public in an initial public offering changes have been introduced in the internal organization and system of financial reporting to key management personnel effective January 2010 which will result in having two reportable segments as from January 2010: TAM and Multiplus.

**2.25 Income statement presentation**

On the face of the income statement the following amounts are separately presented: movements in the fair value of fuel derivatives and revaluations of flight equipment. These items are shown separately as part of operating profit. These are material in terms of nature and amount, and are disclosed separately in order to help users of the financial statements better understand TAM's financial performance.

**2.26 Recent accounting developments**

- (a) The following interpretation, standards and amendments were adopted by TAM during the year ended December 31, 2009:
- IFRIC 13 - "Customer loyalty programmes". IFRIC 13 clarifies that where goods or services are sold together with a customer loyalty incentive (for example, loyalty points or free products), the arrangement is a multiple-element arrangement and the consideration receivable from the customer is allocated between the components of the arrangement using fair values. IFRIC 13 is relevant to the group's operations but TAM previously deferred revenue in a manner consistent with IFRIC 13, and as a result its adoption did not have any significant impact.

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

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- IAS 1 (revised) – “Presentation of financial statements”. IAS 1 (revised) – “Presentation of financial statements”. The revised standard prohibits the presentation of items of income and expenses (that is ‘non-owner changes in equity’) in the statement of changes in equity, requiring ‘non-owner changes in equity’ to be presented separately from owner changes in equity. All ‘non-owner changes in equity’ are required to be shown in a performance statement. Entities can choose whether to present one performance statement (the statement of comprehensive income) or two statements (the income statement and the statement of comprehensive income). TAM has elected to present two statements. Comparative information has been re-presented so that it is also in conformity with the revised standard. The change in accounting policy only impacts presentation aspects.
- Amendment to IFRS 7 – “Financial instruments – Disclosures”. The amendment increases the level of required disclosure in respect of liquidity and valuation of financial instruments including disclosures of fair value measurements by level of a fair value hierarchy. The change in accounting policy only impacts presentation and disclosure aspects.
- IAS 23 (amendment) – “Borrowing costs”. TAM capitalized borrowing costs under the previous version of IAS 23, and so there is no significant impact.
- IAS 39 (amendment) – “Financial Instruments”. The amendment clarifies that pre-payment options, the exercise price of which compensates the lender for loss of interest by reducing the economic loss from reinvestment risk, should be considered closely related to the host debt contract. The Company early adopted this amendment which is effective for periods beginning on or after January 1, 2010 and its application resulting in concluding that the pre-payment option contained in the Senior Notes issued during 2009 (See Note 15.(ii)) was considered clearly and closely related to the host debt contract.

(b) The following new standards, amendments to standards or interpretations are mandatory for the first time for the financial year beginning January 1, 2009 but are not currently relevant for the group:

- IFRS 2 (amendment) – “Share-based payment”, provides guideline regarding non-vesting conditions and cancelations. The standard did not have any significant impact.
- IAS 32 (amendment) – Financial instruments: “Presentation”.
- IFRIC 15 – “Agreements for the construction of real estate”.
- IFRIC 16 – “Hedges of a net investment in a foreign operation”.
- As part of the improvement project carried out by the IASB amendments were made to certain standards that are not relevant to the Company.

(c) TAM is currently assessing the impact of the following revised standards or interpretations that are not yet effective and have not been early adopted by TAM:

- IFRS 3 (revised) - "Business combinations" (effective from July 1, 2009). The revised standard continues to apply the acquisition method to business combinations, with some significant changes. For example, all payments to purchase a business are to be recorded at fair value at the acquisition date, with contingent payments classified as debt subsequently re-measured through the income statement. There is a choice on an acquisition-by-acquisition basis to measure the non-controlling interest in the acquiree either at fair value or at the non-controlling interest's proportionate share of the acquiree's net assets. All acquisition-related costs should be expensed. TAM will apply IFRS 3 (revised) prospectively to all business combinations from January 1, 2010.



**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

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- IAS 27 (revised) - "Consolidated and separate financial statements" (effective from July 1, 2009). The revised standard requires the effects of all transactions with non-controlling interests to be recorded in equity if there is no change in control and these transactions will no longer result in goodwill or gains and losses.
  - IAS 18 (amendment) – “Determining whether an entity is acting as a principal or as an agent”- Additional complementary guidance included in the Appendix of IAS 18 `Revenue' regarding the determination of whether is acting as principal or as agent.
  - IFRS 9 – “Financial instruments” (effective for periods beginning on or after January 1, 2013) – The standard specifies how an entity should classify and measure its financial assets. The standard requires all financial assets to be classified in the basis if the entity’s model for managing financial assets and the contractual cash flows characteristics of the assets. All financial assets will be initially measured at fair value and subsequently measured at amortized cost or fair value.
- (d) The following interpretations and amendments to existing standards have been published and are mandatory for TAM's accounting periods beginning on or after January 1, 2010 or later periods but are not relevant for TAM's operations or are not expected to have a significant impact on TAM's financial statements:
- IFRIC 9 (amendment), effective for periods beginning on or after July 1, 2009 and clarifies that it does not apply to possible reassessment at the date of acquisition of contracts acquired in a business combination.
  - ‘Prepayments of a minimum funding requirement’ (Amendments to IFRIC 14), issued in November 2009. The amendments correct an unintended consequence of IFRIC 14, ‘IAS 19 – The limit on a defined benefit asset, minimum funding requirements and their interaction’. Without the amendments, entities are not permitted to recognise as an asset some voluntary prepayments for minimum funding contributions. This was not intended when IFRIC 14 was issued, and the amendments correct the problem. The amendments are effective for annual periods beginning 1 January 2011. Earlier application is permitted. The amendments should be applied retrospectively to the earliest comparative period presented.
  - IFRIC 17 – “Distributions of non-cash assets to owners”, effective for annual periods beginning on or after July 1, 2009. This is not currently applicable to the group, as it has not made any non-cash distributions.
  - IFRIC 18 – “Transfers of assets from customers”, effective for transfers of assets received on or after July 1, 2009. This is not currently relevant to the group, as it has not received any assets from customers.
  - IFRIC 19, ‘Extinguishing financial liabilities with equity instruments’. This clarifies the requirements of IFRSs when an entity renegotiates the terms of a financial liability with its creditor and the creditor agrees to accept the entity’s shares or other equity instruments to settle the financial liability fully or partially. The interpretation is effective for annual periods beginning on or after 1 July 2010. Earlier application is permitted.
  - IAS 17 – “Classification of land leases and buildings” effective for periods beginning on or after January 1, 2010. Elimination of the related specific guidance with the respect to classification of land leases to eliminate the inconsistency with the general guidance on classification of leases. Consequently, the land leases must be classified as financial or operational with basis in the general principles of IAS 17.
  - Revised IAS 24, 'Related party disclosures' issued in November 2009. It supersedes IAS 24, 'Related party disclosures' issued in 2003. The revised IAS 24 is required to be applied from 1 January 2011. Earlier application, in whole or in part, is permitted.
  - ‘Classification of rights issues’ (Amendment to IAS 32), issued in October 2009. For rights issues offered for a fixed amount of foreign currency, current practice appears to require such issues to be accounted for as derivative liabilities. The amendment states that if such rights are issued pro rata to all the entity’s existing shareholders in the same class for a fixed amount of currency, they should be classified as equity regardless of the currency in which

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

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the exercise price is denominated. The amendment should be applied for annual periods beginning on or after 1 February 2010. Earlier application is permitted.

- IAS 38 “Measuring the fair value of an intangible asset acquired in a business combination” effective for periods beginning on or after January 1, 2010. Clarifies the description of valuation techniques commonly used when measuring fair value of intangible assets.
- IAS 39 – Several amendments have been made effective for periods beginning on or after January 1, 2010 related to loan pre-payment penalties, scope exceptions and hedge accounting.
- As part of the improvement project carried out by the IASB amendments were made to certain standards that are not relevant to the Company.

**3 Critical Accounting Estimates and Judgments**

Estimates and judgments are continually evaluated and are based on historical experience and other factors, including expectations of future events that are believed to be reasonable under the circumstances. Accounting estimates will, by definition, seldom equal the related actual results. The estimates and assumptions that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year are discussed below.

**3.1 Revenue recognition**

Revenue in respect to TAM Loyalty Program - frequent flyer program - is deferred based on the estimated fair value of the points awarded to passengers. The fair value is determined based on a weighted average of the value of points sold to commercial partners, and the value of free tickets awarded to passengers. Revenue deferral also depends on the number of points estimated to be forfeited when they expire after two years, and this is based on historical forfeiture rates. In 2009 the Company adopted formally IFRIC 13 and its adoption did not generate impacts on the Company's financial statements.

**3.2 Deferred taxes**

TAM recognizes deferred income tax assets and liabilities based on the differences between the carrying amounts shown in the financial statements and the tax basis of the assets and liabilities, using prevailing tax rates. TAM regularly reviews deferred tax assets for recoverability, taking into account historical income generated and projected future taxable income based on a study of technical viability.

**3.3 Contingencies**

TAM is currently involved in various judicial and administrative proceedings, as described in Note 19. Provisions are recognized for all contingencies in judicial proceedings that represent probable losses. The probability of loss is evaluated based on the available evidence, including the views of internal and external legal counsel. TAM believes that these contingencies are properly recognized in the financial statements.

**3.4 Financial instruments used to mitigate the risks of variations in jet fuel prices**

TAM records the financial instruments used to mitigate the risks of variations in jet fuel prices at their fair market value based on market quotations for similar instruments. Derivative financial instruments are used in order to mitigate the risk against variations in fuel prices. Sensitivity to movements in the price of oil is discussed in Note 9.

TAM does not apply hedge accounting to its derivatives. If TAM were to apply hedge accounting, it would affect the timing of recognition of gains and losses in the income statement, but would not affect the underlying economic effects of the derivative contracts.

**3.5 Carrying value of flight equipment**

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

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TAM's flight equipment is included in the financial statements at fair value based on valuations. The valuations are based on observable market prices. The revaluations are described further in Note 13.

The carrying value is further affected by the aircraft and engines' estimated useful economic lives, which is based on expected usage and current technology and environmental regulations.

**4 Change in the presentation of the statement of financial position and adjustments to the prior period financial statements**

**4.1 Changes in the presentation of the statement of financial position**

In connection with the implementation of IAS 1 (Revised) TAM has reviewed the order and format in which items are presented in the statement of financial position using a presentation similar to that used in its financial statements for statutory and regulatory purposes in order to facilitate understanding by the readers. The statements of financial position for December 31, 2008 and 2007 presented as comparatives have been reclassified following the current format. The reclassifications did not affect the totals of current and non-currents assets and current and non-current liabilities.

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

The following table presents the reclassifications made in the statements of financial position as of:

Assets	December 31, 2008			January 01, 2008		
	As originally presented	Reclassification	As reclassified before adjustment in Note 4.2	As originally presented	Reclassification	As reclassified before adjustment in Note 4.2
<b>Current</b>						
Cash and cash equivalents	671,785		671,785	466,538		466,538
Financial assets at fair value through profit and loss	1,242,271		1,242,271	2,140,339		2,140,339
Trade accounts receivable	1,404,464	(247,225)	1,157,239	1,207,919	(269,991)	937,928
Inventories	169,422		169,422	100,185		100,185
Non-current assets held for sale	62,134		62,134	62,286		62,286
Taxes recoverable	120,712		120,712	87,017		87,017
Derivative financial instruments				62,967		62,967
Prepaid expenses		149,281	149,281		195,887	195,887
Other current assets		97,944	97,944		74,104	74,104
<b>Non-current</b>						
Financial assets at fair value through profit and loss						
Deposits in guarantee		116,135	116,135		161,488	161,488
Deferred income tax and social contribution	259,984		259,984	12,835		12,835
Prepaid for aircraft maintenance		432,839	432,839		119,633	119,633
Other receivables	706,878	(548,974)	157,904	385,830	(281,121)	104,709
Property, plant and equipment	9,326,171	426,224 (1)	9,752,395	4,733,054	1,024,297 (1)	5,757,351
Pre-delivery payments	426,224	(426,224) (1)		1,024,297	(1,024,297) (1)	
Intangible assets	152,092		152,092	34,248		34,248
<b>Liabilities and</b>						
<b>Current</b>						
Suppliers	967,553	(481,458)	486,095	804,670	(377,814)	426,856
Financial liabilities	910,153		910,153	1,197,986		1,197,986
Salaries and social charges		317,951	317,951		236,708	236,708
Deferred income	1,105,719		1,105,719	1,049,514		1,049,514
Taxes, charges and contributions		246,337	246,337		129,135	129,135
Income tax and social contribution						
Payable	83,439	(83,439)		20,081	(20,081)	
Proposed interests on own capital and dividends		599	599		32,052	32,052
Derivative financial instruments	1,021,928		1,021,928			
Other current liabilities	149,091		149,091	130,765		130,675
<b>Non-current</b>						
Financial liabilities	7,178,873		7,178,873	3,908,700		3,908,700
Derivative financial instruments	107,057		107,057			
Obligations under finance leases	369,210		369,210	357,769		357,769
Deferred income	947,800		947,800	769,696		769,696
Refinanced taxes payable under Fiscal Recovery Program						
Other non-current liabilities	282,993		282,993	185,277		185,277

(1) - Pre-delivery payments are pre-payments for purchase of aircrafts as further described in Note 2.11.(b). In order to use the same presentation used in the financial statements for statutory and regulatory purposes they are currently presented within property, plant and equipment in the statement of financial position and separately presented in the breakdown of property, plant and equipment in Note 13".

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

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**4.2 Adjustments to the prior period financial statements**

During the process of preparing the financial statements for the year ended December 31, 2009 certain errors were identified in the previously issued financial statements for the years ended December 31, 2008. The adjustment to prior periods did not affect the opening statement of financial positions as of January 1, 2007.

The errors were related to:

Property, plant and equipment – The criteria used to determine the revalued amount of 2 aircrafts added during 2007 and the period of depreciation of such aircrafts as well as an error in the carrying amount derecognized and profit/loss on disposal for certain aircrafts that were disposed of during 2007. The effect of the adjustment resulted in 2007 in an increase of property, plant and equipment of R\$ 23,725, a decrease in operating expenses of R\$ 92,033 and a decrease in other comprehensive income (revaluation for the year) of R\$ 68,308 and the corresponding deferred tax effects in the statement of income of R\$ 8,065 and in other comprehensive income of R\$ 23,225. The effect of the adjustment resulted in 2008 in a decrease of property, plant and equipment of R\$ 88,943, a increase in operating expenses of R\$ 33,043 and a decrease in comprehensive income (revaluation for the year) of R\$ 79,625 and the corresponding tax effects in the statement of income of R\$ 11,235 and in other comprehensive income of R\$ 27,073.

Transfer between revaluation reserve to retained earnings – Having released in 2007 and 2008 the deferred tax liability on revalued amounts corresponding to the depreciation for the year through other comprehensive income and not through net income. The effect of the adjustment resulted in recognizing a gain under income tax and social contribution in the income statement of R\$ 12,467 in 2007 and R\$ 12,136 in 2008.

Prepaid aircraft maintenance – Having maintained as prepaid aircraft maintenance as of December 31, 2008 amounts related to an aircraft that had already been returned to the lessor. The effect of the adjustment resulted in recognizing a reduction in prepaid aircraft maintenance of R\$ 49,246 and an increase in operating expenses of R\$ 49,246 and the corresponding deferred income tax effect of R\$ 16,744.

The effect of the adjustments as of and for the years ended December 31, 2008 and 2007 is presented below:

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

	<u>December 31, 2008</u>			<u>January 01, 2008</u>		
	<u>As reclassified as per Note 4.1</u>	<u>Correction of prior period error</u>	<u>As restated</u>	<u>As reclassified as per Note 4.1</u>	<u>Correction of prior period error</u>	<u>As restated</u>
	<b>Effects on statement of financial position</b>					
Prepaid aircraft maintenance	432,839	(49,246)	383,593	n/a	n/a	n/a
Property, plant and equipment	9,752,395	(88,943)	9,663,452	5,757,351	23,725	5,781,076
Deferred income tax and social contribution asset	259,984	46,985	306,969	12,835	(8,065)	4,770
<b>Total</b>	<b>10,445,218</b>	<b>(91,204)</b>	<b>10,354,014</b>	<b>5,770,186</b>	<b>15,660</b>	<b>5,785,846</b>
Revaluation reserve	1,244,465	(97,636)	1,146,829	329,548	(45,083)	284,465
Retained earnings (Accumulated deficit)	(597,957)	6,432	(591,525)	-	60,743	60,743
<b>Total</b>	<b>646,508</b>	<b>(91,204)</b>	<b>555,304</b>	<b>329,548</b>	<b>15,660</b>	<b>345,208</b>

	<u>Year ended December 31, 2008</u>			<u>Year ended December 31, 2007</u>		
	<u>As originally presented</u>	<u>Correction of prior period error</u>	<u>As restated</u>	<u>As originally presented</u>	<u>Correction of prior period error</u>	<u>As restated</u>
<b>Effects on income statement</b>						
Operating expenses	(9,885,065)	(69,042)	(9,954,107)	(7,790,511)	92,033	(7,698,478)
Gains/(losses) on revaluation of aircraft recognized in the income statement	255,617	(13,247)	242,370			
Profit/(Loss) before income tax and social contribution	(1,985,724)	(82,289)	(2,068,013)	385,687	92,033	477,720
Income tax and social contribution	594,129	40,114	634,243	(127,118)	(18,823)	(145,941)
Profit/(Loss) for the year (all continuing operations)	(1,391,595)	(42,175)	(1,433,770)	258,569	73,210	331,779
Earnings per share - Basic	(9.26)	(0.28)	(9.54)	1.72	0.48	2.20
Earnings per share - Diluted	(9.26)	(0.28)	(9.54)	1.70	0.49	2.19
<b>Effects on statement of comprehensive income (loss)</b>						
Revaluation of property, plant and equipment, net of tax	938,474	(52,553)	885,921	27,713	(45,083)	(17,370)
Profit/(Loss) for the year	(1,391,595)	(42,175)	(1,433,770)	258,569	73,210	331,779
Total comprehensive income (loss)	(439,969)	(94,728)	(534,697)	282,745	28,127	310,872

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

**5 Cash and cash equivalents**

	<u>December 31, 2009</u>	<u>December 31, 2008</u>	<u>January 01, 2008</u>
Cash and bank accounts	123,387	105,251	134,873
Short-term deposits	<u>951,785</u>	<u>566,534</u>	<u>331,665</u>
<b>Total</b>	<u><u>1,075,172</u></u>	<u><u>671,785</u></u>	<u><u>466,538</u></u>

At December, 2009 and 2008 no amounts have been used as part of overdraft facilities.

**6 Financial assets at fair value through profit and loss**

	<u>December 31, 2009</u>	<u>December 31, 2008</u>	<u>January 01, 2008</u>
<b>In local currency</b>			
Exclusive investment fund			
Brazilian government securities	740,209	683,779	1,229,723
Corporate securities	93,234	222,990	173,026
Others	32	1,246	40,570
Austrian government note		84,124	79,082
Bank deposit certificates – CDB	<u>46,696</u>	<u>11,164</u>	
	<u><u>880,171</u></u>	<u><u>1,003,303</u></u>	<u><u>1,522,401</u></u>
<b>In foreign currency</b>			
Dual currency bonds		221,518	617,938
Other bank deposits	<u>130,851</u>	<u>17,450</u>	
	<u><u>130,851</u></u>	<u><u>238,968</u></u>	<u><u>617,938</u></u>
<b>Total</b>	<u><u>1,011,022</u></u>	<u><u>1,242,271</u></u>	<u><u>2,140,339</u></u>

All financial investments are measured at their fair value through profit and loss and held for trading purposes.

Management of marketable securities in the domestic market is primarily performed via exclusive investment funds. This structure follows high transparency and corporate governance standards. The custody of securities and units of funds and the management of funds are carried out by an independent management institution. The mandates and regulations are consistent within each type of management and are subject to clear limits and measurement methods for market, credit and liquidity risks contracted. The average return on these funds was 10.04% for the year ended December 31, 2009 (December 31, 2008 - 11.33% and January 01, 2008 - 11.77%).

Investments in international markets essentially are comprised by time deposits, notes and overnight transactions with first tier banks with which the Company maintains business relationships. At December 31, 2009 the annual return contracted on these investments was 0.37 % (December 31, 2008 - (4.89)% and January 01, 2008 - 11.82%).

**7 Trade accounts receivable**

Trade accounts receivable are classified as loans and receivables and measured at amortized cost. Their carrying value approximates to their fair value.



**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

**(a) Breakdown of balances**

	<b>December 31, 2009</b>				<b>December 31, 2008</b>		<b>January 01, 2008</b>	
	<b>Domestic</b>	<b>International (*)</b>	<b>Total</b>	<b>%</b>	<b>Total</b>	<b>%</b>	<b>Total</b>	<b>%</b>
					(Restated)		(Restated)	
Credit cards	708,436	59,145	767,581	63.8	701,013	56.9	575,039	58.2
Travel agents	182,724	42,866	225,590	18.8	273,939	22.2	239,747	24.3
Partners – TAM Loyalty Program	51,742		51,742	4.3	59,507	4.8	23,421	2.4
On current account	44,373	1,643	46,016	3.8	39,687	3.2	36,561	3.7
Cargo	3,628	57,570	61,198	5.1	79,973	6.5	52,810	5.3
Post dated checks	19,525		19,525	1.6	33,389	2.7	14,968	1.5
Others	28,478	2,258	30,736	2.6	44,407	3.7	45,622	4.6
<b>Total</b>	<b>1,038,906</b>	<b>163,482</b>	<b>1,202,388</b>	<b>100.0</b>	<b>1,231,915</b>	<b>100.0</b>	<b>988,168</b>	<b>100.0</b>
Provision for impairment	(64,131)	(16,278)	(80,409)		(74,676)		(50,240)	
<b>Total</b>	<b>974,775</b>	<b>147,204</b>	<b>1,121,979</b>		<b>1,157,239</b>		<b>937,928</b>	

(\*) At December 31, 2009 includes R\$ 57,638 (December 31, 2008 – R\$ 42,487 and January 01, 2008 – R\$ 20,875) denominated in US Dollars, R\$ 81,473 denominated in Euros (December 31, 2008 – R\$ 40,344 and January 01, 2008 – R\$ 48,818), and the remaining balance is composed of various currencies.

**(b) Aging list – Receivables by due date**

<b>Breakdown</b>	<b>December 31, 2009</b>	<b>%</b>	<b>December 31, 2008</b>	<b>%</b>	<b>January 01, 2008</b>	<b>%</b>
Not yet due	1,063,035	88.4	1,119,068	90.8	892,581	90.3
Overdue						
Up to 60 days	29,493	2.5	20,651	1.7	20,663	2.1
From 61 to 90 days	5,740	0.5	3,796	0.3	11,582	1.2
From 91 to 180 days	10,321	0.9	2,482	0.2	7,056	0.7
From 181 to 360 days	12,093	1.0	27,572	2.2	10,332	1.0
Over 360 days	81,706	6.8	58,346	4.7	45,954	4.7
	<b>1,202,388</b>	<b>100.0</b>	<b>1,231,915</b>	<b>100.0</b>	<b>988,168</b>	<b>100.0</b>

**(c) Provision for impairment of trade receivables**

	<b>December 31, 2009</b>	<b>December 31, 2008</b>	<b>January 01, 2008</b>
<b>Balance at the beginning of the period</b>	74,676	50,240	38,387
Charge for the period	10,398	25,047	12,399
Amounts reversed	(4,665)	(611)	(546)
<b>Balance at the end of the period</b>	<b>80,409</b>	<b>74,676</b>	<b>50,240</b>

The additions and recovery of accrued receivables were included in "Cost of services rendered" in the statement of operations.

The maximum exposure to credit risk at the reporting date is the carrying value of each class of receivable mentioned above.

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

**8 Inventories**

**(a) Balance breakdown**

	<u>December 31, 2009</u>	<u>December 31, 2008</u>	<u>January 01, 2008</u>
Spare parts and materials for repairs and maintenance	175,155	149,062	94,966
Other inventories	<u>19,937</u>	<u>20,360</u>	<u>5,219</u>
<b>Total</b>	<u>195,092</u>	<u>169,422</u>	<u>100,185</u>

“Other inventories” is mainly composed of uniforms, stationery and catering items.

**9 Financial risk management**

**9.1 Financial risk management**

TAM's activities expose it to a variety of financial risks: market risk (including currency risk, interest rate risk and price risk), credit risk and liquidity risk.

The Company has a formal Risk Management Policy that defines the rules to be followed and authorizes the Treasury Department to enter into derivative transactions in order to reduce the impact that possible fluctuations in fuel prices and foreign exchange and interest rates may have on its cash flows. The management of risk is monitored by the Risk Committee that is, responsible for, among other assignments:

- Decide on the increase in the hedge percentage levels, based on TAM strategic issues, and monitor the comparison between budgeted, TAM and market scenarios;
- Manage and monitor the risk exposure;
- Monitor the compliance with the hedge policy;
- Decide on the market risk exposure level;
- Establish financial limits for all institutions authorized to carry out hedge transactions;
- Monitor the performance of hedge transactions.

The Treasury Department is responsible for, among other activities, planning and implementing the decisions of the Risk Committee, monitoring the compliance of the hedge transactions with the market parameters, and informing the Risk Committee about any deviations from the Policy.

Derivatives are used in line with TAM's policies, considering liquidity, expected impact on TAM's results and cash flows and cost/benefit analysis of each position taken. Control over the use of derivatives includes ensuring that the derivatives contracted are in line with market rates. This is verified by an independent party acting at the engagement of management of TAM. All of the derivatives entered into are to mitigate TAM's risk exposures and are not used for speculation.

**(a) Market risks**

TAM is exposed to market risks from its normal commercial activities. These market risks principally relate to changes in interest rates, exchange rates or jet fuel prices. Such variations can negatively affect its cash flow and future expenses. Market risk is the risk of a possible loss derived from variations in the prices of market prices (rates of exchange, interest rates, prices

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

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of commodities, or others) that may affect the Company's cash flow or results. The Company entered into derivative contracts with the purpose to reduce the risks derived from variations in these factors. Policies and procedures had been implemented to evaluate these risks and to monitor the transactions with derivatives. The policy establishes minimum and maximum levels of protection, and requires that counterparties have investment grade credit rating as condition for entering into the transactions.

**(i) Risks relating to variations in the price of jet fuel**

**(i.1) General policy**

One of the most important financial risks of airline companies is the volatility in fuel prices. Fuel represented 28.6% of operating costs for the period ended December 31, 2009 (December 31, 2008 – 39.5% and January 01, 2008 – 32.9%).

The Company has entered into derivative transactions in order to economically hedge itself against this risk. TAM's Risk Committee has established policies for achieving this. TAM's policy is to enter into derivative transactions covering up to 80% of the projected fuel consumption for the following years and, at most, 30% of the consumption projected for the next three months. Swaps, options, or a combination of these instruments, using market prices for crude oil, heating oil or jet fuel as the underlying may be used to achieve TAM's aims.

**(i.2) Characteristics of the derivatives instruments used**

In Brazil the price of jet kerosene is determined by the state-controlled oil company, Petrobras, based on international jet fuel prices. TAM aims to reduce the volatility in its kerosene price by using derivatives based on crude oil (West Texas Intermediate or "WTI"). WTI is highly correlated with TAM's average Jet Fuel Price. This strong fundamental and statistical relationship, coupled with the fact that crude oil is arguably the most actively traded fuel commodity, led TAM to elect WTI as the main underlying for its fuel hedging program. In December 31, 2009 all financial instruments entered into are "over the counter". Due to the restructuring of the maturity of certain of its derivatives, which took place in the first quarter of 2009, TAM has agreed to deposit a portion of the fair value of some of those restructured derivatives as collateral. Financial instruments posted as collateral are included in the statement of financial position under "Financial assets at fair value through profit and loss" and its carrying amount is R\$ 96 million at December 31, 2009 (2008 and 2007- none). R\$ 79 million of the total balance is shown as restricted cash and not as financial assets at fair value through profit or loss.

All the counterparties are rated as "low risk of credit" for the main credit-rating agencies (*Standard & Poors, Fitch e Moody's*).

As TAM does not hedge 100% of its expected fuel needs with derivatives, any increase in kerosene prices will not be completely offset by changes in the fair value of derivatives; similarly decreases in kerosene prices will have a net benefit to TAM.

**(i.3) Restructuring of derivatives during 2009**

In January 2009, the Company, along with its key counterparties, started a restructuring of its hedge transactions whose market value was a liability of R\$ 1,128,985 at December 31, 2008, due to the dramatic drop in the barrel of oil. The restructuring basically spread the maturity dates over a longer period, extending the life of the derivatives but, generally, maintaining all other terms (mainly residual value and strike price). With this action, the Company aimed at two main goals: first, to postpone cash payments, which were concentrated in the first half of 2009 second, to settle most of the transactions in a period when prices are expected to be less volatile.

The coverage profile, which was concentrated in the first half of 2009, was as a result more evenly distributed through 2009 and 2010, including a small coverage in the first quarter of 2011. For the 12 months following December 31, 2009, the coverage accounts for 23% of the anticipated consumption. The average strike for transactions currently outstanding maturing in the same period is US\$ 115 per barrel. Approximately 82% of the volume in WTI barrels outstanding as of the end of the year 2009 corresponds to transactions that had been restructured. The restructuring represented a reduction of around US\$ 117 million (unaudited) of expected disbursements through December 31, 2009.

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

Derivative financial instruments used as hedge of changes in jet fuel prices have been accounted for at fair value with unrealized gains and losses recognized in the income statement. Restructured derivatives continue to be measured at fair value after the restructuring and, as a result, the impact of the restructuring has been recognized in gains and losses as part of the reassessment of the derivatives' fair value. Consequently, the impacts of the restructuring of the derivatives have been recognized in income. The Company is assessing the possibility of applying hedge accounting for new derivatives to be entered into in future periods.

**(i.4) Outstanding positions of derivatives**

The following table presents the percentages of anticipated consumption covered for the next twelve months after each date and the average strike price for the transactions outstanding as of each of those dates:

	<b>December 31, 2009</b>	<b>December 31, 2008</b>	<b>January 01, 2008</b>
% of coverage as of each date for the anticipated consumption for the next 12 months	23%	47%	27%
Average strike price for derivatives outstanding as of each date	US\$115/bbl	US\$104/bbl	US\$112/bbl
Market price of WTI as of each date in US\$/bbl	US\$79/bbl	US\$45/bbl	US\$95/bbl

At the time the majority of the WTI derivatives were entered into, the expected price of WTI was between US\$ 120-150 per barrel.

The following tables present both the *notional* amount and fair value of outstanding derivatives as of each date broken-down by maturity:

	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>Total</b>
<b>At January 01, 2008</b>					
Notional amount – Thousands of barrels	5,500				5,500
Fair value – R\$	62,155				62,155
<b>At December 31, 2008</b>					
Notional amount – Thousands of barrels		7,200	800		8,000
Fair value – R\$		(1,021,928)	(107,057)		(1,128,985)
<b>At December 31, 2009</b>					
Notional amount – Thousands of barrels			3,429	145	3,574
Fair value – R\$			(214,673)	(6,288)	(220,961)

TAM only contract derivatives with counterparties which have an investment grade rating issued by S&P, Moody's or Fitch. The distribution of the fair values as of December 31, 2009 by credit rating of the counterparties is:

	<b>December 31, 2009</b>
	<b>Fair value of derivatives</b>
AAA*	(86,088)
AA+, AA or AA-*	(105,056)
A+, A or A-*	(29,817)
	<u>(220,961)</u>

\* The ratings can be expressed in the global scale or in national currency. Each agency has a slightly different way to present rating; the table above unifies the presentations in that what we believe is the most well known rating international scale.

A hypothetical 10% increase/decrease in the price of WTI would lead to an increase/decrease of approximately US\$ 26 million (equivalent to R\$ 46 million at the December 31, 2009) in the fair value of the WTI derivatives. This increase/decrease would directly influence our financial results; in terms of cash flows, however, these changes in WTI price would be more than offset by a decrease/increase in our jet fuel costs.

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

**(ii) Exchange rate risk**

A significant portion of the operating costs and expenses, such as aircraft and engine maintenance services, aircraft lease payments and aircraft insurance, are denominated in U.S. dollars. The Company may enter into derivative contracts to hedge against a possible appreciation or depreciation of the real against the U.S. dollar. In view of the renegotiation made in the first quarter of 2009, one of the counterparties required a deposit denominated in dollars as guarantee. As deposits in foreign currency are not permitted in Brazil, a non-deliverable Forward (Buy R\$ / Sell US\$) was entered into and also provided as collateral for the notional amount of the deposit.

The maturities of the derivative instrument, its notional amount and fair value are presented below:

	<u>2008</u>	<u>2009</u>	<u>2010</u>
<b>At January 01, 2008</b>			
Notional amount – US\$ (thousand)	35,500		
Fair value – R\$	812		
<b>At December 31, 2009</b>			
Notional amount – US\$ (Citibank) (thousand)			31,240
Fair value – R\$			(21,054)

No foreign currency derivatives were held at December 31, 2008.

At December 31, 2009, if the Brazilian real had weakened/strengthened by 10% against the U.S. dollar with all other variables held constant, finance results for the year would have been approximately R\$ 510 million lower/higher, mainly as a result of foreign exchange gains/losses on U.S. dollar denominated trade receivables, U.S. dollar denominated financial assets at fair value through profit or loss, and foreign exchange losses/gains on translation of U.S. dollar-denominated borrowings and finance leases.

Management does not consider the exposure to foreign currencies other than the U.S. dollar to be significant to the financial position and results of operations of the Company.

**(iii) Interest rate risk**

TAM's earnings are affected by changes in interest rates due to the impact those changes have on interest expense from variable-rate debt instruments, variable-rate leasing contracts and on interest income generated from its cash and short-term investment balances. To minimize possible impacts from interest rate fluctuations, TAM has adopted a policy of diversification, alternating between contracting fixed and variable rates (such as the London Interbank Offered Rate "LIBOR" and CDI).

A hypothetical 100 basis point increase in US\$ LIBOR interest rates at December 31, 2009 would increase its aircraft rental and interest expense, in 2010, by approximately US\$ 23 million (equivalent to R\$ 41 million at the December 31, 2009).

A hypothetical 100 basis point increase in domestic market (CDI) interest rates at December 31, 2009 would increase of the interest expense for financings and loans, in the year of 2010 by approximately R\$ 11 million.

The Company does not have financial instruments to hedge the cash flow against fluctuations in interest rates.

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

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**(b) Credit risk**

Credit risk arises from the possibility of TAM not recovering amounts receivable from services provided to consumers and/or travel agencies, or from credits held by financial institutions generated by financial investment operations. Management does not currently expect any significant losses from non-performance by its counterparties, and does not have any significant exposure to any individual counterparty.

To reduce credit risk, TAM has adopted the practice of establishing credit limits and the permanent follow-up of its debtor balance (mainly from travel agencies).

TAM only deals with financial institution counterparties which have a credit rating of at least BBB- (Baa3) issued by S&P, Moody's or Fitch. Each institution has a maximum limit for investments, as determined by the Company's Risk Committee.

**(c) Liquidity risk**

Prudent liquidity risk management implies maintaining sufficient cash and short-term investments, the availability of funding through an adequate amount of committed credit facilities and the ability to close out market positions.

Excess cash is invested mainly in TAM's exclusive investment funds. Each of these funds has a clear investment policy, with limits on concentration of risk in the underlying investments.

The table below analyses TAM's financial liabilities into relevant maturity groupings based on the remaining period at the statement financial position to the contractual maturity date. The amounts disclosed in the table are the contractual undiscounted cash flows and include interest, except for derivatives, for which the fair value is disclosed.

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

	<b>Less than one year</b>	<b>Between one and two years</b>	<b>Between three and five years</b>	<b>More than five years</b>	<b>Total</b>	<b>Effect of discounting</b>	<b>Carrying value</b>
<b>Non-derivative financial liabilities</b>							
At December 31, 2009							
Finance lease obligations	616,179	1,238,520	1,575,462	1,801,641	5,231,802	(710,857)	4,520,945
Borrowings	466,687	33,039	3,625	6,991	510,342	(13,054)	497,288
Debentures	396,392	826,373	142,382		1,365,147	(253,683)	1,111,464
Senior notes	81,418	171,634	259,782	1,317,106	1,829,940	(790,215)	1,039,725
Other (i)	738,589				738,589		738,589
Refinanced taxes payable under Fiscal Recovery Program	22,834	45,667	68,501	205,503	342,505		342,505
At December 31, 2008							
Finance lease obligations	961,373	1,764,576	1,751,910	3,751,912	8,229,771	(1,781,291)	6,448,480
Borrowings	239,402	228,621	8,310	12,468	488,801	(87,233)	401,568
Debentures	51,464	333,333	166,667		551,464	(22,922)	528,542
Senior notes	51,562	103,269	103,412	882,215	1,140,458	(430,022)	710,436
Other (i)	804,046				804,046		804,046
At January 01, 2008							
Finance lease obligations	456,065	821,927	800,005	1,781,126	3,859,123	(890,909)	2,968,214
Borrowings	944,414	237,340	35,601	10,217	1,227,572	(159,725)	1,067,847
Debentures	57,393	218,131	333,333		608,857	(76,698)	532,159
Senior notes	39,408	78,162	78,380	707,854	903,804	(365,338)	538,466
Other (i)	663,563				663,563		663,563
<b>Derivative financial liabilities</b>							
At December 31, 2009							
Fuel price risk	214,673	6,288			220,961		220,961
Exchange rate risk	21,054				21,054		21,054
At December 31, 2008							
Fuel price risk	1,021,928	107,057			1,128,985		1,128,985
At January 01, 2008							
Fuel price risk	(62,155)				(62,155)		(62,155)
Exchange rate risk	(812)				(812)		(812)

(i) The amount is recorded under: Suppliers and Salaries and social charges.

**9.2 Fair value estimation and fair value hierarchy**

Effective January 1, 2009 the Company applies the amendment to IFRS 7 for financial instruments measured in the statement financial position at fair value, which requires the disclosure of fair value measurements by level of hierarchy following the hierarchy below:

- Quoted prices (unadjusted) in active markets for identical assets or liabilities (Level 1).
- Information, other than quoted prices, included within Level 1 that are adopted by the market for the asset or liability, either directly (such, as prices) or indirectly (that is, derived from prices) (Level 2).
- Inputs for assets or liabilities that are not based on the observable data in the market (such as unobservable inputs) (Level 3). None of the financial instruments carried at fair value by the Company of its subsidiaries fall into this category.

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

The table below presents the Company's financial instruments measured at fair value in the statement of financial position:

	<b>2009</b>		
	<u>Level 1</u>	<u>Level 2</u>	<u>Total</u>
<b>Financial assets at fair value through profit and loss</b>			
Brazilian government securities	740,209		740,209
Corporate securities		93,234	93,234
Bank deposit certificate – CDB		46,696	46,696
Other bank deposits		130,883	130,883
	<u>740,209</u>	<u>270,813</u>	<u>1,011,022</u>
<b>Derivative financial liabilities</b>			
<b>liabilities</b>			
Fuel hedge – WTI			
WTI		(220,961)	(220,961)
Foreign exchange derivatives		(21,054)	(21,054)
		<u>(242,015)</u>	<u>(242,015)</u>

No transfer of assets or liabilities between the levels of the fair value hierarchy took place during 2009.

The financial instruments recognized at fair value are determined as follows:

Financial assets at fair value through profit and loss:

- Certificates of deposits and other bank deposits - Fair value has been estimated by discounting estimated cash flows using as input interest market rate.
- Brazilian Government securities – Corresponds to highly liquid Brazilian government securities that have its prices available and corresponding to transaction in an active market .
- Corporate securities – Corresponds to debt securities security for which fair value has been determined based upon pricing information using pricing services as Bloomberg, Reuters and brokers (only when they represent an effective transaction).

Derivative financial instruments are not traded in an exchange but are traded in an active market for example, over-the-counter derivatives. TAM estimates its fair value using a series of techniques such as Black&Scholes, Garman & Kohlhagen, Monte Carlo or even discounted cash flow models commonly used in the financial market. All models used are widely accepted in the market and reflect the contractual terms of the derivative. Those models do not contain a high level of subjectivity, since the methodologies used in the models do not require significant judgment, and all inputs to the model are readily observable from actively quoted markets.

### 9.3 Capital management

The objective of capital management is to ensure that TAM is able to continue as a going concern whilst delivering shareholder expectations of a strong capital basis as well as returning benefits to other stakeholders and optimizing the cost of capital.

TAM monitors capital on the basis of the leverage ratio, net debt as a percentage of total capital. Net debt is defined as the total of loans and borrowings, including debentures and senior notes plus lease agreements, including operating lease commitments net of cash and cash equivalents and short-term financial assets. We define total capital as the total of shareholders' equity and net debt as defined above:



**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

	<u>December 31, 2009</u>	<u>December 31, 2008</u>	<u>January 01, 2008</u>
Cash and cash equivalents	(1,075,172)	(671,785)	(466,538)
Financial assets at fair value through profit and loss	(1,011,022)	(1,242,271)	(2,140,339)
Borrowings	497,288	401,568	1,067,847
Debentures and senior notes	2,151,189	1,238,978	1,070,625
Operating lease commitments (Note 32)	1,512,986	2,479,786	1,843,358
Finance lease obligations	<u>4,520,945</u>	<u>6,448,480</u>	<u>2,968,214</u>
<b>Net debt (1)</b>	<u>6,596,214</u>	<u>8,654,756</u>	<u>4,343,167</u>
<b>Total equity</b>	<u>498,415</u>	<u>1,327,127</u>	<u>1,908,717</u>
<b>Total capital (2)</b>	<u><u>7,094,629</u></u>	<u><u>9,981,883</u></u>	<u><u>6,251,884</u></u>
<b>Leverage ratio (1) / (2)</b>	93.0%	86.7%	69.5%

The increase in the leverage ratio during 2009 resulted primarily from the delivery of two A321 aircraft during the year couple with the reduction in equity mainly resulting from decreases in the fair value of its flight equipment measured in Brazilian reais while the increase in the leverage ratio during 2008 resulted primarily from the delivery of Boeing and Airbus aircraft during the year.

Management believes that the resources available to the Company are sufficient for its present requirements and will be sufficient to meet its anticipated requirements for capital investments, which are approved annually by the Board of Directors, and other cash requirements for the 2010 fiscal year.

**10 Deposits in guarantee**

Deposits and collateral relating to the lease of aircraft and engines are denominated in U.S. dollars and accrue interest based on LIBOR plus a spread of 1% per annum. The terms for redemption are defined in the lease contracts. At December 31, 2009 the balance of deposits was R\$ 59,520 (December 31, 2008 – R\$ 116,135 and January 01, 2008 - R\$ 161,488) corresponding to US\$ 34,185 (December 31, 2008 - US\$ 49,694 and January 01, 2008 – US\$ 91,169).

**11 Deferred Income Tax and Social Contribution**

Deferred income tax assets and liabilities are offset when there is a legally enforceable right to offset current tax assets against current tax liabilities and when the deferred income taxes relate to the same fiscal authority.

The movement in deferred income tax assets and liabilities during the years, without taking into consideration the offsetting of balances within the same tax jurisdiction, is as follows:

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

<b>Deferred tax assets</b>	<b>January 01, 2008</b>	<b>Charged/(credited) to the income statement/equity</b>	<b>December 31, 2008</b>	<b>Charged/(credited) to the income statement/equity</b>	<b>December 31, 2009</b>
Income tax loss carry forwards	3,556	7,136	10,692	71,726	82,418
Social contribution carry forwards	2,507	2,570	5,077	37,561	42,638
Temporary differences:					
Provision for derivatives loss		383,855	383,855	(318,853)	65,002
Provision for contingencies	134,121	53,386	187,507	16,428	203,935
Allowance for losses on inventories and receivables accounts	74,092	(36,584)	37,508	(14,021)	23,487
Deferred income from sale leaseback transaction	61,039	(10,909)	50,130	(10,909)	39,221
TAM loyalty program	129,793	26,860	156,653	46,826	203,479
Gain/(Losses) of revaluation of aircrafts	54,698	(82,406)	(27,708)	410,587	382,879
Finance leases	(344,665)	406,900	62,235	(462,475)	(400,240)
Others	36,171	(4,361)	31,810	7,587	39,397
<b>Total deferred tax assets</b>	<b>151,312</b>	<b>746,447</b>	<b>897,759</b>	<b>(215,543)</b>	<b>682,216</b>
<b>Deferred tax liabilities</b>					
Revaluation reserve (Note 22)	(146,542)	(444,248)	(590,790)	530,362	(60,428)
<b>Total deferred tax liabilities</b>	<b>(146,542)</b>	<b>(444,248)</b>	<b>(590,790)</b>	<b>530,362</b>	<b>(60,428)</b>
<b>Total deferred tax netted</b>	<b>4,770</b>	<b>302,199</b>	<b>306,969</b>	<b>314,819</b>	<b>621,788</b>

	<b>January 01, 2008</b>	<b>December 31, 2008</b>	<b>December 31, 2009</b>
Deferred tax expected to be recovered within 12 months - Netted	17,483	57,485	36,958
Deferred tax expected to be recovered within more than 12 months - Netted	(12,713)	249,484	584,830
<b>Total deferred tax netted</b>	<b>4,770</b>	<b>306,969</b>	<b>621,788</b>

All movements in deferred taxes are recognized in the income statement except for certain amounts recognized in the revaluation reserve as shown in note 22.

Deferred tax assets resulting from income tax and social contribution losses and temporary differences are recognized to the extent that the realization of the related tax benefit through the future taxable profits is probable.

There are no withholding taxes or other taxes payable regarding the distribution of profits of TAM Mercosur.

There are no unrecognized deferred tax assets.

Deferred taxes are presented on a net basis as if the entire reported amount referred to a single legal entity.

## 12 Prepaid aircraft maintenance

Prepaid aircraft maintenance reserves are guarantees to the lessor of the aircraft and/or engines that when the aircraft/engine is returned it can be restored to its original condition. Certain aircraft leasing agreements require that advance deposits be made on behalf of the lessor, in maintenance reserve funds, at a restricted bank account in the lessor's name. The lessor may withdraw funds from this account if the required maintenance is not carried out upon return of the aircraft. Should TLA perform the

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

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maintenance of the aircraft or its parts, such as fuselage, engines, landing gear, among others, it can request that the lessor return the related amount, which will otherwise revert to the owner.

At December 31, 2009, amounts maintained into maintenance reserves, are R\$ 408,628 (December 31, 2008 – R\$ 383,593 and January 01, 2008 – R\$ 119,633)

**TAMS.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

**13 Property, Plant and Equipment including aircraft pre-delivery payments - Restated**

	<u>Flight equipment (i)</u>	<u>Land and buildings</u>	<u>Computer equipment</u>	<u>Machinery and equipment</u>	<u>Other (iv)</u>	<u>Construction in progress (ii)</u>	<u>Pre-delivery payment (iii)</u>	<u>Total</u>
Cost	4,780,983	219,930	98,158	64,303	83,917	43,406	383,165	5,673,862
Accumulated depreciation	(1,256,446)	(12,463)	(42,636)	(31,254)	(50,371)			(1,393,170)
<b>At January 01, 2007</b>	<u>3,524,537</u>	<u>207,467</u>	<u>55,522</u>	<u>33,049</u>	<u>33,546</u>	<u>43,406</u>	<u>383,165</u>	<u>4,280,692</u>
Additions (v)	1,405,670		13,112	14,988	35,609	16,322	924,375	2,410,076
Reclassification to assets held for sale	(83,951)							(83,951)
Transfer of pre-delivery payments (v)							(313,964)	(313,964)
Disposals/write-offs	(23,379)	(13,816)	(2,617)	(3,225)	(1,734)	(78)		(44,849)
Capitalized interest							30,721	30,721
Revaluation through equity (note 22)	(26,318)							(26,318)
Revaluation through income statement	(224,701)							(224,701)
Depreciation	(209,920)	(4,876)	(18,004)	(6,525)	(7,305)			(246,630)
<b>At December 31, 2007</b>	<u>4,361,938</u>	<u>188,775</u>	<u>48,013</u>	<u>38,287</u>	<u>60,116</u>	<u>59,650</u>	<u>1,024,297</u>	<u>5,781,076</u>
Cost	5,828,304	206,114	108,653	76,066	117,792	59,650	1,024,297	7,420,876
Accumulated depreciation	(1,466,366)	(17,339)	(60,640)	(37,779)	(57,676)			(1,639,800)
<b>Net book amount December 31, 2007</b>	<u>4,361,938</u>	<u>188,775</u>	<u>48,013</u>	<u>38,287</u>	<u>60,116</u>	<u>59,650</u>	<u>1,024,297</u>	<u>5,781,076</u>
Additions (v)	3,228,970	6,631	31,408	39,005	42,530	26,402	401,653	3,776,599
Reclassification	(16,322)	49,790				(49,790)		(16,322)
Transfer of pre-delivery payments (v)							(1,046,110)	(1,046,110)
Disposals/write-offs	(3,553)			(4,582)	(8,838)	(56)		(17,029)
Capitalized interest							46,384	46,384
Revaluation through equity (note 22)	1,342,304							1,342,304
Revaluation through income statement	242,370							242,370
Depreciation	(388,564)	(17,044)	(20,739)	(8,713)	(10,760)			(445,820)
<b>At December 31, 2008</b>	<u>8,767,143</u>	<u>228,152</u>	<u>58,682</u>	<u>63,997</u>	<u>83,048</u>	<u>36,206</u>	<u>426,224</u>	<u>9,663,452</u>

**TAMS.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

	<u>Flight equipment (i)</u>	<u>Land and buildings</u>	<u>Computer equipment</u>	<u>Machinery and equipment</u>	<u>Other (iv)</u>	<u>Construction in progress (ii)</u>	<u>Pre-delivery payments (iii)</u>	<u>Total</u>
Cost	10,622,073	262,535	140,061	110,489	151,484	36,206	426,224	11,749,072
Accumulated depreciation	<u>(1,854,930)</u>	<u>(34,383)</u>	<u>(81,379)</u>	<u>(46,492)</u>	<u>(68,436)</u>			<u>(2,085,620)</u>
<b>Net book amount January 01, 2009</b>	<u>8,767,143</u>	<u>228,152</u>	<u>58,682</u>	<u>63,997</u>	<u>83,048</u>	<u>36,206</u>	<u>426,224</u>	<u>9,663,452</u>
Additions (v)	462,964	2,488	10,219	25,953	39,149	5,973	172,185	718,931
Reclassification	30,025					(30,025)		
Transfer of pre-delivery payments (v)							(138,287)	(138,287)
Disposals/write-offs	(9,086)	(5,164)	(453)	(883)	(365)			(15,951)
Capitalized interest							30,557	30,557
Revaluation through equity (note 22)	(1,540,884)							(1,540,884)
Revaluation through income statement	(1,207,608)							(1,207,608)
Depreciation	<u>(546,622)</u>	<u>(5,506)</u>	<u>(20,702)</u>	<u>(11,346)</u>	<u>(15,538)</u>			<u>(599,714)</u>
<b>Net book amount December 31, 2009</b>	<u>5,955,932</u>	<u>219,970</u>	<u>47,746</u>	<u>77,721</u>	<u>106,294</u>	<u>12,154</u>	<u>490,679</u>	<u>6,910,496</u>
Cost	8,357,484	259,859	149,827	135,559	190,268	12,154	490,679	9,595,830
Accumulated depreciation	<u>(2,401,552)</u>	<u>(39,889)</u>	<u>(102,081)</u>	<u>(57,838)</u>	<u>(83,974)</u>			<u>(2,685,334)</u>
<b>Net book amount December 31, 2009</b>	<u>5,955,932</u>	<u>219,970</u>	<u>47,746</u>	<u>77,721</u>	<u>106,294</u>	<u>12,154</u>	<u>490,679</u>	<u>6,910,496</u>

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

- (i) Includes aircraft, engines and spare parts. Aircraft includes aircraft leased under finance leases, according to IAS 17. As of December 31, 2009 TAM has 66 aircraft under finance lease (2008 – 64 aircraft and 2007- 47 aircraft).

Aircraft and engines are recorded at revalued amounts. The revaluations were performed by an independent valuation firm, Engeval Engenharia de Avaliações S/C Ltda., part of the ArcaLaudis - Global Network of International Valuers and Loss Assessors, as at December 31, 2007, December 31, 2008 and December 31, 2009. The valuations were based on observable market prices for flight equipment. If the flight equipment had been recorded at historical cost, the carrying value at December 31, 2009 would have been R\$ 7,179,464 (2008 - R\$ 7,149,087 and 2007 – R\$ 4,292,505). The revaluation deficit for the year ended December 31, 2009 was R\$ 1,540,884 (2008 – a surplus of R\$ 1,342,304 and 2007 – a deficit of R\$ 26,318) and an expense of R\$ 1,207,608 (2008 – reversal of expense previously recognized of R\$ 242.370 and 2007 – expense of R\$ 224,701) was recognized for aircraft whose revalued amount was lower than their cost. The total carrying amount of leased aircraft and engines amount to R\$ 5,433,149 (2008 – R\$ 8,279,208 and 2007 – R\$ 3,940,830).

- (ii) Mainly composed by improvements carried out at the São Carlos Technology Center.
- (iii) Amounts disbursed from the aircraft acquisition program are recorded as advances, since upon the disbursement the form of lease agreement that will be used is not yet defined. The Company's past experience shows that the refund of prepaid amounts upon the delivery of aircraft by manufacturers is probable. Note 2.11 (b).
- (iv) Basically furniture and vehicles.
- (v) Transfers occur when the aircraft are delivered and amounts are either returned to TAM or capitalized within flight equipment as "Additions".

The properties and improvements of the TLA pledged as collateral for loans in the total amount of R\$ 110,499 (2008 - R\$ 110,499 and 2007 – R\$ 110,499).

Other than aircraft, there are no significant amounts of property, plant and equipment outside of Brazil. Aircraft are based in Brazil but fly both domestically and internationally.

The depreciation expense is recorded in the statement of income within Operating expenses as follows:

	<u>2009</u>	<u>2008</u>	<u>2007</u>
Cost of services rendered	520,232	395,199	217,574
Selling expenses	1,262	838	1,443
General and administrative expenses	<u>78,220</u>	<u>49,783</u>	<u>27,613</u>
	<u><b>599,714</b></u>	<u><b>445,820</b></u>	<u><b>246,630</b></u>

TAM S.A.  
Notes to the Consolidated Financial Statements

In thousands of reais, unless otherwise indicated

14 Intangible Assets

	IT Projects (i)	Software	Other intangibles (ii)	Total
Additions	22,723	14,348		37,071
Amortization		(2,823)		(2,823)
<b>At January 01, 2008</b>	<u>22,723</u>	<u>11,525</u>		<u>34,248</u>
Cost	22,723	14,348		37,071
Accumulated amortization		(2,823)		(2,823)
<b>Net book amount January 01, 2008</b>	<u>22,723</u>	<u>11,525</u>		<u>34,248</u>
Additions	80,044	23,527	29,897	133,468
Write-off	(431)	(278)		(709)
Amortization		(14,915)		(14,915)
<b>At December 31, 2008</b>	<u>102,336</u>	<u>19,859</u>	<u>29,897</u>	<u>152,092</u>
Cost	102,336	37,597	29,897	169,830
Accumulated amortization		(17,738)		(17,738)
<b>Net book amount December 31, 2008</b>	<u>102,336</u>	<u>19,859</u>	<u>29,897</u>	<u>152,092</u>
Additions	115,777	18,287	1,232	135,296
Write-off	(3,015)			(3,015)
Amortization	(28,232)	(14,440)		(42,672)
<b>At December 31, 2009</b>	<u>186,866</u>	<u>23,706</u>	<u>31,129</u>	<u>241,701</u>
Cost	215,098	55,884	31,129	302,111
Accumulated amortization	(28,232)	(32,178)		(60,410)
<b>Net book amount December 31, 2009</b>	<u>186,866</u>	<u>23,706</u>	<u>31,129</u>	<u>241,701</u>

- (i) IT projects in progress and computer software are recorded at cost less accumulated amortization and impairment. Expenditure for development of projects and software, including the costs of materials, third-parties' worked hours and other direct costs, are recognized when it is probable that they will be successful, taking into account their commercial and technological feasibility, and only when their cost can be reliably measured. Such expenses are amortized on the straight-line method over the period of the expected benefits. The anticipated amortization period is five years, depending on the useful life of each project.
- (ii) Other intangible are recorded at cost less accumulated amortization and impairment and correspond to payments made to the Star Alliance international airline network. This intangible will be amortized as from the moment when TAM finishes the process of integration into the network and the asset start to be used which is currently expected to occur in the second quarter of 2010.

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

The amortization expense is recorded in the statement of income within operating expenses as follows:

	<u>2009</u>	<u>2008</u>	<u>2007</u>
Cost of services rendered	41,677	672	
Selling expenses	222	235	
General and administrative expenses	<u>773</u>	<u>14,008</u>	<u>2,823</u>
	<u><b>42,672</b></u>	<u><b>14,915</b></u>	<u><b>2,823</b></u>

**15 Financial Liabilities**

The carrying value of financial liabilities, all of which are measured at amortized cost, and their corresponding fair values are shown in the following table:

	<u>Fair value</u>			<u>Carrying value</u>		
	<u>December 31, 2009</u>	<u>December 31, 2008</u>	<u>January 01, 2008</u>	<u>December 31, 2009</u>	<u>December 31, 2008</u>	<u>January 01, 2008</u>
<b>Current</b>						
Finance lease obligations	497,147	680,440	298,478	497,147	680,440	298,478
Senior notes	12,064	4,372	6,041	13,040	9,336	7,076
Borrowings	523,989	202,172	891,346	458,602	191,835	860,273
Debentures	<u>281,738</u>	<u>27,601</u>	<u>32,419</u>	<u>275,896</u>	<u>28,542</u>	<u>32,159</u>
	<u>1,314,938</u>	<u>914,585</u>	<u>1,228,284</u>	<u>1,244,685</u>	<u>910,153</u>	<u>1,197,986</u>
<b>Non-current</b>						
Finance lease obligations	4,023,798	5,768,040	2,669,736	4,023,798	5,768,040	2,669,736
Senior notes	949,846	328,335	453,694	1,026,685	701,100	531,390
Borrowings	44,202	221,034	214,043	38,686	209,733	207,574
Debentures	<u>853,256</u>	<u>483,517</u>	<u>504,043</u>	<u>835,568</u>	<u>500,000</u>	<u>500,000</u>
	<u>5,871,102</u>	<u>6,800,926</u>	<u>3,841,516</u>	<u>5,924,737</u>	<u>7,178,873</u>	<u>3,908,700</u>



**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

**15.1 Finance lease obligations**

		<u>December 31, 2009</u>	<u>December 31, 2008</u>	<u>January 01, 2008</u>
	<b>Monthly payments expiring</b>			
<b>Local currency</b>				
IT equipment	2012	34,832	27,551	
<b>Foreign currency – US\$</b>				
Aircraft	2022	4,319,859	6,176,550	2,894,317
Engines	2017	160,657	244,379	41,409
Machinery and equipment	2012	<u>5,597</u>		<u>32,488</u>
		<u>4,520,945</u>	<u>6,448,480</u>	<u>2,968,214</u>
<b>Current</b>		<u>(497,147)</u>	<u>(680,440)</u>	<u>(298,478)</u>
<b>Non-current</b>		<u>4,023,798</u>	<u>5,768,040</u>	<u>2,669,736</u>

TAM has provided letters of guarantee and deposits in guarantee with respect to finance leases.

The minimum payments under finance leases are classified:

<u>Year</u>	<u>December 31, 2009</u>	<u>December 31, 2008</u>	<u>January 01, 2008</u>
No later than one year	616,179	961,373	456,065
Later than one year and no later than five years	2,813,982	3,516,486	1,621,932
Later than five years	1,801,641	3,751,912	1,781,126
Effect of discounting	<u>(710,857)</u>	<u>(1,781,291)</u>	<u>(890,909)</u>
	<u>4,520,945</u>	<u>6,448,480</u>	<u>2,968,214</u>

At December 31, 2009, the Company through its subsidiaries TLA and Mercosur, has 66 aircraft (December 31, 2008 – 64 aircraft and January 01, 2008 – 47 aircraft) under finance leases.

**15.2 Senior Notes**

	<u>December 31, 2009</u>	<u>December 31, 2008</u>	<u>January 01, 2008</u>
TAM Capital, Inc. (i)	520,681	710,436	538,466
TAM Capital 2, Inc. (ii)	<u>519,044</u>		
	<u>1,039,725</u>	<u>710,436</u>	<u>538,466</u>
<b>Current</b>	<u>(13,040)</u>	<u>(9,336)</u>	<u>(7,076)</u>
<b>Non-current</b>	<u>1,026,685</u>	<u>701,100</u>	<u>531,390</u>

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

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- (i) On April 25, 2007, TAM Capital Inc. concluded the offering of 3,000 senior notes, with unit nominal value of US\$ 100 thousand, each in the total amount of US\$ 300 million (equivalent to R\$ 710,4 million using the exchange rate as of the date of the transaction), incurring in debt issuance cost of R\$ 13.7 million, carrying interest at 7.375% p.a. (resulting in an effective interest rate of 7.70%). Interest is payable semiannually and with principal payable in a bullet payment, in 2017. The notes were issued outside Brazil under an exemption from registration with the Brazilian CVM. The Company registered the notes with the United States Securities and Exchange Commission (“SEC”) on October 30, 2007.
- (ii) On October 22, 2009, TAM Capital 2 Inc. concluded the offering of 3,000 senior notes, with unit nominal value of US\$ 100 thousand, each in the total amount of US\$ 300 million (equivalent to R\$ 523,2 million using the exchange rate as of the date of the transaction), carrying interest at 9.5% p.a. (resulting in an effective interest rate of 9.85%). The notes were issued outside Brazil under an exemption from registration with the Brazilian CVM and with the SEC. TAM Capital 2 has the option to early redeem the Senior Notes at any time prior to January 29, 2015 and at specified redemption dates thereafter. In the event of early redemption a redemption price must be paid. Management has concluded that the redemption price compensates the lender for loss of interest and, as such, the redemption option is considered clearly and closely related to the Senior Notes.

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

**15.3 Borrowings**

**(a) Balance composition**

	<b>Guarantees</b>	<b>Interest rate (effective rates for years ended December 31, 2009, 2008 and 2007)</b>	<b>Payment term and the year of last payment</b>	<b>December 31, 2009</b>	<b>December 31, 2008</b>	<b>January 01, 2008</b>
<b>Local currency</b>						
FINEM - Sub credit A (i)	Mortgage of assets and accounts receivable	TJLP + 4.5% p.a. (10.5% p.a , 10.8% p.a and 10.8%p.a)	Monthly until 2011	28,655	43,554	58,040
FINEM -Sub credit B (i)	Mortgage of assets and accounts receivable	Basket of currencies BNDES + 3.0% p.a. (12.3% p.a., 10.5% p.a and 11.9%p.a)	Monthly until 2012	4,023	7,984	8,149
Compror	No guarantee	100% p.a 101.5% of the CDI (12.8% p.a and 11.3% p.a )	Monthly until 2008			223,573
Others (ii)			Monthly until 2013	6,533	9,261	7,561
				<u>39,211</u>	<u>60,799</u>	<u>297,323</u>
<b>Foreign currency</b>						
FINIMP (iii)	Promissory notes from a minimum of US\$ 1,663 thousand to a maximum at US\$ 13,933 thousand	Annual LIBOR + 1.0% p.a. to 6.6% p.a. (5.4% p.a, 5.3% p.a and 6.4 p.a)	Annual until 2010	284,760	167,289	84,883
International Finance Corporation – IFC (iv)	Deposits in guarantee US\$ 2,500 thousand	6 months LIBOR 1.6% p.a (1.1% p.a., 3.0% p.a and 4.1%)	Half-yearly until 2010	7,247	28,900	51,414
International Finance Corporation – IFC (Working capital)	Deposits in guarantee US\$ 2,500 thousand	6 months LIBOR + 3% p.a (3.4% p.a, 6.6% and 7.7%p.a.)	Half-yearly until 2012	12,476	23,493	
Leasing renegotiation (v)	Letter of guarantee	Fixed installments of US\$ 55 thousand	Monthly until 2022	9,898	14,013	11,137
Financing – Pre-delivery payment (vi)	Unconditional guarantee	Monthly LIBOR + 0.6% p.a. (0.3% p.a , 2.6% p.a and 3.7% p.a)	Monthly until 2011	139,870	107,074	621,734
Others (vii)				3,826		1,356
				<u>458,077</u>	<u>340,769</u>	<u>770,524</u>
				<u>497,288</u>	<u>401,568</u>	<u>1,067,847</u>
<b>Current</b>				<u>(458,602)</u>	<u>(191,835)</u>	<u>(860,273)</u>
<b>Non-current</b>				<u>38,686</u>	<u>209,733</u>	<u>207,574</u>

FINIMP – Import Financing, FINEM – Government agency financing for machinery and equipment, TJLP – Long term interest rate and CDI – Interbank deposit rate.

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

Non-current maturities are as follows:

Year	December 31, 2009	December 31, 2008	January 01, 2008
2009			119,523
2010		60,573	56,015
2011	24,791	132,559	22,950
2012	5,697	5,531	2,486
2013	860	1,221	660
2014	727	976	1,012
After 2014	6,611	8,873	4,928
	38,686	209,733	207,574

**(b) Description of the loans and financings:**

- (i) Loan obtained in order to finance the investment plan of 2004 and 2005 focused on expanding the São Carlos technological center, the acquisition of equipment and materials made in Brazil, the development of software technical and managerial training and environmental projects.
- (ii) TAM signed financing agreements for the acquisition of machines and equipment. The transaction was entered into to 2006, with Unibanco – União de Bancos Brasileiros, Banco Bradesco S.A. and Banco do Brasil S.A..
- (iii) TAM obtained loans of the FINIMP-type, to finance imports of aircraft parts. Outstanding loans have been entered into in 2008, with banks HSBC Banco Multiplo and Banco Itaú S.A, with maturities through March 2010, and to loans obtained in 2009, with Banco Safra S.A, Banco do Brasil S.A., Banco Santander Brasil S.A, Banco Itaú S.A. and Bradesco S.A., with maturities through December 2010.
- (iv) On December 16, 2005, TLA entered into a loan agreement with the International Finance Corporation to finance up to US\$ 33 million of PDP (pre-delivery payment) to Airbus aircrafts firm orders with aircraft scheduled delivery date for 2010.
- (v) Debt resulting from, renegotiation of a contact for airplanes and parts TAM and Fokker Aircraft BV entered into in June 25, 1982.
- (vi) On December 28, 2007, TLA entered into a loan agreement of loan with Banco BNP Paribas to finance up to US\$ 117.1 million of PDP (pre-delivery payment) with respect to Airbus aircraft firm orders with aircraft schedule delivery between 2008 an 2010.
- (vii) Contract for acquisition of IT equipment software and related services.

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**  
**at December 31, 2009, 2008 and 2007**  
In thousands of reais, unless otherwise indicated

**15.4 Debentures**

	<u>December 31, 2009</u>	<u>December 31, 2008</u>	<u>January 01, 2008</u>
TAM S.A. (i)	517,306	528,542	523,147
TAM Linhas Aéreas S.A. (ii)	594,158		9,012
	<u>1,111,464</u>	<u>528,542</u>	<u>532,159</u>
<b>Current</b>	<u>(275,896)</u>	<u>(28,542)</u>	<u>(32,159)</u>
<b>Non-current</b>	<u>835,568</u>	<u>500,000</u>	<u>500,000</u>

Non-current maturities are as follows:

<u>Year</u>	<u>December 31, 2009</u>	<u>December 31, 2008</u>	<u>January 01, 2008</u>
2010		166,667	166,667
2011	349,057	166,667	166,667
2012	349,162	166,666	166,666
2013	<u>137,349</u>		
	<u>835,568</u>	<u>500,000</u>	<u>500,000</u>

(i) TAM S.A.

On July 7, 2006 the Board of Directors approved the issuance for public distribution of simple, nonconvertible and unsecured debentures, with no preference but with a guarantee provided by the subsidiary TLA.

On August 1, 2006, TAM S.A. concluded the offering of 50,000 simple debentures in a single series, with unitary nominal value of R\$ 10 each, totaling an amount of R\$ 500,000, incurring in debt issue costs of R\$ 1,906. The debentures expire in six (6) years. Principal is repayable in 3 annual payments, the first of which is on August 1, 2010.

Interest is payable on a semiannual basis, at the rate equivalent of 104.5% of the CDI (effective interest rate at the date of issuance of 15.38%) calculated and published by CETIP (the custodian and liquidation agent). At December 31, 2009 the effective interest rate was 10.32% (December 31, 2008 – 14.29% and January 01, 2008 – 11.7%).

The Company will be subject to certain obligations under the debenture contracts, such as compliance with certain financial indices, limits on the issuance of financial debt, and priority in the repayment of debentures. Such requirements will become effective as from 2010, when the debentures will start to be amortized.

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**  
**at December 31, 2009, 2008 and 2007**  
In thousands of reais, unless otherwise indicated

(ii) TAM Linhas Aéreas S.A.

On July 16, 2009 the Board of Directors approved the issuance for public distribution of simple and nonconvertible debentures, with a guarantee provided by TAM S.A.

On July 24, 2009 TAM Linhas Aéreas S.A. concluded the offering of 600 simple debentures in a single series debentures, with unitary nominal value of R\$ 1,000 each for a total amount of R\$ 600,000 and debt issue, costs of R\$ 7,631. The debentures expire in four years and repayable in 13 quarterly installments as from July 24, 2010.

Interest is payable monthly, at a rate equivalent to 126.5% of the CDI (effective interest rate at the date of issuance of 11.50%), calculated and published by CETIP (The custodian and liquidation agent). The effective interest rate was 12.5% p.a as at December 31, 2009.

The Company may exercise early redemption at any time, at the Issuer's discretion, by sending or publishing a notice to debenture holders 10 days in advance. The early redemption can be total or partial. The debentures subject to this procedure are mandatorily canceled. Management has concluded that the amount payable upon early redemption is approximately equal to the authorized cost of the debentures and, as such, the redemption option is considered clearly and closely related to the debentures.

**16 Deferred Income**

	<u>December 31, 2009</u>	<u>December 31, 2008</u>	<u>January 01, 2008</u>
Advance ticket sales (i)	1,008,308	819,780	807,101
TAM loyalty program (ii)	656,266	507,708	420,656
Sale and leaseback – deferred gains (iii)	133,916	147,441	179,526
	<u>1,798,490</u>	<u>1,474,929</u>	<u>1,407,283</u>
<b>Current</b>	<u>(1,698,321)</u>	<u>(1,105,719)</u>	<u>(1,049,514)</u>
<b>Non-current</b>	<u>100,169</u>	<u>369,210</u>	<u>357,769</u>

(i) At 31 December, 2009, "Advance ticket sales" amounted to R\$ 1,008,308 (2008 - R\$ 819,780 and 2007 – R\$ 807,101), which is represented by 3,387,396 (December 31, 2008 - 2,835,019 and January 01, 2008– R\$ 2,698,341) tickets coupons sold but not yet used.

(ii) The deferred income of TAM Loyalty Program is accounted for based on the number of outstanding points and a forfeiture rate of 30.6% ticket use (December 31, 2008 - 31.6% and January 01, 2008 – 29.2%). In the TAM Loyalty Program points expire after two years and are forfeited at the point.

(iii) The deferred gains on sale and leaseback transactions relate to sales of aircraft in 2001 and 2003. The gains are being recognized in the income statement on a straight-line basis through to 2013.

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**  
**at December 31, 2009, 2008 and 2007**  
In thousands of reais, unless otherwise indicated

**17 Derivative Financial Instruments**

	<u>December 31, 2009</u>	<u>December 31, 2008</u>	<u>January 01, 2008</u>
	<u>Liabilities</u>	<u>Liabilities</u>	<u>Assets</u>
West Texas Intermediate crude oil derivatives			
Forwards		351,343	
Swaps	138,208	517,696	55,096
Seagulls	52,974	224,902	7,059
Collar	29,779	35,044	
Foreign currency forwards			
Swaps	21,054		812
	<u>242,015</u>	<u>1,128,985</u>	<u>62,967</u>
<b>Current</b>	<u>(235,727)</u>	<u>(1,021,928)</u>	<u>(62,967)</u>
<b>Non-current</b>	<u>6,288</u>	<u>107,057</u>	

The derivative financial instruments included above are described in Note 9.

**18 Other Liabilities**

	<u>December 31, 2009</u>	<u>December 31, 2008</u>	<u>January 01, 2008</u>
Reorganization of Fokker 100 Fleet	24,154	51,186	53,024
Maintenance provision – “Power by the hour”	164,255	142,421	75,179
Other liabilities	109,235	238,477	187,839
	<u>297,644</u>	<u>432,084</u>	<u>316,042</u>
<b>Current</b>	<u>(123,696)</u>	<u>(149,091)</u>	<u>(130,765)</u>
<b>Non-current</b>	<u>173,948</u>	<u>282,993</u>	<u>185,277</u>

Pursuant to the agreement to return the Fokker 100 fleet, on December 19, 2003, TLA cancelled 19 lease agreements then outstanding, of which ten were finance leases and nine were operating leases. As a result, TLA agreed to pay a contractual rescission penalty in 30 consecutive quarterly installments, between April 2004 and July 2011 for an original amount of R\$ 94,188. This amount was recognized in the statement of operations in the year ended December 31, 2003. The Company issued letters of guarantee as Security. TLA also renegotiated the reschedule overdue installments for an original amount of R\$ 49,599.

On December 31, 2009, the total commitment under the Fokker 100 fleet operating leases arrangements amounted to R\$ 24,154 (December 31, 2008 – R\$ 51,186 and January 01, 2008 – R\$ 53,024) equivalent to US\$ 13,871 thousand (December 31, 2008 – US\$ 21,903 thousand and January 01, 2008 – US\$ 29,935 thousand), of which R\$ 15,798 (December 31, 2008 – R\$ 18,623 and January 01, 2008- R\$ 11,501) is classified in current liabilities.

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**  
**at December 31, 2009, 2008 and 2007**  
In thousands of reais, unless otherwise indicated

**19 Provisions**

Management of the Company and its subsidiaries recorded provisions for contingencies in all cases where loss by the Company is deemed probable based on advice provided by the Company's internal and external legal counsel. As at December 31, 2009, 2008 and 2007, the value of provisions and the corresponding judicial deposits recognized were as follows:

	<u>Balance at</u>	<u>Additional</u>			<u>Inflation</u>	<u>Balance at</u>	<u>Additional</u>			<u>Inflation</u>	<u>REFIS</u>	<u>Balance at</u>
	<u>01/01/2008</u>	<u>Provisions</u>	<u>(Reversals)</u>	<u>Payments</u>	<u>adjustments</u>	<u>31/12/2008</u>	<u>Provisions</u>	<u>(Reversals)</u>	<u>Payments</u>	<u>adjustments</u>	<u>(Note 20)</u>	<u>31/12/2009</u>
		<u>(Deposits)</u>			<u>and interest</u>		<u>(Deposits)</u>			<u>and interest</u>		
PIS and COFINS (i)	396,532	4,722	(33,744)		24,640	392,150		(70,812)		21,167	(342,505)	
Additional tariff (ii)	323,691	63,832			32,815	420,338	55,062			40,063		515,463
Airline staff fund (iii)	71,552	21,718			7,150	100,420	24,448			10,221		135,089
Labor contingencies	12,811	18,233	(2,089)	(5,517)	742	24,180	3,564		(9,068)			18,676
Civil litigation	22,658	49,300		(9,130)	694	57,412	21,231		(11,115)	(149)		67,379
Other tax contingencies	17,469	15,137	(1,592)	(210)	1,314	38,228	1,721		(799)	1,072		40,222
Total	844,713	172,942	(37,425)	(14,857)	67,355	1,032,728	106,026	(70,812)	(20,982)	72,374	(342,505)	776,829
(-) Judicial deposits	(75,017)	(38,928)	25,588	5,750	(2,321)	(84,928)	(28,408)		3,066	14		(110,256)
Total	<u>769,696</u>	<u>134,014</u>	<u>(11,837)</u>	<u>(9,107)</u>	<u>65,034</u>	<u>947,800</u>	<u>77,618</u>	<u>(70,812)</u>	<u>(17,916)</u>	<u>72,388</u>	<u>(342,505)</u>	<u>666,573</u>



**TAM S.A.****Notes to the Consolidated Financial Statements  
at December 31, 2009, 2008 and 2007**

In thousands of reais, unless otherwise indicated

- (i) Corresponds to the discussion of the constitutionality of the increase in the tax base of the PIS tax and the increase in the contribution and basis of calculation of COFINS tax, introduced under Law n° 9,718/98. Judicial deposits were made for certain months, and for the others TLA is supported by judicial measures. These amounts, net of judicial deposits, are updated based on the SELIC interest rate.

During 2009 a reversal of R\$ 70,812 was recognized as result of TLA having applied to the tax refinancing program called REFIS with respect to this dispute, and the remaining amount was recognized as payable to the tax authorities. See additional information in Note 20.

- (ii) Corresponds to the collection of 1% on the amount of fares of all tickets sold for regular domestic routes. TLA management, based on the opinion of its external legal counsel, is contesting the constitutionality of this collection, and non-payment is supported by a judicial order.
- (iii) Corresponds to the collection of 2.5% on the monthly payroll for private social welfare and professional training entities. TLA management, based on the opinion of its external legal counsel, is contesting the constitutionality of this collection, and the non-payment is supported by a judicial order.

Due to the nature of these disputes, the timing of the utilization of the provisions, and any associated cash outflows, is uncertain.

The Company and its subsidiaries are involved parties in other judicial contingencies involving fiscal, labor and civil claims for which the probability, of loss estimated by management based on advice from legal counsel, is considered possible for which no provision was recorded.

	<u>December 31, 2009</u>	<u>December 31, 2008</u>	<u>January 01, 2008</u>
Civil litigation	31,915	32,001	15,749
Labor contingencies	231,257	192,353	165,685
Tax contingencies	690,770	563,566	241,691
	<u>953,942</u>	<u>787,920</u>	<u>423,125</u>

**20 Refinanced taxes payable under fiscal recovery program (REFIS) - Consolidated**

In November 2009, TLA applied to the Fiscal Recovery Program (REFIS), established by Law n° 11,941/09 and Provisional Measure, N° 449/2009, REFIS has the purpose of allowing to settle tax debt through a special mechanism for paying and refinancing tax and social security liabilities.

The general conditions of the effects of applying to REFIS are summarized below:

- (a) Payment will be made in 180 monthly installments of tax debt amounting to R\$ 342,505 and payment in one single installment of tax debts of R\$ 10,426 out for which judicial deposits exists in the amount of R\$ 9,484.

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

(b) Tax debts included into the REFIS:

	<u>Original amount</u>	<u>Penalties</u>	<u>Interest</u>	<u>Total</u>
Pis (i)	38,935	3,104	35,807	77,846
Cofins (i)	176,025	195	88,439	264,659
	<u>214,960</u>	<u>3,299</u>	<u>124,246</u>	<u>342,505</u>
<b>Current (*)</b>				<u>(22,834)</u>
<b>Non-current</b>				<u>319,671</u>

(\*) The amount is recorded under “Taxes, charges and contribution” in current liabilities.

(i) As further explained in Note 19 corresponds to the increase in the tax base of the PIS tax and the increase in the contribution and basis of calculation of COFINS tax. In accordance with the requirements of the REFIS the Company has already filed a dismissal of the lawsuits it had begun challenging the unconstitutionality of such increases.

(c) A gain has been recognized for the reduction of penalties and interest previously, provided for amounting to R\$ 70,812 thousand. Of the total amount, R\$ 24,448 were recognized under “operating expenses – Other and the amount of R\$ 46,364 was recorded as a reduction in Finance costs. The gain corresponds to the reductions established by Law 11941/09 for payment of the taxes in 180 months consisting of reduction of 60% of the amount of penalties and 25% of the amount of late payment interest.

(d) By applying to the REFIS, the Company commits to make the monthly payments and not become overdue more than 90 days and to withdraw all lawsuits (and any resulting legal rights) it has begun with respect to the taxes included in REFIS. If those commitments are not honored the Company will be excluded from the REFIS and a new tax debt will be determined based on the amounts originally due.

**21 Share Capital and Reserves**

**(a) Authorized capital**

At December 31, 2009, 2008 and 2007 the authorized capital was R\$ 1,200,000 and can be increased by means of the issuance of common and preferred shares, as resolved by the Board of Directors.

**(b) Subscribed share capital**

At December 31, 2009, 2008 and 2007 is comprised of 150,585,147 fully paid-in nominative shares without nominal value, of which 50,195,049 (December 31, 2008 – 50,195,049 and January 01, 2008 – 59,791,955) are common shares and 100,390,098 (2008 – 100,390,098 and 2007 – 90,793,192) are preferred shares. At the Extraordinary Stockholders' Meeting held on September 19, 2008 the conversion of 9,596,906 common shares into preferred shares was approved.

Common shares confer to their holder the right to vote in general meetings.

The preferred shares do not have the right to vote in general meetings, except in relation to certain matters while

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

the Company is listed in Level 2 of BOVESPA. However, they have priority in the distribution of dividends, and in capital reimbursement, without any premium, in the event the Company is liquidated and the right to participate, under the same terms as the common shares, in the distribution of any benefits to the stockholders.

As per the Adhesion Agreement executed with BOVESPA, the Company complies with the requirement to have a free float in the market of 25% of its shares. Since August, 2007 the free float has been 53.85% (unaudited).

**22 Revaluation reserve**

The revaluation reserve represents the amount by which the carrying value (revalued amount) of certain property, plant and equipment (flight equipment) exceeds its historical cost. See Note 13.

	<u>Revaluation reserve, gross of tax</u>	<u>Deferred tax</u>	<u>Revaluation reserve, net of tax</u>
<b>At January 01, 2007</b>	493,992	(167,957)	326,035
Revaluation - through equity	(26,318)	8,948	(17,370)
Depreciation recognized in the statement of income	<u>(36,667)</u>	<u>12,467</u>	<u>(24,200)</u>
<b>At December 31, 2007</b>	<u>431,007</u>	<u>(146,542)</u>	<u>284,465</u>
Revaluation - through equity	1,342,304	(456,383)	885,921
Depreciation recognized in the statement of income	<u>(35,692)</u>	<u>12,135</u>	<u>(23,557)</u>
<b>At December 31, 2008</b>	<u>1,737,619</u>	<u>(590,790)</u>	<u>1,146,829</u>
Revaluation - through equity	(1,540,884)	523,629	(1,017,255)
Depreciation recognized in the statement of income	<u>(19,803)</u>	<u>6,733</u>	<u>(13,070)</u>
<b>At December 31, 2009</b>	<u><u>176,933</u></u>	<u><u>(60,428)</u></u>	<u><u>116,504</u></u>

**23 Other Reserves**

	<u>December 31, 2009</u>	<u>December 31, 2008</u>	<u>January 01, 2008</u>
Share premium (Note 23.1)	74,946	74,946	74,946
Legal reserve and profit retention reserve (Note 23.2)	49,134		802,249
Treasury shares (Note 23.3)	(11,370)	(11,370)	
Cumulative translation adjustments (Note 23.4)	(16,796)	3,309	(9,843)
Stock options (Note 23.5)	<u>35,669</u>	<u>25,207</u>	<u>18,031</u>
	<u><u>131,583</u></u>	<u><u>92,092</u></u>	<u><u>885,383</u></u>

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

**23.1 Share premium**

The share premium reserve arose on the subscription of shares in TAM, due to the fair value of net assets received being greater than the nominal amount of the share capital issued.

**23.2 Legal reserve and profit retention reserve**

Brazilian law requires that a legal reserve is constituted by appropriating 5% of profit for the year until the legal reserve reaches 20% of the amount of share capital.

Profit retention reserve is composed of the portion of remaining net income being at the disposal of the Shareholders' Meeting that will decide on its allocation. The Company shall decide on the application of the excess of the profit reserves in relation to the capital.

**23.3 Treasury shares**

The movement of treasury shares during the year ended December 31, 2008 is presented below.

	<u>Quantity of shares</u>	<u>Thousands of reais</u>	<u>Average price per share - Reais</u>
<b>At January 01 , 2008</b>			
Purchases of shares	601,900	17,703	29.41
Reductions	(199,589)	(6,333)	31.73
<b>At December 31, 2008</b>	<u>402,311</u>	<u>11,370</u>	<u>28.26</u>

No movement in treasury shares existed during the year ended December 31, 2009 .

Shares sold relate to the share option plan (See Note 26) approved at the Extraordinary Shareholders' Meeting of May 16, 2005.

The market value of the shares based on the closing quote in the São Paulo stock exchange at December 31, 2009, is R\$ 38.21 (December 31, 2008 – R\$19.09 and January 01, 2008 – R\$ 42.65) per preferred share.

The difference between the average historical cost of the treasury shares sold and the proceeds received upon sale during 2008 amounted to R\$ 2,899.

**23.4 Currency translation adjustment**

The effects of exchange rate changes during the year on net assets of foreign operations at the beginning of the year and the difference between their profit for the year at average and year-end exchange rates are recorded in the currency translation adjustment reserve.

**23.5 Stock options**

The credit relating to the expense for stock options is recorded in this reserve, and is released to retained earnings when options are exercised or expire. Note 26.2.

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

**24 Revenue**

TAM had no major customers which represented more than 10% of revenues in any of the periods presented. The Company utilizes its gross revenue information by type of service rendered and by region, as follows:

**(a) By type of service rendered**

	<u>Year to year - variation %</u>							
	<u>2009</u>	<u>%</u>	<u>2008</u>	<u>%</u>	<u>2007</u>	<u>%</u>	<u>2009-2008</u>	<u>2008-2007</u>
<b>Domestic</b>								
Scheduled - Passenger	5,331,765	52.6	5,967,628	54.6	4,681,866	56.2	(10.7)	27.5
Charter - Passenger	136,847	1.3	194,844	1.8	152,037	1.8	(29.8)	28.2
Cargo	446,983	4.4	459,487	4.2	360,149	4.3	(2.7)	27.6
	<u>5,915,595</u>	<u>58.3</u>	<u>6,621,959</u>	<u>60.6</u>	<u>5,194,052</u>	<u>62.3</u>	<u>(10.7)</u>	<u>27.5</u>
<b>International</b>								
Scheduled - Passenger	2,675,186	26.4	2,803,800	25.7	2,109,398	25.3	(4.6)	32.9
Charter - Passenger	8,823	0.1	18,818	0.2	20,343	0.2	(53.1)	(7.5)
Cargo	489,305	4.8	549,595	5.0	416,668	5.0	(11.0)	31.9
	<u>3,173,314</u>	<u>31.3</u>	<u>3,372,213</u>	<u>30.9</u>	<u>2,546,409</u>	<u>30.5</u>	<u>(5.9)</u>	<u>32.4</u>
<b>Other</b>								
TAM Loyalty Program	538,950	5.3	441,202	4.0	144,183	1.8	22.1	206
Travel and tourism agencies	59,635	0.6	64,132	0.6	30,242	0.4	(7.0)	112.1
Others (includes expired tickets)	451,647	4.5	420,682	3.9	413,220	5.0	7.4	1.8
	<u>1,050,232</u>	<u>10.4</u>	<u>926,016</u>	<u>8.5</u>	<u>587,645</u>	<u>7.2</u>	<u>13.4</u>	<u>57.6</u>
<b>Total gross</b>	<u>10,139,141</u>	<u>100.0</u>	<u>10,920,188</u>	<u>100.0</u>	<u>8,328,106</u>	<u>100.0</u>	<u>(7.2)</u>	<u>31.1</u>
<b>Sales taxes and other deductions</b>	<u>(373,635)</u>		<u>(407,144)</u>		<u>(309,287)</u>			
<b>Revenue</b>	<u>9,765,506</u>		<u>10,513,044</u>		<u>8,018,819</u>			

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

**(b) By geographic location of the Company's destinations**

	2009		2008		2007		Year to year - variation %	
		%		%		%	2009-2008	2008--2007
Brazil	6,965,826	68.7	7,547,976	69.2	5,781,698	69.4	(7.7)	30.5
Europe	1,440,352	14.2	1,543,350	14.1	1,047,726	12.6	(6.7)	47.3
North America	862,529	8.5	943,137	8.6	1,000,102	12.0	(8.5)	(5.7)
South America (excluding Brazil)	870,434	8.6	885,725	8.1	498,580	6.0	(1.7)	77.6
<b>Total gross</b>	<b>10,139,141</b>	<b>100.0</b>	<b>10,920,188</b>	<b>100.0</b>	<b>8,328,106</b>	<b>100.0</b>	<b>(7.2)</b>	<b>31.1</b>
<b>Sales taxes and other deductions</b>	<b>(373,635)</b>		<b>(407,144)</b>		<b>(309,287)</b>			
<b>Revenue</b>	<b>9,765,506</b>		<b>10,513,044</b>		<b>8,018,819</b>			

**25 Operating Expenses by Nature**

	2009					
	Cost of services rendered	Selling	General and administrative	Directors' Fees	Total	%
Personnel	1,614,109	183,955	168,510	18,596	1,985,170	20.7
Fuel	2,741,253				2,741,253	28.6
Depreciation and amortization	561,909	1,484	78,993		642,386	6.7
Maintenance and repairs (excluding personnel)	640,433				640,433	6.7
Aircraft insurance	63,681				63,681	0.7
Take-off, landing and navigation aid charges	585,890				585,890	6.1
Leasing of aircraft, engines and equipment under operating leases	525,200	9,352	15,213		549,765	5.7
Third party services	167,556	301,096	318,913		787,565	8.2
Marketing and related expenses		854,701			854,701	8.9
Other	356,074	182,164	206,744		744,982	7.8
	<b>7,256,105</b>	<b>1,532,752</b>	<b>788,373</b>	<b>18,596</b>	<b>9,595,826</b>	<b>100.0</b>

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

	<b>2008</b>					
	<u>Cost of services rendered</u>	<u>Selling</u>	<u>General and administrative</u>	<u>Directors' Fees</u>	<u>Total</u>	<u>%</u>
Personnel	1,477,381	158,954	128,857	16,833	1,782,025	17.9
Fuel	3,927,888				3,927,888	39.5
Depreciation and amortization	395,871	1,074	63,791		460,736	4.6
Maintenance and repairs (excluding personnel)	518,347				518,347	5.2
Aircraft insurance	47,781				47,781	0.5
Take-off, landing and navigation aid charges	495,426				495,426	5.0
Leasing of aircraft, engines and equipment under operating leases	424,637	7,720	11,074		443,431	4.5
Third party services	150,538	223,817	327,429		701,784	7.1
Marketing and related expenses		988,579			988,579	9.9
Other	337,563	16,469	234,078		588,110	5.9
	<u>7,775,432</u>	<u>1,396,613</u>	<u>765,229</u>	<u>16,833</u>	<u>9,954,107</u>	<u>100.0</u>

	<b>2007</b>					
	<u>Cost of services rendered</u>	<u>Selling</u>	<u>General and administrative</u>	<u>Directors' Fees</u>	<u>Total</u>	<u>%</u>
Personnel	1,051,324	118,514	112,150	27,739	1,309,727	17.0
Fuel	2,536,398				2,536,398	32.9
Depreciation and amortization	217,574	1,443	30,436		249,453	3.2
Maintenance and repairs (excluding personnel)	445,816				445,816	5.8
Aircraft insurance	33,560				33,560	0.4
Take-off, landing and navigation aid charges	421,021				421,021	5.5
Leasing of aircraft, engines and equipment under operating leases	488,514	4,077	8,547		501,138	6.5
Third party services	124,406	174,711	249,834		548,951	7.1
Marketing and related expenses		975,149			975,149	12.7
Other	351,303	173,763	152,199		677,265	8.9
	<u>5,669,916</u>	<u>1,447,657</u>	<u>553,166</u>	<u>27,739</u>	<u>7,698,478</u>	<u>100.0</u>

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

**26 Employee Benefits**

Personnel costs are composed of the following amounts:

	<u>2009</u>	<u>2008</u>	<u>2007</u>
Salaries and bonuses	1,527,391	1,380,304	1,014,222
Defined contribution pension plan	23,619	19,803	13,025
Share based payment	11,407	16,512	11,230
Taxes and social contributions	422,754	365,406	271,250
	<u>1,985,171</u>	<u>1,782,025</u>	<u>1,309,727</u>

**26.1 Profit-sharing and bonuses**

In accordance with the annual union agreement, the Company's management will pay a share of its profits when it reaches certain performance indicators established according to the annual budget. Consequently, management recorded a provision for payment of this benefit within "Salaries and social charges" totaling R\$ 26,955 at December 31, 2009 (2008 - R\$ 60,939 and 2007 - R\$ 36,140).

**26.2 Share-based payment**

The Extraordinary Stockholders' Meeting held on May 16, 2005 authorized that the Board of Directors may grant stock options to employees up to 2% of outstanding shares.

These transactions can be summarized as follows:

	<u>Number of stock options outstanding</u>	<u>Weighted average exercise price - R\$</u>
<b>At January 01, 2007</b>	955,005	22.15
Exercised	(21,806)	22.79
Granted	1,010,311	39.37
<b>At December 31, 2007</b>	1,943,510	32.10
Exercised	(199,589)	17.21
Unvested options forfeited	(42,593)	22.36
<b>At December 31, 2008</b>	1,701,328	37.31
Unvested options forfeited	(33,888)	42.81
<b>At December 31, 2009</b>	<u>1,667,440</u>	<u>36.55</u>

Under the terms of the Plan, the options granted are divided into three equal amounts and employees may exercise one third of their options after three, four and five years, respectively, if still employed by the Company at that time. The options have a contractual term of seven years. The options contain a "service condition" as vesting and exercisability of the options depends only on the rendering of a defined period of services by the employee. Dismissed employees have the obligation to satisfy certain conditions in order to maintain their options rights.



**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

The options are valued using the Black-Scholes option pricing model. The following table shows details of the various option grants, together with the variables used in valuing the options granted. The exercise price is adjusted by the IGP-M (General Price Index), from the award grant date up to the exercise date.

	<u>1st grant</u>	<u>2nd grant</u>	<u>3rd grant</u>	<u>1st Special grant</u>	<u>Total or weighted average</u>
Date	12/28/2005	11/30/2006	12/14/2007	09/27/2007	
Number of options granted	715,255	239,750	780,311	230,000	
Exercise price at grant date	14.4	43.48	39.67	38.36	
Risk free interest rate - %	17,93%	13,13%	10,95%	10,82%	
Average term	5.5	5.5	5.5	4.5	
Expected dividend yield - %	0,00%	0,32%	0,58%	0,58%	
Share price volatility - %	34,24%	41,29%	42,30%	40,48%	
Market share price - R\$	R\$ 45.00	R\$ 61.00	R\$ 44.03	R\$ 50.10	
Number of options outstanding (i)	481,825	227,870	727,745	230,000	1,667,440
Number of options exercisable (i)	331,225	75,957		230,000	637,182
Exercise price (adjusted by IGP-M) (i)	17.39	50.72	42.81	42.86	36.55
Remaining average term (i)	1.67	2.50	3.50	2.46	2.69

Share price volatility is determined based on historical share price volatility of the company's quoted shares.

**27 Net Finance Result**

	<u>2009</u>	<u>2008</u>	<u>2007</u>
Financial income			
Interest income from financial investments	82,106	192,765	263,291
Exchange gains	2,303,737	1,182,239	673,414
Other	26,843	35,357	70,163
	<u>2,412,686</u>	<u>1,410,361</u>	<u>1,006,868</u>
Financial expenses			
Exchange losses	(582,192)	(2,440,322)	(280,618)
Interest expense net of capitalized borrowing cost (i)	(421,851)	(535,773)	(438,641)
Other	(37,371)	(30,125)	(35,939)
	<u>(1,041,414)</u>	<u>(3,006,220)</u>	<u>(755,198)</u>
Financial result, net	<u>1,371,272</u>	<u>(1,595,859)</u>	<u>251,670</u>

(i) The rate used for capitalization was 12% in 2009 (2008 - 10% and 2007 - 13.7%)

Exchange gain recognized in year ended December 31, 2009 with respect to finance lease liabilities amounted to R\$ 1,404,895 (2008 - loss of R\$ 1,316,035 and 2007 - gain of R\$ 441,266) while interest expense on such finance lease liabilities amounted to R\$ 166,839 (2008 - R\$ 122,927 and 2007 - R\$ 142,130).

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

**28 Income Tax Expense**

**(a) Income tax and social contribution (expense) benefit**

	<u>2009</u>	<u>2008</u>	<u>2007</u>
Current tax	(3,972)	(120,956)	(138,956)
Deferred tax	<u>(208,809)</u>	<u>755,199</u>	<u>(6,985)</u>
	<u>(212,781)</u>	<u>634,243</u>	<u>(145,941)</u>

The tax on TAM's profit before tax differs from the theoretical amount that would arise using the tax rate applicable to TAM, TLA and its Brazilian subsidiaries as follows:

**(b) Reconciliation of income tax and social contribution (expense) benefit**

	<u>2009</u>	<u>2008</u>	<u>2007</u>
Profit/(Loss) before tax	650,196	(2,068,013)	477,720
Tax calculated at Brazilian tax rates applicable to profits	<u>34%</u>	<u>34%</u>	<u>34%</u>
	(221,067)	703,124	(162,425)
Non-deductible expenses	(24,091)	(7,572)	(5,138)
Tax incentives			1,849
Tax assets not recognized on tax loss carry forwards	(43)		
Non-taxable (non-deductible) exchange gains/(loss)	29,876	(67,650)	(1,587)
Other	2,544	6,341	8,748
Income tax and social contribution on interest on own capital			<u>12,612</u>
	<u>(212,781)</u>	<u>634,243</u>	<u>(145,941)</u>
Effective rate - %	32.7%	30.7%	30.5%

The tax years 2005 to 2009 are subject to examination by the Brazilian tax authorities.

**(c) Transition Tax Regime - RTT**

The Transition Tax Regime has been established by Law 11,638/07 in order to maintain the same tax rules for determining taxable income irrespective of any changes introduced to accounting practices adopted in Brazil.

RTT is option for the tax years ended December 31, 2008 and 2009 and the Company has opted to apply it and has been used to determine taxable income for such years.

**29 Earnings per Share**

Considering that common and preferred shares have equal rights in respect of dividends (see Note 30), a single measure of earnings per share based on the total number of common and preferred shares is presented. Common and preferred shares are considered two classes of ordinary shares.

**(a) Basic**

Basic earnings per share is calculated by dividing the profit attributable to equity holders of the company by the weighted average number of ordinary shares (common and preferred) in issued during the year excluding ordinary

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

shares purchased by the Company and held as treasury shares.

	<u>2009</u>	<u>2008</u>	<u>2007</u>
Profit (loss) attributable to equity holders of the company	435,734	(1,434,638)	331,602
Weighted average number of ordinary shares issued (in thousands)	150,585	150,585	150,585
Treasury shares (in thousands)	<u>(402)</u>	<u>(205)</u>	
Weighted average number of ordinary shares outstanding (in thousands)	<u>150,183</u>	<u>150,380</u>	<u>150,585</u>
Basic (loss)/earnings per share (reais per share)	<u>2.90</u>	<u>(9.54)</u>	<u>2.20</u>

**(b) Diluted**

Diluted earnings per share is calculated by adjusting the weighted average number of ordinary shares outstanding to assume conversion of all dilutive potential ordinary shares. The company has only one category of dilutive potential ordinary shares: share options.

	<u>2009</u>	<u>2008</u>	<u>2007</u>
Profit (loss) attributable to equity holders of the company	435,734	(1,434,638)	331,602
Weighted average number of ordinary shares outstanding (in thousands)	150,183	150,380	150,585
Adjustments for share options (in thousands)	<u>263</u>		<u>1,046</u>
Weighted average number of ordinary shares for diluted earnings per share calculation (in thousands)	<u>150,446</u>	<u>150,380</u>	<u>151,631</u>
Diluted (loss)/earnings per share (reais per share)	<u>2.90</u>	<u>(9.54)</u>	<u>2.19</u>

**30 Dividends and dividends per share**

In accordance with TAM S.A.'s by laws, stockholders are assured a minimum compulsory dividend based on of 25% of net income for the year in the parent company's separate financial statements, prepared under BR GAAP. Tax deductible interest on own capital which has been paid or credited may be considered part of the mandatory dividends. The preferred shares have priority in capital reimbursement and the right to dividends at least equal to those distributed to the common shares. The dividends and interest on own capital are approved of Annual General Meeting and are demonstrated below:

	<u>2009</u>	<u>2008</u>	<u>2007</u>
Dividends and interest on own capital recorded	236,722	40,537	31,528
Weighted average number of ordinary shares outstanding (common and preferred)	150,183	150,380	150,585
Dividends and interest on own capital recorded per share (reais per share)	1.58	0.27	0.21

As of December 31, 2009 and 2007 the amount recorded as a liability under "Proposed interest on own capital and dividends" corresponds to the minimum mandatory dividend for the years ended December 31, 2009 and 2007, respectively plus dividends declared in prior years and not yet redeemed by shareholders. No minimum mandatory dividend existed for the year ended December, 31 2008 since the Company had a loss on its financial statements under BR GAAP which serve as basis for distribution of dividends.

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

**31 Cash generated from operations**

	<u>2009</u>	<u>2008</u>	<u>2007</u>
		Restated	Restated
Profit/(loss) for the year	437,415	(1,433,770)	331,779
Adjustments for			
Deferred income tax and social contribution	208,809	(755,199)	6,985
Depreciation and amortization	642,386	460,736	249,453
Revaluation through income statement	1,207,608	(242,370)	224,701
(Profit)/loss on disposal of property, plant and equipment (see below)	(19,918)	8,825	40,291
Deferred income	323,345	67,646	161,653
Fair value (gains)/losses on derivative financial instruments	(886,970)	1,191,949	(72,887)
Foreign exchange losses/(gains) and interest expense	(1,561,779)	1,760,992	(200,508)
Others provisions set	(1,598)	84,530	143,348
Provision for contingency	107,588	173,751	232,583
Changes in working capital (excluding the effects of acquisition and exchange differences on consolidation)			
Financial assets through profit and loss – held for trading	231,249	898,068	13,132
Inventories	(25,887)	(69,237)	11,171
Assets held for sale	29,274	(17,150)	(69,431)
Provision for contingencies and tax obligations under judicial dispute	(46,310)	(60,632)	(186,294)
Trade account receivables	24,862	(243,747)	(184,347)
Taxes recoverable	21,444	(33,695)	(19,672)
Prepaid expenses	371	50,599	(78,560)
Prepaid aircraft maintenance	(25,035)	(165,433)	(53,407)
Suppliers	(55,113)	59,239	80,039
Salaries and social charges	(10,342)	81,243	42,580
Taxes, charges and contributions	(9,414)	116,367	118,699
Other assets	98,070	(77,035)	(93,543)
Other liabilities	(102,890)	48,800	26,995
Cash generated from operations	<u>587,165</u>	<u>1,904,477</u>	<u>724,760</u>

In the cash flow statement, proceeds from sale of property, plant and equipment comprise:

	<u>2009</u>	<u>2008</u>	<u>2007</u>
Net book amount	15,951	17,029	44,849
Profit/(loss) on disposal of property, plant and equipment	<u>19,918</u>	<u>(8,825)</u>	<u>(40,291)</u>
Proceeds from disposal of property, plant and equipment	<u>35,869</u>	<u>8,204</u>	<u>4,558</u>

**Non-cash transactions**

The principal non-cash transactions relate to share based payment discussed in Note 26 and acquisitions of flight equipment under finance leases discussed in Note 13.

**32 Commitments and contingencies**

**(a) Operating lease commitments**

TLA has obligations arising under operating lease contracts. The amounts of these commitments are not recorded in the financial statement. TLA has obligations arising under 66 aircraft under operating lease (2008 – 65 aircraft

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

and 2007 – 68 aircrafts). These agreements have an average term of 125 months and are denominated in U.S. dollar plus LIBOR. The lease expense, recognized in the consolidated statement of income in "Cost of services rendered", was R\$ 525,200 for the year ended December 31, 2009 (2008 – R\$ 424,637 and 2007 – R\$ 488,514), equivalent to approximately US\$ 263,3 thousands (December 31, 2008 – US\$ 231,5 thousands and January 01, 2008 – US\$ 250,5).

For most of the transactions, TAM has given letters of guarantee or deposits as a guarantee.

In addition, to meet the payment conditions established by contract, promissory notes guaranteed by Company were issued, totaling R\$ 44,540 at December 31, 2009 (December 31, 2008 - R\$ 85,282 and January 01, 2008 – R\$ 87,187).

Future aggregate payments denominated in US dollars under these contracts are as follows:

		<u>Monthly payments maturing in</u>		
		<u>December 31, 2009</u>	<u>December 31, 2008</u>	<u>January 01, 2008</u>
<b>In foreign currency</b>				
Aircraft	2021	1,478,308	2,419,036	1,811,117
Engines	2014	34,678	60,750	32,241
<b>Total</b>		<u>1,512,986</u>	<u>2,479,786</u>	<u>1,843,358</u>

Operating lease obligations fall due as follows:

<u>Year</u>	<u>December 31, 2009</u>	<u>December 31, 2008</u>	<u>January 01, 2008</u>
No later than one year	364,915	540,784	412,369
Later than one year and no later than five years	840,993	1,670,864	1,185,189
Later than five years	307,078	268,138	245,800
	<u>1,512,986</u>	<u>2,479,786</u>	<u>1,843,358</u>

**(b) Commitments for future aircraft leases**

**(i) Airbus**

In 2005, the Company executed an amendment to an existing contract with Airbus for the firm order of 20 Airbus A320, the remaining nine of which are to be delivered in 2010, with an option for an additional 20 of the same aircraft family (including A319, A320 and A321). In 2006, the Company finalized a contract to acquire a further 37 Airbus aircraft (31 aircraft narrow body aircraft family A320 and six A330 aircraft), for delivery by 2012.

On June 28, 2007, the Company also executed a Memorandum of Understanding for the purchase of 22 Airbus A350XWB models 800 and 900, with ten more options, for delivery between 2013 and 2018.

Additionally, the Company confirmed the exercise of four options for Airbus A330, two of which will be delivered in 2010, and the other two in 2011, related to the agreement signed at the end of 2006. TAM also confirmed the twenty options that had been postponed from 2005 to 2006 the anticipated delivery before the end of 2014.

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

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**ii. Boeing:**

In 2006, the Company ordered four Boeing 777-300ERs with options for four aircraft, which were converted to firm orders in 2007. Upon receipt of the four aircraft in 2008, the Company has signed an amendment to an existing contract for two more aircraft and has six firm orders outstanding contracted with Boeing for this type of aircraft, of which four are expected to be delivered in 2012 and two in 2013.

**(c) Insurance**

TAM maintains adequate insurance for risks which are expected to cover any liabilities generated by the accident on July 17, 2007, of an Airbus A320 aircraft, considering the agreements already made with and paid to the victims' families by the insurance company. As of December 31, 2009, some 192 (2008 – 160) compensation payments were paid to families of the victims and others are under negotiation with the Company's insurance firm. Management understands that the insurance coverage of these liabilities is adequate to cover all related costs. The Company believes that it will not incur additional or unexpected expenses outside the scope of the insurance agreement which would be TAM's direct responsibility.

**(d) Contingent liabilities**

Contingencies for which it is probable that TAM will be required to make payments are provided for and are discussed in Note 16.

**(e) Contingent assets**

**(i) ICMS**

On December 17, 2001 the Federal Supreme Court ruled that domestic and international air passenger transportation revenue, as well as international air cargo transportation revenue was no longer subject to ICMS. However, based on this ruling, ICMS taxation on domestic air cargo transportation revenue is still due. At December 31, 2009, the provision maintained by the Company totaled R\$ 4,772 (2008 – R\$ 6,187 and 2007 – R\$ 6,059), recorded in "Taxes, charges and contributions". On December 31, 2009, the installments due in more than one year totaled R\$ 60 (2008 – R\$ 98 and 2007 – R\$ 136), classified within "Other liabilities".

We consider payments of ICMS made between 1989 and 1994 to be amounts paid in error because we believe it was unconstitutional to charge ICMS on air navigation services. TAM Linhas Aéreas has filed claims against various states in Brazil to claim the amounts paid in error. Rulings on these claims are pending. The total value involved in these claims is R\$ 55 million (unaudited). Our policy is to only adjust the value of these claims for inflation at the time that payment is recorded in our financial statements.

**(ii) Indemnification for losses on regulated fares**

We are plaintiffs in an action filed against the Brazilian government in 1993 seeking damages for breaking-up of the economic-financial equilibrium of an air transport concession agreement as a result of having to freeze our prices from 1988 to September 1993 in order to maintain operations with the prices set by the Brazilian government during that period. The process is currently being heard before the Federal Regional Court and we are awaiting judgment on appeals we have lodged requesting clarification of the initial decision (which we challenged). The estimated value of the action is R\$ 245 million (unaudited), based on a calculation made by an expert witness of the court. This sum is subject to interest accruing from September 1993 and inflation since November 1994. Based on the opinion of our legal advisors and recent rulings handed down by the Supreme

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

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Court of Justice in favor of airlines in similar cases (specifically, actions filed by Transbrasil and Varig) we believe that our chance of success is probable. We have not recognized these amounts as receivable in these financial statements and will only do so when the decision is made final.

**(iii) Additional airport tariffs (“ATAERO”)**

At 2001, TLA filed a claim addressing the legality of the additional airport tariffs (“ATAERO”), which represent an additional 50% on the tariff amount. On December 31, 2009, the amount under discussion totaled approximately R\$ 777,328 (December 31, 2008 - R\$ 641,393 and January 01, 2008 – R\$ 525,716), unaudited, not recognized in the financial statement.

**33 Related-party Transactions**

The company is controlled by TAM - Empreendimentos e Participações S.A. (incorporated in Brazil), which is owned by the Amaro family, and which owns 89.26% of the Company's common shares and 24.67% of the Company's preferred shares. The remaining shares are widely held.

The following transactions were carried out with related parties:

**(a) Sale and purchases of goods and services**

For the year ended December 31, 2009, TAM received from Táxi Aéreo Marília S.A. (“Marília”), a company under common control, R\$ 65 (2008 - R\$ 130 and 2007 – R\$ 820), as reimbursement for the use of its infra-structure being mainly the importation areas and human resources. This amount was credited to “cost of services rendered”. TAM Marília and TAM have common indirect stockholders.

On May 11, 2007, TLA and TAM Marília agreed to share the use of a hangar located by Congonhas airport São Paulo, for a period of 10 years. TLA paid R\$ 15,500 upfront to TAM Marília and is entitled to use the facilities and the infra-structure of the hangar, providing the same cargo services, as those previously provided in the cargo terminal. The total amount was established based on valuation reports performed by independent companies, reflecting the economic premium obtained by the use of such a location in TAM's cargo activities. The amount recognized in the income statement for the year ended December 31, 2009 amounted to R\$ 1,550 (2008 - R\$ 1,550 and 2007 – R\$ 903).

The Company and its subsidiaries signed a contract in March 2005 with TAM Milor Táxi Aéreo, Representações, Marcas e Patentes S.A. (“TAM Milor”) for the right to use the “TAM” brand. This contract is valid for a term equal to the current passenger air transport concession of TAM and establishes a monthly fee, adjusted annually by the IGP-M inflation index, totaling R\$ 16,665 for the year ended December 31, 2009 (2008 – R\$ 15,429 and 2007 – R\$ 14,331), recorded as “Operating expenses”.

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

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**(b) Key management compensation**

The key management personnel of TAM include the members of the Board of Directors, the president, vice presidents and statutory directors. Their remuneration was as follows:

	<u>2009</u>	<u>2008</u>	<u>2007</u>
Salaries	9,497	9,031	9,262
Profit share and bonuses	9,875	7,326	18,197
Share-based payment	11,409	16,512	11,230
Other long-term benefits	<u>810</u>	<u>476</u>	<u>280</u>
	<u>31,591</u>	<u>33,345</u>	<u>38,969</u>



TAM S.A.  
Notes to the Consolidated Financial Statements

In thousands of reais, unless otherwise indicated

34 Reconciliation between BRGAAP and IFRS

As indicated in note 2.24 information provided to the CODM is based on BRGAAP rather than IFRS. This footnote presents reconciliation between BRGAAP and IFRS of total consolidated assets, liabilities, equity, consolidated revenue and consolidated net income. The reconciliation of equity and net income is also required by Instruction CVM n° 457/07.

(a) Reconciliation of amounts in the consolidated statements of financial position

	<b>2009</b>		
	Total consolidated assets	Total consolidated liabilities	Equity, including non- controlling interests
<b>Amounts under BR GAAP</b>	<b>13,137,213</b>	<b>11,499,352</b>	<b>1,637,861</b>
Revaluation of flight equipment	(1,196,272)		(1,196,272)
Loyalty Program	60,705	598,468	(537,764)
Deferred tax and social contribution	142,820	(440,670)	583,491
Other		(11,099)	11,099
<b>Total of adjustments</b>	<b>(992,747)</b>	<b>146,699</b>	<b>(1,139,446)</b>
<b>Amounts under IFRS</b>	<b>12,144,466</b>	<b>11,646,051</b>	<b>498,415</b>
			<b>2008</b>
	Total consolidated assets	Total consolidated liabilities	Equity, including non- controlling interests
<b>Amounts under BR GAAP</b>	<b>13,305,806</b>	<b>12,764,242</b>	<b>541,564</b>
Revaluation of flight equipment	1,643,526		1,643,526
Loyalty Program	46,963	461,246	(414,283)
Deferred tax and social contribution	(496,116)	(90,583)	(405,533)
Other	(49,246)	(11,099)	(38,147)
<b>Total of adjustments</b>	<b>1,145,127</b>	<b>359,564</b>	<b>785,563</b>
<b>Amounts under IFRS</b>	<b>14,450,933</b>	<b>13,123,806</b>	<b>1,327,127</b>
			<b>2007</b>
	Total consolidated assets	Total consolidated liabilities	Equity, including non- controlling interests
<b>Amounts under BR GAAP</b>	<b>10,458,688</b>	<b>8,415,105</b>	<b>2,043,583</b>
Revaluation of flight equipment	69,363		69,363
Loyalty Program	38,911	400,042	(361,131)
Deferred tax and social contribution	(233,788)	(339,054)	105,266
Reversal of dividends and interest on own capital subject to approval by shareholder's		(40,537)	40,537
Other		(11,099)	11,099
<b>Total of adjustments</b>	<b>(125,514)</b>	<b>9,352</b>	<b>(134,866)</b>
<b>Amounts under IFRS</b>	<b>10,333,174</b>	<b>8,424,457</b>	<b>1,908,717</b>

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

**(b) Reconciliation amounts in the statement of income**

	<b>2009</b>	
	Revenue	Profit (loss) for the year
<b>Amounts under BR GAAP</b>	<b>9,900,321</b>	<b>1,344,220</b>
Revaluation of flight equipment		(1,299,713)
Loyalty Program	(134,815)	(123,481)
Deferred tax and social contribution		467,143
Other		49,246
<b>Total of adjustments</b>	<b>(134,815)</b>	<b>(906,805)</b>
<b>Amounts under IFRS</b>	<b>9,765,506</b>	<b>437,415</b>
		<b>2008</b>
	Revenue	Profit (loss) for the year
<b>Amounts under BR GAAP</b>	<b>10,592,044</b>	<b>(1,508,787)</b>
Revaluation of flight equipment		206,139
Loyalty Program	(79,000)	(53,152)
Deferred tax and social contribution		(28,724)
Other		(49,246)
<b>Total of adjustments</b>	<b>(79,000)</b>	<b>75,017</b>
<b>Amounts under IFRS</b>	<b>10,513,044</b>	<b>(1,433,770)</b>
		<b>2007</b>
	Revenue	Profit (loss) for the year
<b>Amounts under BR GAAP</b>	<b>8,151,174</b>	<b>528,965</b>
Revaluation of flight equipment		(160,403)
Loyalty Program	(132,355)	(130,780)
Deferred tax and social contribution		93,997
<b>Total of adjustments</b>	<b>(132,355)</b>	<b>(197,186)</b>
<b>Amounts under IFRS</b>	<b>8,018,819</b>	<b>331,779</b>

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

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**35 Events after the reporting period**

**(a) Initial public offering of shares of the subsidiary Multiplus**

On February 5, 2010 the Company concluded the initial public offering of shares of its subsidiary Multiplus, offering 39,340,000 shares held by the Company for an offering price of R\$ 16.00 per share (sixteen reais) net proceeds of R\$ 629,440. On March 02, 2010 3,934,000 shares were sold at a selling price of R\$ 16.00 (sixteen reais) representing proceeds of R\$ 62,944. The resources proceeding from the IPO will be used for general corporate purposes and reducing indebtedness.

After the offer the Company continues to control Multiplus S.A. through its remaining 72.5% voting and total interest.

**(b) Acquisition of Pantanal Linhas Aéreas S.A.**

On December 19, 2009 TAM S.A. announced that it had agreed to purchase all shares of the regional airline company Pantanal S.A. ("Pantanal"). This acquisition, which has substantial strategic value in the view of management, has a purchase price of R\$ 13 million and represents an important step towards transformation of the Company into a diversified business group in the civil aviation field, pursuant to its objective of constantly seeking out new opportunities for growth. On March 15, 2010 this acquisition was approved by the Brazilian Civil Aviation Agency (ANAC) and on March 30 Pantanal's authorization to operate was renewed to 2020.

No contingent purchase price exists as result of the terms of the transaction and the selling shareholders did not granted guarantees or indemnification rights with respect to contingent liabilities.

Pantanal has a fleet of three ATR-42 aircraft and operates out of São Paulo's Congonhas Airport, performing regular passenger and cargo transportation services from São Paulo to six cities with medium-sized population in the states of São Paulo, Minas Gerais and Paraná. Its ATR42-320 aircraft regularly flies to and from Araçatuba, Bauru, Marília, Presidente Prudente, Juiz de Fora and Maringá.

After concluding the acquisition of Pantanal, the Company prepared an opening balance sheet as of February 28, 2010, where assets and liabilities of Pantanal were recorded under the purchase method. Identifiable assets and liabilities are recognized at its fair value on the date of acquisition.

Management has concluded that the effect of using February 28, 2010 as the date of the opening balance sheet and as the date from which results of operations of Pantanal are consolidated instead of using March 15, 2010 did not result in any material difference in the opening balance sheet or the results of operations of TAM.

The main line items of the balance sheet as of February 28, 2010 are as follows:

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

	Opening balance sheet at. February 28, 2010 - Preliminary
<b>Assets</b>	
Cash and cash equivalents	956
Accounts receivable	5,733
Inventories	7,765
Others accounts receivable	2,157
Property, plant and equipment	13,981
Intangible assets	124,927
<b>Total</b>	<b>155,519</b>
<b>Liabilities</b>	
Suppliers	5,440
Financial liabilities	16,284
Salaries and social charges	13,441
Deferred revenue	4,808
Taxes, charges and contributions	7,756
Provisions	7,386
Other current liabilities	2,886
Fiscal recovery program	68,935
Contingencies	10,390
Other provisions	5,193
	142,159
<b>Equity</b>	<b>13,000</b>
<b>Total</b>	<b>155,518</b>

On a preliminary basis management has identified as separable intangible assets airport operation rights. Also on a preliminary basis management estimated the fair value of such intangible assets at R\$ 124,927. Those rights are considered to have an indefinite useful life and are based on the expected profitability from operating scheduled flights from the relevant airports.

The amount of intangible assets represents current management best estimate based on current available information. Management expects to perform a valuation of certain assets and liabilities, including intangible assets and contingent liabilities, until the end of the year 2009 which may result in adjustments to this preliminary allocation.

TAM management will assess the impairment of those rights annually, or in a shorter period in the event of changes in circumstances.

There is no tax effect on the goodwill.

Previously the date of purchase, there were no relationships between the TAM and Pantanal.

**36 Consolidation schedules**

In accordance with SEC rule SX 3-10 the Company is presenting the consolidation schedules for the following entities: TAM S.A. (parent company and guarantor), TAM Linhas Aéreas S.A. (guarantor), TAM Capital (subsidiary issuer), TAM Financial 1, TAM Financial 2, TP Participações, TAM Mercosur and TAM Fidelidade (non guarantors).

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

**(a) Income statement**

**(i) For the year ended December 31, 2009**

	<b>TAM S.A. (parent Company and Guarantor)</b>	<b>TAM Linhas Aéreas S.A. (guarantor)</b>	<b>TAM Capital (Subsidiary Issuer)</b>	<b>Multiplus</b>	<b>Others -(non guarantors)</b>	<b>Consolidation adjustment</b>	<b>Consolidated</b>
<b>Revenue</b>		9,557,732			242,378	(34,604)	9,765,506
Operating expenses	1,342,918	(9,321,331)	(12)	(128)	(210,020)	(1,407,253)	(9,595,826)
<b>Operating profit before movements in fair value of fuel derivatives</b>	1,342,918	236,401	(12)	(128)	32,358	(1,441,857)	169,680
Movements in fair value of fuel derivatives		295,797				21,055	316,852
Gains/(losses) on reevaluation of aircraft recognized in the income statement		(1,239,361)				31,753	(1,207,608)
<b>Operating (loss)/profit</b>	1,342,918	(707,163)	(12)	(128)	32,358	(1,389,049)	(721,076)
Share of earnings (loss) of subsidiaries							
Finance income		1,959,353	235,992		183,586	33,755	2,412,686
Finance costs		(615,818)	(231,014)		(119,823)	(74,759)	(1,041,414)
<b>Profit/(Loss) before income tax</b>	1,342,918	636,372	4,967	(128)	96,121	(1,430,054)	650,196
Income tax and social contribution	(387)	(207,965)			(4,429)		(212,781)
<b>Profit/(Loss) for the year (all continuing operations)</b>	1,342,531	428,407	4,967	(128)	91,692	(1,430,054)	437,415
Attributable to							
Non-controlling interest						1,681	1,681
Equity holders of TAM	1,342,531	428,407	4,967	(128)	91,692	(1,431,735)	435,734

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

(ii) **For the year ended December 31, 2008**

	<b>TAM S.A.</b> <b>(parent</b> <b>company</b> <b>and</b> <b>guarantor)</b>	<b>TAM Linhas.</b> <b>Aéreas S.A.</b> <b>(guarantor)</b>	<b>TAM Capital</b> <b>(subsidiary</b> <b>issuer)</b>	<b>Others (non-</b> <b>-guarantors)</b>	<b>Consolidation</b> <b>adjustments</b>	<b>Consolidated</b>
Revenue		10,253,235		293,990	(34,181)	10,513,044
Operating expenses	(4,006)	(9,740,458)	(134)	(243,824)	34,315	(9,954,107)
<b>Operating profit before movements in fair value of fuel derivatives</b>	<b>(4,006)</b>	<b>512,777</b>	<b>(134)</b>	<b>50,166</b>	<b>134</b>	<b>558,937</b>
Movements in fair value of fuel derivatives		(1,273,461)				(1,273,461)
Gains/(losses) on revaluation of aircraft recognized in the income statement		242,370				242,370
<b>Operating (loss)/profit</b>	<b>(4,006)</b>	<b>(518,314)</b>	<b>(134)</b>	<b>50,166</b>	<b>134</b>	<b>(472,154)</b>
Share of earnings (loss) of subsidiaries	(1,348,470)	18,221			1,330,249	
Finance income	48,940	1,335,626	213,804	23,086	(211,095)	1,410,361
Finance costs	(66,265)	(2,907,168)	(393,064)	(30,080)	390,357	(3,006,220)
<b>Profit/(Loss) before income tax</b>	<b>(1,369,801)</b>	<b>(2,071,635)</b>	<b>(179,394)</b>	<b>43,172</b>	<b>1,509,645</b>	<b>(2,068,013)</b>
Income tax and social contribution	9,694	632,218		(7,669)		634,243
<b>Profit/(Loss) for the year (all continuing operations)</b>	<b>(1,360,107)</b>	<b>(1,439,417)</b>	<b>(179,394)</b>	<b>35,503</b>	<b>1,509,645</b>	<b>(1,433,770)</b>
Attributable to						
Non-controlling interest					868	868
Equity holders of TAM	(1,360,107)	(1,439,417)	(179,394)	35,503	1,508,777	(1,434,638)

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

**(iii) For the year ended December 31, 2007**

	<b>TAM S.A.</b> <b>(parent</b> <b>company</b> <b>and</b> <b>guarantor)</b>	<b>TAM Linhas.</b> <b>Aéreas S.A.</b> <b>(guarantor)</b>	<b>TAM Capital</b> <b>(subsidiary</b> <b>issuer)</b>	<b>Others (non-</b> <b>guarantors)</b>	<b>Consolidation</b> <b>adjustments</b>	<b>Consolidated</b>
Revenue		7,823,163		225,876	(30,220)	8,018,819
Operating expenses	(7,341)	(7,507,651)	(401)	(215,352)	32,267	(7,697,478)
<b>Operating profit before movements in fair value of fuel derivatives and revaluation of aircraft</b>	<b>(7,341)</b>	<b>315,512</b>	<b>(401)</b>	<b>10,524</b>	<b>2,047</b>	<b>320,341</b>
Movements in fair value of fuel derivatives		130,410				130,410
Gains/(losses) on revaluation of aircraft recognized in the income statement		(224,701)				(224,701)
<b>Operating (loss)/profit</b>	<b>(7,341)</b>	<b>221,221</b>	<b>(401)</b>	<b>10,524</b>	<b>2,047</b>	<b>226,050</b>
Share of earnings (loss) of subsidiaries	510,057	3,577	(583)	(9,842)	(503,209)	
Finance income	59,561	942,082	45,105	16,027	(55,907)	1,006,868
Finance costs	(62,048)	(722,547)	(29,024)	(31,585)	90,006	(755,198)
<b>Profit/(Loss) before income tax</b>	<b>500,229</b>	<b>444,333</b>	<b>15,097</b>	<b>(14,876)</b>	<b>(467,063)</b>	<b>477,720</b>
Income tax and social contribution	4,900	(149,600)		(1,241)		(145,941)
<b>Profit/(Loss) for the year (all continuing operations)</b>	<b>505,129</b>	<b>294,733</b>	<b>15,097</b>	<b>(16,117)</b>	<b>(467,063)</b>	<b>331,779</b>
Attributable to						
Non-controlling interest					177	177
Equity holders of TAM	505,129	294,733	15,097	(16,117)	(467,240)	331,602

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

**(b) Balance sheet**

**As at December 31, 2009**

	<b>TAM S.A. (parent Company and Guarantor</b>	<b>TAM Linhas Aéreas S.A. (guarantor)</b>	<b>TAM Capital (Subsidiary Issuer</b>	<b>Multiplus</b>	<b>Others - (non guarantors</b>	<b>Total</b>	<b>Consolidation adjustment</b>	<b>Consolidated</b>
Assets								
Current assets								
Cash and cash equivalents								
	316	979,448	22,812		72,596	1,075,172		1,075,172
Financial assets at fair value through profit and loss								
	420,655	(115,498)	159,175		546,690	1,011,022		1,011,022
Trade accounts receivable								
		1,087,560			77,486	1,165,046	(43,067)	1,121,979
Inventories								
		194,029			1,063	195,092		195,092
Taxes recoverable								
	35,852	55,597			7,819	99,268		99,268
Prepaid expenses								
	223,404	146,231		858	1,418	371,912	(223,002)	148,910
Other receivables								
		139,998			45,305	185,303	(42,332)	142,971
	680,228	2,487,365	181,987	858	752,377	4,102,815	(308,401)	3,794,414
Non-current assets								
Restricted cash								
		79,370			2,593	81,963	(2,593)	79,370
Deposits in guarantee								
		59,520				59,520		59,520
Deferred income tax and social contribution								
	15,164	606,624				621,788		621,788
Prepaid aircraft maintenance								
		408,628				408,628		408,628
Investments								
	1,681,229	(45,887)				1,635,342	(1,635,342)	
Related parties								
	18,714	9,101	179,450		26,518	233,783	(233,783)	
Other receivables								
		28,548				28,548	1	28,549
Property, plant and equipment including aircraft pre-delivery payments								
		6,634,605			275,891	6,910,496		6,910,496
Intangible assets								
		237,909		3,783	9	241,701		241,701
	1,715,107	8,018,418	179,450	3,783	305,011	10,221,769	(1,871,717)	8,350,052
Total assets								
	<u>2,395,335</u>	<u>10,505,783</u>	<u>361,437</u>	<u>4,641</u>	<u>1,057,388</u>	<u>14,324,584</u>	<u>(2,180,118)</u>	<u>12,144,466</u>



**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

	<b>TAM S.A. (parent Company and Guarantor)</b>	<b>TAM Linhas Aéreas S.A. (guarantor)</b>	<b>TAM Capital (Subsidiary Issuer)</b>	<b>Multiplus</b>	<b>Others - (non guarantors)</b>	<b>Total</b>	<b>Consolidation adjustment</b>	<b>Consolidated</b>
Liabilities								
Current liabilities								
Suppliers		396,608		852	76,548	474,008	(43,026)	430,982
Financial liabilities	184,502	969,392	5,778		85,013	1,244,685		1,244,685
Salaries and social charges	39	304,091			3,477	307,607		307,607
Deferred income		1,685,910			10,749	1,696,659	1,662	1,698,321
Taxes, charges and contributions	9,654	164,695			5,313	179,662		179,662
Proposed interest on own capital and dividends	233,985	223,001				456,986	(223,001)	233,985
Derivative financial instruments		207,160			28,567	235,727		235,727
Related parties		47,024				47,024	(47,024)	
Other current liabilities		123,696				123,696		123,696
	428,180	4,121,577	5,778	852	209,667	4,766,054	(311,389)	4,454,665
Non current liabilities								
Financial liabilities	332,804	4,565,248	514,902		511,783	5,924,737		5,924,737
Derivative financial instruments		5,077			1,211	6,288		6,288
Deferred income		100,169				100,169		100,169
Provisions for contingencies	(95)	661,817			4,851	666,573		666,573
Refinanced taxes payable under Fiscal Recovery Program		319,671				319,671		319,671
Other non-current liabilities		162,848				162,848	11,099	173,948
Related parties		79,657		3,916	149,810	233,383	(233,384)	
	332,709	5,894,487	514,902	3,916	667,655	7,413,669	(222,285)	7,191,386
Total liabilities	<u>760,889</u>	<u>10,016,064</u>	<u>520,680</u>	<u>4,768</u>	<u>877,322</u>	<u>12,179,723</u>	<u>(533,674)</u>	<u>11,646,051</u>

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

	<b>TAM S.A. (parent Company and Guarantor)</b>	<b>TAM Linhas Aéreas S.A. (guarantor)</b>	<b>TAM Capital (Subsidiary Issuer)</b>	<b>Multiplus</b>	<b>Others - (non guarantors)</b>	<b>Totals</b>	<b>Consolidation adjustment</b>	<b>Consolidated</b>
Equity								
Capital and reserves attributable to equity holders of TAM S.A.								
Share capital	675,497	752,730	88	1	161,891	1,590,207	(914,710)	675,497
Revaluation reserve	130,541	110,769			7,654	248,964	(132,460)	116,504
Other reserves	131,583	35,668			(16,896)	150,355	(18,772)	131,583
Retained earnings /(Accumulated deficit)	<u>696,825</u>	<u>(409,448)</u>	<u>(159,331)</u>	<u>(128)</u>	<u>27,417</u>	<u>155,335</u>	<u>(583,912)</u>	<u>(428,577)</u>
	1,634,446	489,719	(159,243)	(127)	180,066	2,144,861	(1,649,854)	495,007
Non-controlling interest							3,408	3,408
Total equity	<u>1,634,446</u>	<u>489,719</u>	<u>(159,243)</u>	<u>(127)</u>	<u>180,066</u>	<u>2,144,861</u>	<u>(1,646,446)</u>	<u>498,415</u>
Total liabilities and equity	<u>2,395,335</u>	<u>10,505,783</u>	<u>361,437</u>	<u>4,641</u>	<u>1,057,388</u>	<u>14,324,584</u>	<u>(2,180,118)</u>	<u>12,144,466</u>

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

**As at December 31, 2008**

	<b>TAM S.A. (parent Company and Guarantor)</b>	<b>TAM Linhas Aéreas S.A. (guarantor)</b>	<b>TAM Capital (Subsidiary Issuer)</b>	<b>Others - (non guarantors)</b>	<b>Total</b>	<b>Consolidation adjustments</b>	<b>Consolidated</b>
<b>Assets</b>							
<b>Current assets</b>							
Cash and cash equivalents	251,269	372,496	385	33,568	657,718	14,067	671,785
Financial assets at fair value through profit and loss	156,837	1,060,274	435,653	39,582	1,692,346	(450,075)	1,242,271
Trade accounts receivable		1,113,338		96,401	1,209,739	(52,500)	1,157,239
Inventories		168,091		1,331	169,422		169,422
Non-current assets held for sale		62,134			62,134		62,134
Taxes recoverable	26,650	84,529		9,533	120,712		120,712
Prepaid expenses	419	86,559	1,580		88,558	60,723	149,281
Other receivables	47,447	153,005		40,516	240,968	(143,024)	97,944
	482,622	3,100,426	437,618	220,931	4,241,597	(570,809)	3,670,788
<b>Non current assets</b>							
Deposits in guarantee		116,135			116,135		116,135
Deferred income tax and social contribution	15,769	291,200			306,969		306,969
Prepaid aircraft maintenance		432,839			432,839	(49,246)	383,593
Other receivables	847	108,347	108,608	2,147	219,949	(62,045)	157,904
Property, plant and equipment including aircraft pre-delivery payments	798	9,647,989		14,665	9,663,452		9,663,452
Intangible assets		152,078			152,078	14	152,092
Investments	664,549				664,549	(664,549)	
	681,963	10,748,588	108,608	16,812	11,555,971	(775,826)	10,780,145
<b>Total assets</b>	<b>1,164,585</b>	<b>13,849,014</b>	<b>546,226</b>	<b>237,743</b>	<b>15,797,568</b>	<b>(1,346,635)</b>	<b>14,450,933</b>

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

	<b>TAM S.A. (parent Company and Guarantor)</b>	<b>TAM Linhas Aéreas S.A. (guarantor)</b>	<b>TAM Capital (Subsidiary Issuer)</b>	<b>Others - (non guarantors)</b>	<b>Total</b>	<b>Consolidation adjustments</b>	<b>Consolidated</b>
<b>Liabilities</b>							
<b>Current liabilities</b>							
Suppliers		395,966		98,726	494,692	(8597)	486,095
Financial liabilities	28,542	881,611	9,336		919,489	(9,336)	910,153
Salaries and social charges	6,013	353,469		24,873	384,355	(66,404)	317,951
Deferred income		1,084,544		21,175	1,105,719		1,105,719
Taxes, charges and contributions		245,910		427	246,337		246,337
Proposed interest on own capital and dividends	599	47,057			47,656	(47,057)	599
Derivative financial instruments		1,021,928			1,021,928		1,021,928
Other current liabilities	6	159,160		8,151	167,317	(18,226)	149,091
	35,160	4,189,645	9,336	153,352	4,387,493	(149,620)	4,237,873
<b>Non-current liabilities</b>							
Financial liabilities	500,000	6,678,873	701,100		7,879,973	(701,100)	7,178,873
Derivative financial instruments		107,057			107,057		107,057
Deferred income		369,210			369,210		369,210
Provisions for contingencies	(30)	942,039		5,791	947,800		947,800
Other non-current liabilities	(10,563)	282,992			272,429	10,564	282,993
	489,407	8,380,171	701,100	5,791	9,576,469	(690,536)	8,885,933
<b>Total liabilities</b>	<b>524,567</b>	<b>12,569,816</b>	<b>710,436</b>	<b>159,143</b>	<b>13,963,962</b>	<b>(840,156)</b>	<b>13,123,806</b>
<b>Equity</b>							
<b>Capital and reserves attributable to equity holders of TAM S.A.</b>							
Share capital	675,497	752,727	88	43,728	1,472,040	(796,543)	675,497
Revaluation reserve	133,169	1,137,915		7,866	1,278,950	(132,121)	1,146,829
Other reserves	92,092	25,212		883	118,187	(26,095)	92,092
Retained earnings /(Accumulated deficit)	(260,740)	(636,656)	(164,298)	26,123	(1,035,571)	444,046	(591,525)
	640,018	1,279,198	(164,210)	78,600	1,833,606	(510,713)	1,322,893
Non-controlling interest						4,234	4,234
<b>Total equity</b>	<b>640,018</b>	<b>1,279,198</b>	<b>(164,210)</b>	<b>78,600</b>	<b>1,833,606</b>	<b>(506,479)</b>	<b>1,327,127</b>
<b>Total liabilities and equity</b>	<b>1,164,585</b>	<b>13,849,014</b>	<b>546,226</b>	<b>237,743</b>	<b>15,797,568</b>	<b>(1,346,635)</b>	<b>14,450,933</b>

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

**As at December 31, 2007**

	<b>TAM S.A. (parent company and guarantor)</b>	<b>TAM Linhas Aéreas S.A. (guarantor)</b>	<b>TAM Capital (subsidiary Issuer)</b>	<b>Others (non- guarantors)</b>	<b>Total</b>	<b>Consolidation adjustments</b>	<b>Consolidated</b>
<b>Assets</b>							
<b>Current assets</b>							
Cash and cash equivalents	386,295	20,407	518	60,759	467,979	(1,441)	466,538
Financial assets at fair value through profit and loss	125,470	2,020,057	541,950		2,687,477	(547,138)	2,140,339
Trade accounts receivable		939,050		63,373	1,002,423	(64,495)	937,928
Inventories		99,459		726	100,185		100,185
Non-current assets held for sale		62,286			62,286		62,286
Taxes recoverable	16,150	62,213		8,654	87,017		87,017
Derivative financial instruments		62,967			62,967		62,967
Prepaid expenses	438	144,551	1,200		146,189	49,697	195,886
Other receivables	55,359	109,350			164,709	(90,605)	74,104
	583,712	3,520,340	543,668	133,512	4,781,232	(653,982)	4,127,250
<b>Non-current assets</b>							
Deposits in guarantee		148,565		12,923	161,488		161,488
Deferred income tax and social contribution	6,064	(1,294)			4,770		4,770
Prepaid aircraft maintenance		119,633			119,633		119,633
Other receivables	1,164	117,004	9,983	1,964	114,455	(9,746)	104,709
Investments	1,992,691				1,992,691	(1,992,691)	
Property, plant and equipment including aircraft pre-delivery payments		5,769,951		(1,785)	5,768,166	12,910	5,781,076
Intangible assets		34,236			34,236	12	34,248
	1,999,919	6,188,095	9,983	13,102	8,195,439	(1,989,515)	6,205,924
<b>Total assets</b>	<b>2,583,631</b>	<b>9,708,435</b>	<b>553,651</b>	<b>146,614</b>	<b>12,976,671</b>	<b>(2,643,497)</b>	<b>10,333,174</b>

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

	<b>TAM S.A. (parent company and guarantor)</b>	<b>TAM Linhas Aéreas S.A. (guarantor)</b>	<b>TAM Capital (subsidiary Issuer)</b>	<b>Others (non- guarantors)</b>	<b>Total</b>	<b>Consolidation adjustments</b>	<b>Consolidated</b>
<b>Liabilities</b>							
<b>Current liabilities</b>							
Suppliers		407,156		66,894	474,050	(47,194)	426,856
Financial liabilities	23,147	1,174,839	7,076		1,205,062	(7,076)	1,197,986
Salaries and social charges	43	345,559		1,131	346,733	(110,026)	236,707
Deferred income		1,027,616		21,898	1,049,514		1,049,514
Taxes, charges and contributions	11	128,495		629	129,135		129,135
Proposed interest on own capital and dividends		55,361			55,361	(23,308)	32,052
Other current liabilities	72,618	34,817		23,330	130,765		130,765
	95,819	3,173,843	7,076	113,882	3,390,620	(187,604)	3,203,015
<b>Non-current liabilities</b>							
Financial liabilities	500,000	3,408,700	531,390		4,440,090	(531,390)	3,908,700
Deferred income		357,769			357,769		357,769
Provisions for contingencies	(14)	761,077		3,514	764,577	5,119	769,696
Other non-current liabilities	(5,442)	185,277			179,835	5,442	185,277
	494,544	4,712,823	531,390	3,514	5,742,271	(520,829)	5,221,442
<b>Total liabilities</b>	<b>622,415</b>	<b>7,886,666</b>	<b>538,466</b>	<b>117,396</b>	<b>9,132,891</b>	<b>(708,433)</b>	<b>8,424,457</b>
<b>Equity</b>							
<b>Capital and reserves attributable to equity holders of TAM S.A.</b>							
Share capital	675,497	659,701	88	34,288	1,369,574	(694,077)	675,497
Revaluation reserve	135,134	276,197		8,026	419,357	(134,892)	284,465
Other reserves	885,383	18,040		319	903,742	(18,359)	885,383
Retained earnings/(Accumulated deficit)	297,254	852,171	15,097	(13,415)	1,151,107	(1,090,364)	60,743
	1,993,268	1,806,109	15,185	29,218	3,843,780	(1,937,692)	1,906,088
Non-controlling interest						2,629	2,629
<b>Total equity</b>	<b>1,993,268</b>	<b>1,806,109</b>	<b>15,185</b>	<b>29,218</b>	<b>3,843,780</b>	<b>(1,935,063)</b>	<b>1,908,717</b>
<b>Total and liabilities and equity</b>	<b>2,583,631</b>	<b>9,692,775</b>	<b>553,651</b>	<b>146,614</b>	<b>12,976,671</b>	<b>(2,643,496)</b>	<b>10,333,174</b>

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

**(c) Cash flow statement**

**For the year ended December 31, 2009**

	<b>TAM S.A. (parent Company and Guarantor)</b>	<b>TAM Linhas Aéreas S.A. (guarantor)</b>	<b>TAM Capital (Subsidiary Issuer)</b>	<b>Others - (non guarantors)</b>	<b>Multiplus</b>	<b>Total</b>	<b>Consolidation adjustment</b>	<b>Consolidated</b>
Cash flows from operating activities	91,342	448,821	(220,596)	69,558	3,782	392,907	194,258	587,165
Tax paid		(83,429)				(83,429)		(83,429)
Interest paid	(61,055)	(251,631)	(43,387)	(1,652)		(357,725)	45,092	(312,633)
<b>Net cash generated from operating activities</b>	<b>30,287</b>	<b>113,761</b>	<b>(263,983)</b>	<b>67,906</b>	<b>3,782</b>	<b>(48,247)</b>	<b>239,350</b>	<b>191,103</b>
Cash flows from investing activities								
Investments in restricted cash		(79,370)				(79,370)		(79,370)
Interest on capital and dividends payable	74,693					74,693	(74,693)	
Related parties	(19,250)	47,456				28,206	(28,206)	
Proceeds from sale property, plant and equipment (PPE)		35,869				35,869		35,869
Purchases of property, plant and equipment (PPE)		(335,627)		731		(334,896)		(334,896)
Purchases of intangible assets		(131,513)			(3,783)	(135,296)		(135,296)
Deposits in guarantee								
Reimbursement		60,697		3,645		64,342	(3,645)	60,697
Deposits made		(27,922)		(20,835)		(48,757)	20,835	(27,922)
Pre delivery payments								
Reimbursement				38,818		38,818	(38,818)	
<b>Net cash (used in) investing activities</b>	<b>55,443</b>	<b>(430,410)</b>		<b>22,359</b>	<b>(3,783)</b>	<b>(356,391)</b>	<b>(124,527)</b>	<b>(480,918)</b>
Cash flows from financing activities								
Interest on capital and dividends payable		(47,057)		(27,636)		(74,693)	74,693	

Short and long-term borrowings								
Issuance		236,581				236,581		236,581
Repayment		(70,714)		(56,563)		(127,277)	56,563	(70,714)
Capital element of finance leases		(567,649)				(567,649)		(567,649)
Debentures								
Issuance		592,686				592,686		592,686
Issuance of senior notes		502,298		511,122		1,013,420	(511,122)	502,298
<b>Net cash (used in) from financing activities</b>		<b>646,145</b>		<b>426,923</b>		<b>1,073,068</b>	<b>(379,866)</b>	<b>693,202</b>
<b>Net increase in cash and cash equivalents</b>	85,730	329,496	(263,983)	517,188	(1)	668,430	(265,043)	403,387
<b>Cash and cash equivalents at beginning of year</b>	46,222	593,879	445,971	99,021		1,185,093	(513,308)	671,785
<b>Cash and cash equivalents at end of year</b>	<u>131,952</u>	<u>923,375</u>	<u>181,988</u>	<u>616,209</u>	<u>(1)</u>	<u>1,853,523</u>	<u>(778,351)</u>	<u>1,075,172</u>



**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

**For the year ended December 31, 2008**

	<b>TAM S.A.</b> <b>(parent</b> <b>company and</b> <b>guarantor)</b>	<b>TAM Linhas</b> <b>Aéreas S.A.</b> <b>(guarantor)</b>	<b>TAM Capital</b> <b>(subsidiary</b> <b>Issuer)</b>	<b>Others (non-</b> <b>guarantors)</b>	<b>Consolidation</b> <b>adjustments</b>	<b>Consolidated</b>
Cash flows from operating activities	349	1,905,969	(167,402)	(19,015)	184,576	1,904,477
Tax paid		(58,443)				(58,443)
Interest paid	(57,393)	(246,132)				(303,525)
<b>Net cash generated from operating activities</b>	<b>(57,044)</b>	<b>1,601,394</b>	<b>(167,402)</b>	<b>(19,015)</b>	<b>184,576</b>	<b>1,542,509</b>
Cash flows from investing activities						
Proceeds from sale property, plant and equipment (PPE)		8,204				8,204
Purchases of property, plant and equipment (PPE)		(627,523)		4,326	(14,286)	(637,483)
Purchases of intangible assets		(133,454)			(15)	(133,469)
Deposits in guarantee						
Reimbursement		106,292				106,292
Deposit made		(30,503)		(12,502)	12,502	(30,503)
Pre-delivery payments						
Reimbursement		261,302				261,302
Payment		(217,688)				(217,688)
<b>Net cash used in investing activities</b>		<b>(633,370)</b>		<b>(8,176)</b>	<b>(1,799)</b>	<b>(643,345)</b>
Cash flows from financing activities						
Purchase of treasury shares	(14,269)					(14,269)
Dividends paid to TAM's stockholders	(63,713)	(8,352)				(72,065)
Short and long-term borrowings						
Issuance		208,692				208,692
Repayment		(471,390)				(471,390)
Capital element of finance leases		(340,092)				(340,092)
Repayment of debentures		(4,793)				(4,793)
Issuance of senior notes			167,269		(167,269)	
<b>Net cash used in financing activities</b>	<b>(77,982)</b>	<b>(615,935)</b>	<b>167,269</b>		<b>(167,269)</b>	<b>(693,917)</b>
<b>Net increase in cash and cash equivalents</b>	<b>(135,026)</b>	<b>352,089</b>	<b>(133)</b>	<b>(27,191)</b>	<b>15,508</b>	<b>205,247</b>
<b>Cash and cash equivalents at beginning of year</b>	<b>386,295</b>	<b>20,407</b>	<b>518</b>	<b>60,759</b>	<b>(1,441)</b>	<b>466,538</b>
<b>Cash and cash equivalents at end of year</b>	<b>251,269</b>	<b>372,496</b>	<b>385</b>	<b>33,568</b>	<b>14,067</b>	<b>671,785</b>

**TAM S.A.**  
**Notes to the Consolidated Financial Statements**

In thousands of reais, unless otherwise indicated

**For the year ended December 31, 2007**

	<b>TAM S.A.</b> <b>(parent</b> <b>company and</b> <b>guarantor)</b>	<b>TAM Linhas</b> <b>Aéreas S.A.</b> <b>(guarantor)</b>	<b>TAM Capital</b> <b>(subsidiary</b> <b>Issuer)</b>	<b>Others (non-</b> <b>guarantors)</b>	<b>Consolidation</b> <b>adjustments</b>	<b>Consolidated</b>
<b>Cash flows from operating activities</b>	<b>199,651</b>	<b>568,717</b>	<b>(34,832)</b>	<b>38,282</b>	<b>(47,058)</b>	<b>724,760</b>
Tax paid		(65,528)				(65,528)
Interest paid	(65,620)	(220,939)				(286,559)
<b>Net cash generated from operating activities</b>	<b>134,031</b>	<b>282,250</b>	<b>(34,832)</b>	<b>38,282</b>	<b>(47,058)</b>	<b>372,673</b>
<b>Cash flows from investing activities</b>						
Proceeds from sale of property, plant and equipment (PPE)		4,558				4,558
Investments in subsidiaries	(30)				30	
Purchases of property, plant and equipment (PPE)		(311,818)		4,988	(5,022)	(311,852)
Proceeds from sale of PPE						
Purchases of intangible assets		(37,071)				(37,071)
<b>Deposits in guarantee</b>						
Reimbursement		21,011				21,011
Deposit made		(65,383)				(65,383)
<b>Pre-Delivery payment</b>						
Reimbursement		401,977				401,977
Payment		(451,456)				(451,456)
<b>Net cash used in investing activities</b>	<b>(30)</b>	<b>(438,182)</b>		<b>4,988</b>	<b>(4,992)</b>	<b>(438,216)</b>
<b>Cash flows from financing activities</b>						
Proceeds from issuance of common shares	497					497
Purchase of treasury shares						
Dividends paid to TAM's stockholders	(137,106)				(523)	(137,629)
<b>Short and long-term borrowings</b>						
Issuance		638,105				638,105
Repayment		(591,857)				(591,857)
Capital element of finance leases		(263,664)				(263,664)
Debentures		(19,957)				(19,957)
Repayment						
Issuance of senior notes		607,080				607,080
Funds obtained			607,080		(607,080)	
<b>Net cash used in financing activities</b>	<b>(136,609)</b>	<b>369,707</b>	<b>607,080</b>		<b>(607,603)</b>	<b>232,575</b>
<b>Net increase in cash and cash equivalents</b>	<b>(2,608)</b>	<b>213,775</b>	<b>572,248</b>	<b>43,270</b>	<b>(659,653)</b>	<b>167,032</b>
<b>Cash and cash equivalents at beginning of year</b>	<b>173,157</b>	<b>22,919</b>	<b>(571,730)</b>	<b>(29,037)</b>	<b>704,197</b>	<b>299,506</b>
<b>Cash and cash equivalents at end of year</b>	<b>170,549</b>	<b>236,694</b>	<b>518</b>	<b>14,233</b>	<b>44,544</b>	<b>466,538</b>

**Exhibit 2.3**

TAM CAPITAL 2 INC.

as Issuer

the GUARANTORS party hereto

THE BANK OF NEW YORK MELLON,  
as Trustee, Registrar, Transfer Agent and Principal Paying Agent

and

THE BANK OF NEW YORK MELLON (LUXEMBOURG) S.A.  
as Luxembourg Transfer Agent

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**INDENTURE**

Dated as of October 29, 2009

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9.50% Senior Guaranteed Notes Due 2020

**CROSS-REFERENCE TABLE**

<u>TIA Sections</u>	<u>Indenture Sections</u>
§. 310. (a).....	7.09
(b).....	7.07
§. 311.....	7.03
§. 312.....	11.02
§. 313.....	7.01
§. 314. (a) .....	4, 4.02
(c).....	11.03
(e).....	11.04
§. 315. (a).....	7.01, 7.02
(b).....	7.02, 7.05
(c).....	7.01
(d).....	7.02
(e).....	6.03, 7.02
§. 316. (a).....	2.05, 6.02, 6.12, 6.13
(b).....	6.07, 6.08
(c).....	11.02
§. 317. (a) (1).....	6.03
(a) (2).....	6.10
(b).....	2.03
§. 318.....	11.15

## TABLE OF CONTENTS

PAGE

### ARTICLE 1

#### DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

Section 1.01. <i>Definitions.</i>	1
Section 1.02. <i>Rules of Construction</i>	13
Section 1.03. <i>Table of Contents; Headings</i>	13
Section 1.04. <i>Form of Documents Delivered to Trustee</i>	13
Section 1.05. <i>Holder Communications; Acts of Holders.</i>	14

### ARTICLE 2

#### THE NOTES

Section 2.01. <i>Form and Dating</i>	15
Section 2.02. <i>Execution, Authentication and Delivery</i>	16
Section 2.03. <i>Transfer Agent, Registrar and Paying Agent</i>	17
Section 2.04. <i>Paying Agent to Hold Money in Trust</i>	18
Section 2.05. <i>Payment of Principal and Interest; Principal and Interest Rights Preserved</i>	18
Section 2.06. <i>Holder Lists</i>	19
Section 2.07. <i>Transfer and Exchange</i>	19
Section 2.08. <i>Replacement Notes</i>	22
Section 2.09. <i>Temporary Notes</i>	22
Section 2.10. <i>Cancellation</i>	22
Section 2.11. <i>Defaulted Interest</i>	23
Section 2.12. <i>CUSIP and ISIN Numbers</i>	23
Section 2.13. <i>Open Market Purchases</i>	23
Section 2.14. <i>Issuance Of Additional Notes</i>	23
Section 2.15. <i>One Class Of Notes</i>	24

### ARTICLE 3

#### REDEMPTION

Section 3.01. <i>Right of Redemption</i>	24
Section 3.02. <i>Applicability of Article</i>	26
Section 3.03. <i>Election to Redeem; Notice to Trustee</i>	26
Section 3.04. <i>Notice of Redemption by the Company</i>	26
Section 3.05. <i>Deposit of Redemption Price</i>	27
Section 3.06. <i>Effect of Notice of Redemption</i>	27
Section 3.07. <i>Notes Redeemed In Part</i>	28

### ARTICLE 4

#### COVENANTS

Section 4.01. <i>Payment of Principal and Interest Under the Notes</i>	28
------------------------------------------------------------------------	----

Section 4.02. <i>Maintenance of Office or Agency</i>	28
Section 4.03. <i>Money for Note Payments to Be Held in Trust</i>	29
Section 4.04. <i>Maintenance of Corporate Existence</i>	30
Section 4.05. <i>Payment of Taxes and Claims</i>	30
Section 4.06. <i>Payment of Additional Amounts</i>	30
Section 4.07. <i>Reporting Requirements</i>	33
Section 4.08. <i>Available Information</i>	34
Section 4.09. <i>Limitations on the Company</i>	34
Section 4.10. <i>Limitation on Transactions with Affiliates</i>	35
Section 4.11. <i>Repurchase of Notes upon a Change of Control</i>	35
Section 4.12. <i>Additional Interest</i>	35

## ARTICLE 5

### CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE

Section 5.01. <i>Limitation on Consolidation, Merger or Transfer of Assets</i>	36
Section 5c.02. <i>Successor Substituted</i>	37

## ARTICLE 6

### EVENTS OF DEFAULT AND REMEDIES

Section 6.01. <i>Events of Default</i>	37
Section 6.02. <i>Acceleration of Maturity, Rescission and Amendment</i>	39
Section 6.03. <i>Collection Suit by Trustee</i>	39
Section 6.04. <i>Other Remedies</i>	40
Section 6.05. <i>Trustee May Enforce Claims Without Possession of Notes</i>	40
Section 6.06. <i>Application of Money Collected</i>	40
Section 6.07. <i>Limitation on Suits</i>	41
Section 6.08. <i>Rights of Holders to Receive Principal and Interest</i>	41
Section 6.09. <i>Restoration of Rights and Remedies</i>	41
Section 6.10. <i>Trustee May File Proofs of Claim</i>	41
Section 6.11. <i>Delay or Omission Not Waiver</i>	42
Section 6.12. <i>Control by Holders</i>	42
Section 6.13. <i>Waiver of Past Defaults and Events of Default</i>	42
Section 6.14. <i>Rights and Remedies Cumulative</i>	42
Section 6.15. <i>Waiver of Stay or Extension Laws</i>	43

## ARTICLE 7

### TRUSTEE AND AGENTS

Section 7.01. <i>Duties of Trustee and Agents</i>	43
Section 7.02. <i>Rights of Trustee</i>	44
Section 7.03. <i>Individual Rights of Trustee</i>	46
Section 7.04. <i>Trustee's Disclaimer</i>	46
Section 7.05. <i>Notice of Defaults and Events of Default</i>	46
Section 7.06. <i>Compensation and Indemnity</i>	46
Section 7.07. <i>Replacement of Trustee</i>	48



Section 11.08. <i>Legal Holidays</i>	62
Section 11.09. <i>Governing Law</i>	62
Section 11.10. <i>Consent to Jurisdiction; Waiver of Immunities</i>	62
Section 11.11. <i>Successors and Assigns</i>	63
Section 11.12. <i>Multiple Originals</i>	64
Section 11.13. <i>Severability Clause</i>	64
Section 11.14. <i>Force Majeure</i>	64
Section 11.15. <i>Trust Indenture Act Of 1939</i>	64

EXHIBITS:

EXHIBIT A	–	Form of Note
EXHIBIT B	–	Form of Supplemental Indenture
EXHIBIT C	–	Form of Transfer Notice
EXHIBIT D	–	Form of Certificate for Transfer from Restricted Global Note or Certificated Note Bearing a Securities Act Legend to Regulation S Global Note or Certificated Note Not Bearing a Securities Act Legend
EXHIBIT E	–	Form of Transfer Certificate for Transfer from Regulation S Global Note or Certificated Note Not Bearing a Securities Act Legend to Restricted Global Note or Certificated Note Bearing a Securities Act Legend
EXHIBIT F	–	Form of Certificate for Removal of the Securities Act Legend on a Certificated Note



INDENTURE, dated as of October 29, 2009, among TAM CAPITAL 2 INC., an exempted company incorporated with limited liability in the Cayman Islands, as the Company, the GUARANTORS party hereto (the “**Guarantors**”), THE BANK OF NEW YORK MELLON, as Trustee, Registrar, Transfer Agent and Principal Paying Agent and THE BANK OF NEW YORK MELLON (LUXEMBOURG) S.A., as Luxembourg Transfer Agent.

#### **RECITALS**

The Company has duly authorized the issue of 9.50% Senior Guaranteed Notes Due 2020 (the “**Notes**”), initially in an aggregate principal amount of U.S.\$300,000,000, and has duly authorized the execution and delivery of this Indenture.

All things necessary have been done to make the Notes when executed and authenticated and delivered hereunder and duly issued, the valid obligations of the Company, and to make this Indenture a valid agreement of the Company.

In addition, the Guarantors party hereto have duly authorized the execution and delivery of the Indenture as guarantors of the Notes.

Each Guarantor has done all things necessary to make the Note Guarantees, when the Notes are executed by the Company and authenticated and delivered by the Trustee and duly issued by the Company, the valid obligations of such Guarantor, and to make the Indenture a valid agreement of such Guarantor.

#### **NOW, THEREFORE, THIS INDENTURE WITNESSETH:**

For and in consideration of the premises and the purchase of the Notes by the Holders thereof, it is mutually covenanted and agreed, for the equal and proportionate benefit of all Holders, as follows:

#### **ARTICLE 1**

##### **DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION**

Section 1.01. *Definitions.*

“**Act**,” when used with respect to any Holder, has the meaning specified in Section 1.05.

“**Additional Amounts**” has the meaning specified in Section 4.06.

“**Additional Notes**” means any notes issued under the Indenture in addition to the Notes, having the same terms in all respects as the Notes except for the issue date, issue price and that interest will accrue on the Additional Notes from their date of issuance.

“**Affiliate**” means, with respect to any specified Person, (a) any other Person which, directly or indirectly, is in control of, is controlled by or is under common control with such specified Person or (b) any other Person who is a director or officer (i) of such specified Person, (ii) of any subsidiary of such specified Person or (iii) of any Person described in clause (a) above. For purposes of this definition, control of a Person means the power, direct or indirect, to direct or cause the direction of the management and policies of such Person whether by contract or otherwise, and the terms “**controlling**” and “**controlled**” have meanings correlative to the foregoing.

“**Affiliate Transaction**” has the meaning specified in Section 4.10.

“**Agents**” means each of the Registrar, the Transfer Agents and the Paying Agents, including the Principal Paying Agent, individually, an “**Agent**.”

“**Applicable Procedures**” means the applicable procedures of DTC, Euroclear and Clearstream, Luxembourg, in each case to the extent applicable.

“**Authenticating Agent**” has the meaning specified in Section 2.02.

“**Authorized Denomination**” has the meaning specified in Section 2.02.

“**Board of Directors**” means the Board of Directors of the Company, or any Guarantor, as the case may be, or any committee thereof duly authorized to act on behalf of such Board of Directors.

“**Board Resolution**” means a copy of a resolution certified by the Secretary, the Assistant Secretary or another Officer or legal counsel performing corporate secretarial functions of the Company to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification and delivered to the Trustee.

“**Brazil**” means the Federative Republic of Brazil.

“**Brazilian Corporation Law**” means Brazilian Federal Law No. 6.404/76, as amended from time to time.

“**Business Day**” means any day other than a Saturday, a Sunday or a legal holiday in the Cayman Islands, Brazil or the United States or a day on which banking institutions or trust companies are authorized or obligated by law to close in the Cayman Islands, The City of New York, USA or São Paulo, Brazil.

“**Capital Lease Obligations**” means, with respect to any Person, any obligation which is required to be classified and accounted for as a capital lease on the face of a balance sheet of such Person prepared in accordance with IFRS; the amount of such obligation shall be the capitalized amount thereof, determined in accordance with IFRS; and the Stated Maturity thereof shall be the date of the last payment of rent or any other amount due under such lease prior to the first date upon which such lease may be terminated by the lessee without payment of a penalty.

“**Capital Stock**” means, with respect to any Person, any and all shares of stock, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated, whether voting or non-voting) such person’s equity, including any preferred stock, but excluding any debt securities convertible into or exchangeable for such equity.

“**Cayman Islands**” means the Cayman Islands, a British Overseas Territory.

“**Certificated Note**” has the meaning specified in Section 2.01.

“**Change of Control**” means:

(i) the direct or indirect sale or transfer of all or substantially all the assets of TAM S.A. to another Person (in each case, unless such other Person is a Permitted Holder); or

(ii) the consummation of any transaction (including, without limitation, by merger, consolidation, acquisition or any other means) as a result of which any “person” or “group” (as such terms are used for purposes of Sections 13(d) and 14(d) of the Exchange Act, other than Permitted Holders) is or becomes the “beneficial owner” (as such term is used in Rules 13d-3 under the Exchange Act), directly or indirectly, of more than 50% of the total voting power of the Voting Stock of TAM S.A.; or

(iii) the first day on which a majority of the Board of Directors of TAM S.A. consists of persons who were elected by shareholders who are not Permitted Holders.

“**Clearstream, Luxembourg**” means Clearstream Banking, *société anonyme*, Luxembourg.

“**Closing Date**” means October 29, 2009 or such later date on which the Notes are issued hereunder.

“**Company**” means TAM Capital 2 Inc. until replaced by a successor thereof, and, thereafter, includes the successor for purposes of any provision contained herein.

“**Company Order**” means a written order signed in the name of the Company by an Officer.

“**Comparable Treasury Issue**” means the U.S. Treasury security selected by the Quotation Agent as having a maturity comparable to the remaining term of the notes to be redeemed that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the remaining term of such notes.

“**Comparable Treasury Price**” means with respect to any redemption date for notes, the average of two Reference Treasury Dealer Quotations for such redemption date.

“**Corporate Trust Office**” means the office of the Trustee at which at any particular time its corporate trust business shall be principally administered (which office as of the date of this Indenture is located at 101 Barclay Street, Floor Four East, New York, NY 10286).

“**covenant defeasance option**” has the meaning specified in Section 8.01.

“**Custodian**” means any receiver, trustee, assignee, liquidator, custodian or similar official under any bankruptcy law.

“**CVM**” means the Brazilian Securities Commission (*Comissão de Valores Mobiliários*).

“**Debt**” means, with respect to any Person, without duplication:

- (i) the principal of and premium, if any, in respect of (a) indebtedness of such Person for money borrowed and (b) indebtedness evidenced by notes, debentures, bonds or other similar instruments for the payment of which such Person is responsible or liable;
- (ii) all Capital Lease Obligations of such Person;
- (iii) all obligations of such Person issued or assumed as the deferred purchase price of property, all conditional sale obligations of such Person and all obligations of such Person under any title retention agreement (but excluding trade accounts payable or other short term obligations to suppliers payable within 180 days, in each case arising in the ordinary course of business);
- (iv) all obligations of such Person for the reimbursement of any obligor on any letter of credit, banker’s acceptance or similar credit transaction (other than obligations with respect to letters of credit securing obligations other than obligations described in clauses (i) through (iii) above) entered into in the ordinary course of business of such Person to the extent such letters of credit are not drawn upon or, if and to the extent drawn upon, such drawing is reimbursed no later than the tenth Business Day following receipt by such Person of a demand for reimbursement following payment on the letter of credit);
- (v) all Hedging Obligations of such Person;
- (vi) all obligations of the type referred to in clauses (i) through (iv) of other Persons and all dividends of other Persons for the payment of which, in either case, such Person is responsible or liable, directly or indirectly, as obligor, guarantor or otherwise, including by means of any guarantee (other than obligations of other Persons that are customers or suppliers of such Person for which such Person is or becomes so responsible or liable in the ordinary course of business to (but only to) the extent that such Person does not, or is not required to, make payment in respect thereof);
- (vii) all obligations of the type referred to in clauses (i) through (v) of other Persons secured by any Lien on any property or asset of such Person (whether or not such obligation is assumed by such Person), the amount of such obligation being deemed to be the lesser of the value of such property or assets or the amount of the obligation so secured; and
- (viii) any other obligations of such Person which are required to be, or are in such Person’s financial statements, recorded or treated as debt under IFRS.

“**Default**” means any event that is, or after notice or passage of time or both would be, an Event of Default.

“**defeasance trust**” has the meaning specified in Section 8.02.

“**Depository**” means DTC or any successor depository for the Notes.

“**DTC**” means The Depository Trust Company.

“**Euroclear**” means Euroclear Bank S.A./N.V.

“**Event of Default**” has the meaning specified in Section 6.01.

“**Exchange Act**” means the U.S. Securities Exchange Act of 1934, as amended.

“**Facsimile Instruction**” shall mean any Written Direction transmitted to the Trustee or any Agent by means of facsimile transmission.

“**Facsimile Signature**” shall mean any signature transmitted to the Trustee or any Agent by means of facsimile transmission.

“**Fitch**” means Fitch Ratings, Ltd. and its successors.

“**Global Note**” means a global note representing the Notes substantially in the form attached hereto as Exhibit A.

“**Governing Document**” shall mean any written instrument pursuant to which the Trustee or any Agent acts in any fiduciary or agency capacity on behalf of the Company or on behalf of the Holders.

“**guarantee**” means any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Debt or other obligation of any Person and any obligation, direct or indirect, contingent or otherwise, of such Person (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Debt or other obligation of such Person (whether arising by virtue of partnership arrangements, or by agreement to keep-well, to purchase assets, goods, securities or services, to take or pay, or to maintain financial statement conditions or otherwise) or (ii) entered into for purposes of assuring in any other manner the obligee of such Debt or other obligation of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part); *provided, however*, that the term “guarantee” shall not include endorsements for collection or deposit in the ordinary course of business. The term “guarantee” used as a verb has a corresponding meaning.

“**Guarantor**” means (i) each of TAM S.A. and TAM Linhas Aéreas S.A., and (ii) each Person that executes a supplemental indenture in the form of Exhibit B to the Indenture providing for the guaranty of the payment of the Notes, or any successor obligor under the Note Guaranty pursuant to Section 5.01, in each case unless and until such Guarantor is released from its Note Guaranty pursuant to the Indenture.

**“Hedging Agreement”** means (i) any interest rate swap agreement, interest rate cap agreement or other agreement designed to protect against fluctuations in interest rates, (ii) any foreign exchange forward contract, currency swap agreement or other agreement designed to protect against fluctuations in foreign exchange rates or (iii) any commodity or raw material futures contract or any other agreement designed to protect against fluctuations in raw material prices.

**“Hedging Obligations”** means, with respect to any Person, the obligations of such Person pursuant to any interest rate swap agreement, foreign currency exchange agreement, interest rate collar agreement, option or futures contract or other similar agreement or arrangement designed to protect such Person against changes in interest rates or foreign exchange rates.

**“Holder”** or **“Noteholder”** means the Person in whose name a Note is registered in the Register.

**“IFRS”** means International Financial Reporting Standards, as issued by the International Accounting Standards Board, or IASB, in each case as in effect from time to time.

**“Incumbency Certificate”** shall mean the list of authorized signatories of the Company on file with the Trustee.

**“Indenture”** means this Indenture, as amended or supplemented from time to time in accordance with the provisions hereof.

**“Initial Purchasers”** means the initial purchasers party to a purchase agreement with the Company and the Guarantors relating to the sale of the Notes by the Company.

**“interest”** on a Note means the interest on such Note (including any Additional Amounts payable by the Company in respect of such interest).

**“Interest Payment Date”** means the Payment Date of an installment of interest on the Notes.

**“issue”** means issue, assume, guarantee, incur or otherwise become liable for; *provided, however*, that any Debt or Capital Stock of a Person existing at the time such Person becomes a Subsidiary (whether by merger, consolidation, acquisition or otherwise) shall be deemed to be issued by such Subsidiary at the time it becomes a Subsidiary; and the term “issuance” has a corresponding meaning.

**“Issue Date”** means October 29, 2009.

**“legal defeasance option”** has the meaning specified in Section 8.01.

**“Lien”** means any mortgage, pledge, security interest, encumbrance, conditional sale or other title retention agreement or other similar lien.

“**Maturity**” means, when used with respect to any Note, the date on which the outstanding principal of and interest on such Note becomes due and payable as therein or herein provided, whether by declaration of acceleration, call for redemption or otherwise.

“**Note Guaranty**” means the guaranty of the Notes by a Guarantor pursuant to this Indenture.

“**Notes**” has the meaning specified in the first paragraph of the Recitals in this Indenture and shall be in the form of Note set forth in Exhibit A.

“**Offering Memorandum**” means the offering memorandum dated October 22, 2009 relating to the Notes.

“**Officer**” means the president or chief executive officer, any vice president, the chief financial officer, the treasurer or any assistant treasurer, or the secretary or any assistant secretary, of the Company or any Guarantor, as the case may be, or any other Person duly appointed by the shareholders of the Company, or such Guarantor, as the case may be, or the Board of Directors to perform corporate duties.

“**Officers’ Certificate**” means a certificate signed by any two Officers of the Company or any Guarantor, as the case may be, and delivered to the Trustee.

“**Opinion of Counsel**” means a written opinion of legal counsel of recognized standing (who may be an employee of or counsel to the Company or any Guarantor) and who shall be reasonably acceptable to the Trustee, which opinion is reasonably satisfactory to the Trustee.

“**Outstanding**” means, when used with respect to Notes, as of the date of determination, all Notes theretofore authenticated and delivered under this Indenture, except:

- (i) Notes theretofore cancelled by the Trustee or delivered to the Trustee for cancellation;
- (ii) Notes for whose payment or redemption money in the necessary amount has been theretofore deposited with the Trustee or any Paying Agent (other than the Company) in trust or set aside and segregated in trust by the Company (if the Company shall act as its own Paying Agent) for the Holders of such Notes; *provided* that, if such Notes are to be redeemed pursuant to Section 3.01(b), notice of such redemption has been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee has been made;
- (iii) Notes, except to the extent provided in Sections 8.01 and 8.02, with respect to which the Company has effected legal defeasance and/or covenant defeasance as provided in Article 8; and
- (iv) Notes in exchange for or in lieu of which other Notes have been authenticated and delivered pursuant to this Indenture, other than any such Notes in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Notes are held by a bona fide purchaser or protected purchaser in whose hands such Notes are valid obligations of the Company;

*provided, however,* that in determining whether the Holders of the requisite principal amount of Outstanding Notes have given any request, demand, authorization, direction, consent, notice or waiver hereunder, Notes owned by the Company or any of its Affiliates shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, consent, notice or waiver, only Notes which a Responsible Officer of the Trustee has received written notice at its address specified herein of being so owned shall be so disregarded. Notes so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Notes and that the pledgee is not the Company, or any other obligor upon the Notes or any of its or such other obligor's Affiliates.

**"Paying Agent"** means The Bank of New York Mellon (Luxembourg) S.A. and any other Person authorized by the Company to pay the principal of or interest on any Notes on behalf of the Company hereunder, including the Principal Paying Agent.

**"Payment Date"** means the date on which payment of interest on and/or principal of the Notes is due.

**"Payment Default"** has the meaning specified in Section 6.01.

**"Permitted Holders"** means any or all of the following

(i) an immediate family member of Noemy Almeida Oliveira Amaro, Maria Claudia Oliveira Amaro Demenato, Mauricio Rolim Amaro, Marcos Adolfo Tadeu Senamo Amaro and João Francisco Amaro or any Affiliate or immediate family member thereof; immediate family member of a person means the spouse, lineal descendants, father, mother, brother, sister, father-in-law, mother-in-law, brother-in-law and sister-in-law of such person; and

(ii) any Person the Voting Stock of which (or in the case of a trust, the beneficial interests in which) are owned at least 51% by Persons specified in clause (i).

**"Person"** means an individual, a corporation, a partnership, a limited liability company, an association, a trust or any other entity, including a government or political subdivision or an agency or instrumentality thereof.

**"Primary Treasury Dealer"** means a primary U.S. government securities dealer in New York City.

**"principal"** of a Note means the principal amount of such Note (including any Additional Amounts payable by the Company in respect of such principal).

**"Principal Paying Agent"** means The Bank of New York Mellon, until a successor Principal Paying Agent shall have become such pursuant to the applicable provisions of this Indenture, and, thereafter, "Principal Paying Agent" shall mean such successor Principal Paying Agent.



“**Proceeding**” has the meaning specified in Section 11.10.

“**Process Agent**” has the meaning specified in Section 11.10.

“**Quotation Agent**” means the Reference Treasury Dealer appointed by the Company.

“**Rating Agency**” means Standard & Poor’s or Fitch; or if Standard & Poor’s or Fitch, or both, are not making rating of the notes publicly available, an internationally recognized U.S. rating agency or agencies, as the case may be, selected by us, which will be substituted for Standard & Poor’s or Fitch, or both, as the case may be.

“**Rating Decline**” means that at any time within 90 days (which period shall be extended so long as the rating of the notes is under publicly announced consideration for possible down grade by either Rating Agency) after the date of public notice of a Change of Control, or of our intention or that of any Person to effect a Change of Control, the then-applicable rating of the notes is decreased by each Rating Agency; provided that any such Rating Decline is in whole or in part in connection with a Change in Control.

“**Record Date**” means, when used with respect to the interest on the Notes payable on any Interest Payment Date, the January 14 and July 14 (whether or not a Business Day), as the case may be, immediately preceding such Interest Payment Date.

“**Redemption Date**” means, when used with respect to any Note to be redeemed pursuant to Section 3.01(b), the date fixed for such redemption by or pursuant to this Indenture.

“**Redemption Price**” means, when used with respect to any Notes to be redeemed pursuant to Section 3.01(b), the price at which it is to be redeemed pursuant to this Indenture.

“**Reference Treasury Dealer**” means Citigroup Global Markets Inc. and its respective successors; provided, however, that if Citigroup Global Markets Inc. shall cease to be a Primary Treasury Dealer, we will substitute therefor another Primary Treasury Dealer.

“**Reference Treasury Dealer Quotations**” means, with respect to each Reference Treasury Dealer and any redemption date, the average, as determined by the Trustee, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Trustee by such Reference Treasury Dealer at 5:00 p.m., New York City time, on the third business day preceding such redemption date.

“**Register**” has the meaning specified in Section 2.03.

“**Registrar**” means The Bank of New York Mellon, until a successor Registrar shall have become such pursuant to the applicable provisions of this Indenture, and, thereafter, “Registrar” shall mean such successor Registrar.

“**Regulation S**” means Regulation S under the Securities Act, as in effect from time to time.

“**Regulation S Global Note**” means one or more permanent Global Notes in definitive fully registered form without interest coupons representing Notes sold outside of the United States pursuant to Regulation S.

“**Relevant Date**” means, with respect to any payment on a Note, whichever is the later of: (i) the date on which such payment first becomes due; and (ii) if the full amount payable has not been received by the Trustee or a Paying Agent on or prior to such due date, the date on which notice is given to the Holders that the full amount has been received by the Trustee.

“**Responsible Officer**” means any officer of the Trustee or any Agent in Corporate Trust Administration with direct responsibility for the administration of this Indenture.

“**Restricted Global Note**” means one or more permanent Global Notes in definitive fully registered form without interest coupons sold to “qualified institutional buyers” (as such term is defined in Rule 144A) pursuant to Rule 144A.

“**Restricted Period**” means the relevant 40-day distribution compliance period as defined in Regulation S.

“**Rule 144A**” means Rule 144A under the Securities Act, as in effect from time to time.

“**SEC**” means the U.S. Securities and Exchange Commission.

“**Securities Act**” means the U.S. Securities Act of 1933, as amended.

“**Securities Act Legend**” means the following legend, printed in capital letters:

THIS NOTE (AND RELATED NOTE GUARANTEES) HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE “**SECURITIES ACT**”), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER (1) REPRESENTS THAT (A) IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A “QUALIFIED INSTITUTIONAL BUYER” (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT OR (B) IT IS NOT A U.S. PERSON (WITHIN THE MEANING OF REGULATION S UNDER THE SECURITIES ACT), AND (2) AGREES FOR THE BENEFIT OF THE COMPANY THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS NOTE OR ANY BENEFICIAL INTEREST HEREIN, EXCEPT IN ACCORDANCE WITH THE SECURITIES ACT AND ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES AND ONLY (A) TO THE COMPANY, (B) PURSUANT TO A REGISTRATION STATEMENT WHICH HAS BECOME EFFECTIVE UNDER THE SECURITIES ACT, (C)

TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, (D) IN AN OFFSHORE TRANSACTION IN COMPLIANCE WITH RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, OR (E) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT OR ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT. PRIOR TO THE REGISTRATION OF ANY TRANSFER IN ACCORDANCE WITH (2)(E) ABOVE, THE COMPANY RESERVES THE RIGHT TO REQUIRE THE DELIVERY OF SUCH LEGAL OPINIONS, CERTIFICATIONS OR OTHER EVIDENCE AS MAY REASONABLY BE REQUIRED IN ORDER TO DETERMINE THAT THE PROPOSED TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF ANY RULE 144 EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

THE FOREGOING LEGEND MAY BE REMOVED FROM THIS NOTE ON SATISFACTION OF THE CONDITIONS SPECIFIED IN THE INDENTURE REFERRED TO HEREIN.

**“Significant Subsidiary”** means any Subsidiary of TAM S.A. (or any successor) which at the time of determination either (i) had assets which, as of the date of TAM S.A.’s (or such successor’s) most recent quarterly consolidated balance sheet, constituted at least 10% of TAM S.A.’s (or such successor’s) total assets on a consolidated basis as of such date or (ii) had revenues for the 12 month period ending on the date of TAM S.A.’s (or such successor’s) most recent quarterly consolidated statement of income which constituted at least 10% of the TAM S.A.’s (or such successor’s) total revenues on a consolidated basis for such period.

**“Standard & Poor’s”** means Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc.

**“Stated Maturity”** means, with respect to any security, the date specified in such security as the fixed date on which the principal of such security is due and payable, including pursuant to any mandatory redemption provision (but excluding any provision providing for the repurchase of such security at the option of the Holder thereof upon the happening of any contingency unless such contingency has occurred).

**“Subsidiary”** means, in respect of any specified Person, any corporation, association, partnership or other business entity of which more than 50% of the total voting power of shares of Capital Stock or other interests (including partnership interests) entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by such person.

**“Taxing Jurisdiction”** has the meaning specified in Section 4.06.

“**Transfer Agent**” means The Bank of New York Mellon and any other Person authorized by the Company to effectuate the exchange or transfer of any Note on behalf of the Company hereunder.

“**Treasury Rate**” means, with respect to any redemption date, (1) the yield, under the heading that represents the average for the immediately preceding week, appearing in the most recently published statistical release designated “H.15 (519)” or any successor publication that is published weekly by the Board of Governors of the Federal Reserve System and that establishes yields on actively traded U.S. Treasury securities adjusted to constant maturity under the caption “Treasury Constant Maturities,” for the maturity corresponding to the Comparable Treasury Issue (if no maturity is within three months before or after the maturity date of the notes to be redeemed, yields for the two published maturities most closely corresponding to the Comparable Treasury Issue shall be determined, and the Treasury Rate shall be interpolated or extrapolated from such yields on a straight-line basis, rounding to the nearest month) or (2) if such release (or any successor release) is not published during the week preceding the calculation date or does not contain such yields, the rate per year equal to the semi-annual equivalent yield to maturity of the Comparable Treasury Issue, calculated using a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for such redemption date. The Treasury Rate will be calculated on the third business day preceding the redemption date.

“**Trust Indenture Act**” means the U.S. Trust Indenture Act of 1939, as amended.

“**Trustee**” means The Bank of New York Mellon, until a successor Trustee shall have become such pursuant to the applicable provisions of this Indenture and, thereafter, “Trustee” shall mean such successor Trustee.

“**United States**” and “**U.S.**” means the United States of America (including the States and the District of Columbia) and its territories, its possessions and other areas subject to its jurisdiction.

“**U.S. Dollars**” and “**U.S.\$**” each mean the currency of the United States.

“**U.S. Government Obligations**” means direct obligations (or certificates representing an ownership interest in such obligations) of the United States (including any agency or instrumentality thereof) for the payment of which the full faith and credit of the United States is pledged and which are not callable at the issuer’s option.

“**Voting Stock**” means, with respect to any Person, Capital Stock of any class or kind ordinarily having the power to vote for the election of directors, managers or other voting members of the governing body of such Person.

“**Wholly-Owned Subsidiary**” means a Subsidiary all of the Capital Stock of which (other than directors’ qualifying shares) is owned by the Company or another Wholly-Owned Subsidiary.

“**Written Direction**” shall mean any written instrument, directing the Trustee or any Agent to take any action that is signed by an authorized representative of the Company whose signature appears on the Incumbency Certificate.

Section 1.02. *Rules of Construction.* (a) For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(i) the terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular;

(ii) the words “herein”, “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision;

(iii) “or” is not exclusive; and

(iv) “including” means including, without limitation;

(v) any reference to an “Article”, a “Section” or an “Exhibit” refers to an Article, a Section or an Exhibit, as the case may be, of this Indenture.

(b) All accounting terms not otherwise defined herein shall have the meanings assigned to them in accordance with IFRS.

(c) For purposes of the definitions set forth in Article 1 and this Indenture generally, all calculations and determinations shall be made in accordance with IFRS and shall be based upon the consolidated financial statements of TAM S.A. and its Subsidiaries prepared in accordance with IFRS.

Section 1.03. *Table of Contents; Headings.* The table of contents and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not intended to be considered a part hereof and shall not modify or restrict any of the terms or provisions hereof.

Section 1.04. *Form of Documents Delivered to Trustee.* In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an Officer of the Company may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such Officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which his or her certificate or opinion is based are erroneous. Any such certificate or Opinion of Counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an Officer or Officers of the Company stating that the information with respect to such factual matters is in the possession of the Company, unless such counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters are erroneous.

Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

Section 1.05. *Holder Communications; Acts of Holders.* (a) The rights of Holders to communicate with other Holders with respect to the Indenture or the Notes are as provided by the Trust Indenture Act, and the Company, the Guarantors and the Trustee shall comply with the requirements of Trust Indenture Act Sections 312(a) and 312(b). Neither the Company, the Guarantors nor the Trustee will be held accountable by reason of any disclosure of information as to names and addresses of Holders made pursuant to the Trust Indenture Act.

(b) (i) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in Person or by agents duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Company. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the “**Act**” of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section 1.05.

(ii) The Trustee may make reasonable rules for action by or at a meeting of Holders, which will be binding on all the Holders.

(c) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by a signer acting in a capacity other than his individual capacity, such certificate or affidavit shall also constitute sufficient proof of his authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner that the Trustee reviewing such instrument or writing deems sufficient.

(d) The principal amount and serial numbers of Notes held by any Person, and the date of holding the same, shall be proved by the Register.

(e) If the Company solicits from the Holders of Notes any request, demand, authorization, direction, notice, consent, waiver or other Act, the Company may, at its option, by or pursuant to a Board Resolution, fix in advance a record date for the determination of Holders entitled to give such request, demand, authorization, direction, notice, consent, waiver or other Act, but the Company shall not have any obligation to do so. Such record date shall be the record date specified in or pursuant to such Board Resolution, which shall be a date not earlier than the date 30 days prior to the first solicitation of Holders generally in connection therewith and not later than the date such solicitation is completed. If such a record date is fixed, such request, demand, authorization, direction, notice, consent, waiver or other Act may be given before or after such record date, but only the Holders of record at the close of business on such record date shall be deemed to be Holders for the purposes of determining whether Holders of the requisite proportion of Outstanding Notes have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other Act, and for that purpose the Outstanding Notes shall be computed as of such record date; *provided* that no such authorization, agreement or consent by the Holders on such record date shall be deemed effective unless it shall become effective pursuant to the provisions of this Indenture not later than eleven months after the record date.

(f) Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of any Note shall bind every future Holder of the same Note and the Holder of every Note issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee or the Company in reliance thereon, whether or not notation of such action is made upon such Note.

## ARTICLE 2 THE NOTES

Section 2.01. *Form and Dating.* The Notes and the Trustee's certificate of authentication shall be substantially in the form of Note set forth in Exhibit A, which is hereby incorporated in and expressly made a part of this Indenture. The Notes may have such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture and may have such letters, numbers or other marks of identification and such notations, legends or endorsements as may be required to comply with any law, stock exchange rule, agreement to which the Company is subject, if any, or usage, *provided* that any such notation, legend or endorsement is in a form acceptable to the Company.

Each Global Note representing Notes shall be dated the Issue Date. Each definitive certificated Note ("**Certificated Note**") shall be dated the date of its authentication.

The Notes shall be printed, lithographed or engraved or produced by any combination of these methods or may be produced in any other manner permitted by the rules of any stock exchange on which the Notes may be listed, if any, all as determined by the officers executing such Notes, as evidenced by their execution of such Notes.

Section 2.02. Execution, Authentication and Delivery. (a) One Director of the Company shall sign the Notes for the Company by manual or facsimile signature.

(i) If a Director whose signature is on a Note no longer holds that office at the time the Trustee authenticates the Note, the Note shall be valid nevertheless.

(ii) A Note shall not be valid until an authorized signatory of the Trustee or an authenticating agent manually signs the certificate of authentication on the Note upon Company Order. Such signature shall be conclusive evidence that the Note has been authenticated under this Indenture. Such Company Order shall specify the amount of the Notes to be authenticated and the date on which the original issue of Notes is to be authenticated.

(iii) The Trustee or an authenticating agent shall authenticate and deliver initially Notes on the Issue Date in an aggregate principal amount of U.S.\$300,000,000, and any Additional Notes for original issue from time to time after the Issue Date in such principal amounts as set forth in Section 2.14, in each case upon a Company Order.

(iv) The Company may from time to time, without the consent of the Holders of the Notes, create and issue Additional Notes having the same terms and conditions as the Notes in all respects, except for issue date, issue price and the first payment of interest thereon. Additional Notes issued in this manner shall be consolidated with and shall form a single series for non-U.S. federal income tax purposes with the previously outstanding Notes. Unless the context otherwise requires, for all purposes of this Indenture and the form of Note attached hereto, references to the Notes include any Additional Notes actually issued.

(v) The Notes shall be issued in fully registered form without coupons attached in minimum denominations of U.S.\$100,000 and integral multiples of U.S.\$1,000 in excess thereof (each, an **“Authorized Denomination”**).

(b) The Trustee may appoint an authenticating agent, with a copy of such appointment to the Company, to authenticate the Notes (the **“Authenticating Agent”**). Unless limited by the terms of such appointment, an Authenticating Agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by an Authenticating Agent. An Authenticating Agent has the same rights as the Registrar or any Transfer Agent or Paying Agent or agent for service of notices and demands.

(i) Any corporation into which any Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, consolidation or conversion to which any Authenticating Agent shall be a party, or any corporation succeeding to the corporate trust business (and this transaction in particular) of any Authenticating Agent, shall be the successor of such Authenticating Agent hereunder, without the execution or filing of any further act on the part of the parties hereto or such Authenticating Agent or such successor corporation.



(ii) Any Authenticating Agent may at any time resign by giving written notice of resignation to the Trustee and the Company. The Trustee may at any time terminate the agency of any Authenticating Agent by giving written notice of termination to such Authenticating Agent and the Company. Upon receiving such notice of resignation or upon such a termination, the Trustee may appoint a successor Authenticating Agent reasonably acceptable to the Company and shall give written notice of such appointment to the Company.

(iii) The Company agrees to pay to each Authenticating Agent from time to time reasonable compensation for its services and reimbursement for its reasonable expenses relating thereto.

Section 2.03. *Transfer Agent, Registrar and Paying Agent.* (a) Subject to such reasonable regulations as the Company may prescribe, the books of the Company for the exchange, registration, and registration of transfer of Notes shall be kept at the office of the Registrar (such books maintained in such office and in any other office or agency designated for such purpose being herein referred to as the “**Register**”). The Company shall also cause the Trustee to maintain books for the exchange, registration and registration of transfer of Notes. The Trustee shall notify the Registrar and the Registrar shall notify the Trustee, when necessary, upon any exchange, registration or registration of transfer of any Notes and shall cause their respective books to be amended accordingly. The Company may have one or more co-registrars and one or more additional Transfer Agents or Paying Agents. The terms “**Transfer Agent**” and “**Paying Agent**” include any additional transfer agent or paying agent, as the case may be. The term “**Registrar**” includes any co-registrar.

(i) The Company shall enter into any appropriate agency agreements with any Registrar, Transfer Agent or Paying Agent not a party to this Indenture, which shall implement the provisions of this Indenture that relate to such agent. The Company shall notify the Trustee of the name and address of any such agent. If the Company fails to maintain a Registrar or Paying Agent, the Trustee may act as such and shall be entitled to appropriate compensation therefor pursuant to Section 7.06. The Company initially appoints the Trustee as Registrar, Transfer Agent and Paying Agent, and The Bank of New York Mellon (Luxembourg) S.A. as Transfer Agent in Luxembourg in connection with the Notes.

(b) The Registrar shall keep a record of all the Notes and shall make such record available during regular business hours for inspection upon the request of the Company provided a reasonable amount of time prior to such inspection. Such books and records shall include notations as to whether such Notes have been redeemed, or otherwise paid or cancelled, and, in the case of mutilated, destroyed, defaced, stolen or lost Notes, whether such Notes have been replaced. In the case of the replacement of any of the Notes, the Registrar shall keep a record of the Note so replaced, and the Notes issued in replacement thereof. In the case of the cancellation of any of the Notes, the Registrar shall keep a record of the Note so cancelled and the date on which such Note was cancelled. Each Transfer Agent shall notify the Trustee and the Registrar of any transfers or exchanges of Notes effected by it. The Registrar shall not be required to register the transfer of or exchange Certificated Notes for a period of 15 days preceding any date of selection of Notes for redemption, or register the transfer of or exchange any Certificated Notes previously called for redemption.

(c) All Notes surrendered for payment, redemption, registration of transfer or exchange shall be cancelled by the relevant Transfer Agent or Paying Agent, Registrar or the Trustee, as the case may be. Each Registrar, Paying Agent and Transfer Agent shall notify the Trustee of the surrender and cancellation of such Notes and shall deliver such Notes to the Trustee. The Trustee may destroy or cause to be destroyed all such Notes surrendered for payment, redemption, registration of transfer or exchange and, if so destroyed, shall upon the instructions of the Company promptly deliver a certificate of destruction to the Company.

(d) The Paying Agent shall comply with applicable backup withholding tax and information reporting requirements under the U.S. Internal Revenue Code of 1986, as amended, and the U.S. Treasury Regulations promulgated thereunder with respect to payments made under the Notes (including, to the extent required, the collection of Internal Revenue Service Forms W-8 and W-9 and the filing of U.S. Internal Revenue Service Forms 1099 and 1096).

Section 2.04. *Paying Agent to Hold Money in Trust.* By 10:00 A.M. New York time, no later than one Business Day prior to each Payment Date on any Note, the Company shall deposit with the Principal Paying Agent in immediately available funds a sum sufficient to pay such principal and interest when so becoming due (including any amounts under Section 4.06). The Company shall request that the bank through which such payment is to be made agree to supply to the Principal Paying Agent by 10:00 A.M. (New York time) two Business Days prior to the due date from any such payment an irrevocable confirmation (by facsimile) of its intention to make such payment. The Company shall require each Paying Agent (other than the Trustee) to agree in writing that such Paying Agent shall hold in trust, for the benefit of Holders or the Trustee, all money held by such Paying Agent for the payment of principal and interest on the Notes and shall notify the Trustee of any default by the Company in making any such payment. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee and to account for any funds disbursed by it. Upon complying with this Section 2.04, the Paying Agent shall have no further liability for the money delivered to the Trustee.

Each payment in full of principal, redemption amount, additional amounts and/or interest payable under the Notes and this Indenture in respect of any Note made by or on behalf of the Company or a Guarantor to or to the order of the Principal Paying Agent in the manner specified herein or in the Notes on the date due shall be valid and effective to satisfy and discharge the obligation of the Company or such Guarantor, as the case may be, to make payment of principal, redemption amount, additional amounts and/or interest payable hereunder and under the Notes on such date, provided, however, that the liability of the Principal Paying Agent hereunder shall not exceed any amounts paid to it by the Company or such Guarantor, as the case may be, or held by it, on behalf of the Holders hereunder.

Section 2.05. *Payment of Principal and Interest; Principal and Interest Rights Preserved.* (a) Except as otherwise provided herein for the redemption of the Notes, the payment of principal of or interest on the Notes shall be allocated on a pro rata basis among all Outstanding Notes, without preference or priority of any kind among the Notes.

(b) Final payments in respect of any Note (whether upon redemption, declaration of acceleration or otherwise) shall be made only against presentation and surrender of such Note at the Corporate Trust Office, at the offices of the Trustee and, subject to any fiscal or other laws and regulations applicable thereto, at the specified offices of any other Paying Agent appointed by the Company.

(c) Payment of the principal of any Note on a relevant Payment Date shall be made to the Person in whose name such Note is registered in the Register at the close of business on the fifteenth day (whether or not a Business Day) immediately preceding such Payment Date, by U.S. Dollar check drawn on a bank in The City of New York and mailed to the Person entitled thereto at its address as it appears on the Register, or by wire transfer to a U.S. Dollar account maintained by the payee with a bank in The City of New York, *provided* that such Holder so elects by giving written notice to such effect designating such account, upon application to the Trustee at least 15 days prior to such Payment Date.

(d) Payment of interest on each Interest Payment Date with respect to any Note shall be made to the Person in whose name such Note is registered on the Record Date immediately preceding such Interest Payment Date by U.S. Dollar check drawn on a bank in The City of New York and mailed to the Person entitled thereto at its address as it appears on the Register, or by wire transfer to a U.S. Dollar account maintained by the payee with a bank in The City of New York, *provided* that the Holder so elects by giving written notice to such effect designating such account, which is received by the Trustee or a Paying Agent no later than the Record Date immediately preceding such Interest Payment Date. Unless such designation is revoked, any such designation made by such Holder with respect to such Note shall remain in effect with respect to any future payments with respect to such Note payable to such Holder. The Company shall pay any administrative costs imposed by banks in connection with making payments by wire transfer.

If the Payment Date in respect of any Note is not a business day at the place in which it is presented for payment, the Holder thereof shall not be entitled to payment of the amount due until the next succeeding business day at such place and shall not be entitled to any further interest or other payment in respect of any such delay.

Notwithstanding the provisions of this Section 2.05, payments on Notes registered in the name of DTC or its nominee shall be effected in accordance with the Applicable Procedures.

Section 2.06. *Holder Lists.* The Trustee shall preserve in as current a form as is reasonably practicable, the most recent list available to it of the names and addresses of Holders. If the Trustee is not the Registrar, the Company shall furnish to the Trustee in writing, at least ten Business Days before each Interest Payment Date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Holders.

Section 2.07. *Transfer and Exchange.* (a) Interests in the Regulation S Global Note and the Restricted Global Note shall be exchangeable or transferable, as the case may be, for physical delivery of Certificated Notes if (i) DTC notifies the Company that it is unwilling or unable to

continue as depository for such Global Note, or DTC ceases to be a “clearing agency” registered under the Exchange Act, and a successor depository is not appointed by the Company within 90 days, or (ii) an Event of Default has occurred and is continuing with respect to such Notes, *provided* that such transfer or exchange is made in accordance with the provisions of this Indenture and the Applicable Procedures.

Upon receipt of notice by DTC or the Trustee, as the case may be, regarding the occurrence of any of the events described in the preceding paragraph, the Company shall use its best efforts to make arrangements with DTC for the exchange of interests in the Global Notes for individual Certificated Notes, and cause the requested individual Certificated Notes to be executed and delivered to the Trustee in sufficient quantities and authenticated by the Trustee for delivery to Holders. In the case of Certificated Notes issued in exchange for the Restricted Global Note, such Certificated Notes shall bear the Securities Act Legend. Upon the registration of transfer, exchange or replacement of Notes bearing such Securities Act Legend, or upon specific request for removal of the Securities Act Legend on a Note, the Company shall deliver only Notes that bear such Securities Act Legend, or shall refuse to remove such Securities Act Legend, as the case may be, unless there is delivered to the Company a certificate in the form of Exhibit D or Exhibit F, as the case may be, or such satisfactory evidence as may reasonably be required by the Company, which may include an Opinion of Counsel, that neither the Securities Act Legend nor the restrictions on transfer set forth therein are required to ensure compliance with the provisions of the Securities Act. The Trustee shall exchange a Note bearing the Securities Act Legend for a Note not bearing such Securities Act Legend only if it has been directed to do so in writing by the Company, upon which direction it may conclusively rely.

(b) On or prior to the 40th day after the Closing Date, transfers by a DTC participant which is an owner of a beneficial interest in the Regulation S Global Note to a transferee who takes delivery of such interest through the Restricted Global Note shall be made only in Authorized Denominations in accordance with the Applicable Procedures and upon receipt by the Trustee or Transfer Agent of a written certification from the transferor of the beneficial interest in the form of Exhibit E to the effect that such transfer is being made to a Person who the transferor reasonably believes is a “qualified institutional buyer” within the meaning of Rule 144A in a transaction meeting the requirements of Rule 144A and in accordance with any applicable securities laws of any state of the United States or any other jurisdiction. After such 40th day, such certification requirement shall no longer apply to such transfers.

(c) Transfers by a Holder of a Certificated Note bearing the Securities Act Legend or by a DTC participant of a beneficial interest in the Restricted Global Note to a transferee who takes delivery of such interest through the Regulation S Global Note or in the form of a Certificated Note not bearing the Securities Act Legend shall be made only in Authorized Denominations upon receipt by the Trustee or Transfer Agent of a written certification from the transferor in the form of Exhibit D to the effect that such transfer is being made in accordance with Regulation S.

Beneficial interests in the Global Notes shall be shown on, and transfers thereof shall be effected only through records maintained by DTC and its direct and indirect participants, including Euroclear and Clearstream, Luxembourg.

Transfers between participants in DTC shall be effected in the ordinary way in accordance with the Applicable Procedures and shall be settled in DTC's Same Day Funds Settlement System and secondary market trading activity in such Notes shall therefore settle in immediately available funds. There can be no assurance as to the effect, if any, of settlements in immediately available funds on trading activity in the Notes. Transfers between participants in Euroclear and Clearstream, Luxembourg shall be effected in the ordinary way in accordance with Applicable Procedures.

(d) Certificated Notes may be exchanged or transferred in whole or in part in the principal amount of Authorized Denominations by surrendering such Certificated Notes at the office of the Trustee or any Transfer Agent with a written instrument of transfer as provided in this Indenture in the form of Exhibit B hereto duly executed by the Holder thereof or his attorney duly authorized in writing.

In exchange for any Certificated Note properly presented for transfer, the Trustee shall promptly authenticate and deliver or cause to be authenticated and delivered at the Corporate Trust Office, to the transferee, or send by mail (at the risk of the transferee) to such address as the transferee may request, a Certificated Note or Notes, as the case may require, registered in the name of such transferee, for the same aggregate principal amount as was transferred. In the case of the transfer of any Certificated Note in part, the Trustee shall also promptly authenticate and deliver or cause to be authenticated and delivered at the Corporate Trust Office, to the transferor, or send by mail (at the risk of the transferor) to such address as the transferor may request, a Certificated Note or Notes, as the case may require, registered in the name of such transferor, for the aggregate principal amount that was not transferred. No transfer of any Notes shall be made unless the request for such transfer is made by the registered Holder or his attorney duly authorized in writing at the Corporate Trust Office and is accompanied by a completed instrument of transfer in the form of Exhibit C attached to the Note presented for transfer.

(e) Transfer, registration and exchange of any Note or Notes shall be permitted and executed as provided in this Section 2.07 without any charge to the Holder of any such Note or Notes other than any taxes or governmental charges or insurance charges payable on transfers or any expenses of delivery by other than regular mail, but subject to such reasonable regulations as the Company, the Registrar and the Trustee may prescribe.

The costs and expenses of effecting any exchange or registration of transfer pursuant to the foregoing provisions, except for the expense of delivery by other than regular mail (if any) and except for the payment of a sum sufficient to cover any tax or other governmental charges or insurance charges that may be imposed in relation thereto, shall be borne by the Company.

All Certificated Notes issued upon any exchange or registration of transfer of Notes shall be valid obligations of the Company, evidencing the same debt, and entitled to the same benefits, as the Notes surrendered upon exchange or registration of transfer.

(f) The Trustee or the Transfer Agent shall effect transfers of Global Notes and Certificated Notes. In addition, the Registrar shall keep the Register for the ownership, exchange and registration of transfer of any Notes. The Transfer Agent shall give prompt notice to the Registrar and the Registrar shall likewise give prompt notice to the Trustee of any exchange or registration of transfer of such Notes. Neither the Trustee nor any Transfer Agent shall register the exchange or the transfer of any Global Note or Certificated Note (or any portion of a Certificated Note) during the period of 15 days ending on the Record Date. The Trustee shall give prompt notice to the Company of any replacement, transfer, cancellation or destruction of the Notes.

(g) Upon any such exchange or registration of transfer of all or a portion of any Global Note for a Certificated Note or an interest in either the Restricted Global Note or the Regulation S Global Note for an interest in the other Global Note, the Global Note to be so exchanged shall be marked to reflect the reduction of its principal amount by the aggregate principal amount of such Certificated Note or the interest to be so exchanged for an interest in a Regulation S Global Note or a Restricted Global Note, as the case may be. Until so exchanged in full, the Note shall in all respects be entitled to the same benefits under this Indenture as the Notes authenticated and delivered hereunder.

Section 2.08. *Replacement Notes.* If any Note at any time becomes mutilated, defaced, destroyed, stolen or lost, such Note may be replaced at the cost of the applicant (including reasonable legal fees of the Company, the Trustee, the Transfer Agents, the Registrar and the Paying Agents) at the office of the Trustee or any Transfer Agent, upon provision of, in the case of destroyed, stolen or lost Notes, evidence satisfactory to the Trustee and the Company that such Note was destroyed, stolen or lost, together with such indemnity as the Trustee and the Company may require. Mutilated or defaced Notes must be surrendered before replacements shall be issued.

Each Note authenticated and delivered in exchange for or in lieu of any such Note shall carry rights to accrued and unpaid interest and to interest to accrue equivalent to the rights that were carried by such Note before such Note was mutilated, defaced, destroyed, stolen or lost.

Every replacement Note is an additional obligation of the Company and shall be entitled to the benefits of this Indenture.

Section 2.09. *Temporary Notes.* Subject to the provisions of Section 2.07(a), until Certificated Notes are ready for delivery, the Company may prepare and the Trustee shall authenticate temporary Notes. Temporary Notes shall be substantially in the form of Certificated Notes but may have variations that the Company considers appropriate for temporary Notes. As necessary, the Company shall prepare and the Trustee shall authenticate Certificated Notes and deliver them in exchange for temporary Notes at the office or agency of the Company or the Trustee, without charge to the Holder. Until so exchanged, the temporary Notes shall be entitled to the same benefits under this Indenture as Certificated Notes.

Section 2.10. *Cancellation.* The Company at any time may deliver Notes to the Trustee for cancellation. The Transfer Agents and the Paying Agents shall forward to the Trustee any Notes surrendered to them for transfer, exchange or payment. The Trustee or a Paying Agent and no one else shall cancel and the Trustee shall destroy in accordance with its customary procedures (subject to the record-retention requirements of the Exchange Act) all Notes surrendered for transfer, exchange, payment or cancellation and, if so destroyed, upon written instruction from the Company deliver a certificate of such destruction to the Company unless the Company directs the Trustee in writing to deliver cancelled Notes to the Company. The Company may not issue new Notes to replace Notes it has redeemed, paid or delivered to the Trustee for cancellation, which shall not prohibit the Company from issuing any Additional Notes. A Note does not cease to be outstanding because the Company, the Guarantor or any of their Affiliates holds such Note, except that such Notes will not be deemed to be Outstanding for voting purposes pursuant to and in accordance with the definition of "Outstanding" in Section 1.01.

Section 2.11. *Defaulted Interest.* If the Company defaults in a payment of interest on the Notes, the Company shall pay the defaulted interest (plus interest on such defaulted interest at the rate specified in Section 4.01 to the extent lawful) in any lawful manner not inconsistent with the requirements of any stock exchange on which the Notes may be listed, and upon such notice as may be required by such exchange, if, after written notice given by the Company to the Trustee of the proposed payment pursuant to this Section 2.11, such manner of payment shall be deemed practicable by the Trustee.

The Company may pay the defaulted interest to the Persons who are Holders on a subsequent special record date, which date shall be at least five Business Days prior to the payment date of such defaulted interest. The Company shall fix or cause to be fixed any such special record date and payment date, and, at least 15 days before any such special record date, the Company shall deliver to each Holder, with a copy to the Trustee, a notice that states the special record date, the payment date and the amount of defaulted interest to be paid.

Section 2.12. *CUSIP and ISIN Numbers.* The Company in issuing the Notes may use CUSIP and ISIN numbers (if then generally in use) and, if so, the Trustee shall use CUSIP and ISIN numbers in notices as a convenience to Holders; *provided, however,* that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice and that reliance may be placed only on the other identification numbers printed on the Notes, and any such notice shall not be affected by any defect in or omission of such numbers. The Company shall promptly notify the Trustee in writing of any change in CUSIP or ISIN numbers.

Section 2.13. *Open Market Purchases.* The Company or any of its Affiliates may at any time purchase Notes in the open market or otherwise at any agreed upon price. All Notes so purchased may not be reissued or resold, except in compliance with applicable requirements or exemptions under the relevant securities laws.

Section 2.14. *Issuance Of Additional Notes.* The Company shall be entitled, from time to time, without notice to, or consent of, the Holders of the Notes, to create and issue additional principal amounts of Additional Notes under this Indenture which shall have identical terms as the Notes issued on the Issue Date (other than with respect to the issue date, issue price, the payment of interest accruing prior to the issue date thereof and the first payment of interest (including Additional Interest, if any) thereon, and any Additional Amounts due with respect thereto, after the issue date thereof), as the case may be.

With respect to any Additional Notes, the Company shall set forth in a Board Resolution and an Officers' Certificate, a copy of each shall be delivered to the Trustee, the following information:

- (i) the aggregate principal amount of such Additional Notes to be authenticated and delivered pursuant to this Indenture;
- (ii) the issue price, the issue date and the "CUSIP" and "ISIN" number of any such Additional Notes and the amount of interest payable on the first payment date applicable thereto;
- (iii) whether such Additional Notes shall be transfer restricted securities and issued in the same form as Notes, as set forth in Exhibit A to this Indenture; and
- (iv) if applicable, the resale restriction termination date relating to the Notes and the Restricted Period for such Additional Notes.

Section 2.15. *One Class Of Notes.* The Notes and any Additional Notes shall vote and consent together on all matters as one class; and none of the Notes and any Additional Notes shall have the right to vote or consent as a separate class on any matter. The Notes and any Additional Notes shall together be deemed to constitute a single class or series for all purposes, other than for U.S. federal income tax purposes, under this Indenture.

### ARTICLE 3 REDEMPTION

Section 3.01. *Right of Redemption.* (a) Except as described in this Section 3.01 and Paragraph 8 of the form of Note set forth in Exhibit A, the Notes may not be redeemed.

(b) (1) On or prior to January 29, 2015, the Notes shall be redeemable, at the option of the Company, in whole or in part, on any Interest Payment Date, at a redemption price equal to the greater of (A) 100% of the principal amount of the notes to be redeemed and (B) the sum of the present values of the remaining scheduled payments of principal and interest on such notes (exclusive of interest accrued on the Redemption Date) discounted to the Redemption Date on a semiannual basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Rate (as defined below) plus 100 basis points, plus, in either case, accrued and unpaid interest and additional amounts, if any, on the principal amount being redeemed to such Redemption Date; and

(2) After January 29, 2015, the notes will be redeemable, at the option of the Company, in whole or in part, on any Redemption Date, at the redemption prices (expressed as percentages of their principal amount at maturity), during the 12 month period commencing on January 29, 2015 of any year set forth below:

<u>Year</u>	<u>Redemption Price</u>
2015	104.75%
2016	103.17%
2017	101.58%
2018 and thereafter	100.00%



plus in the case of either (1) or (2), any interest accrued but not paid and additional amounts, if any, to the Redemption Date; *provided, however*, that if the notes are redeemed in part, at least U.S.\$100,000,000 aggregate principal amount of the notes must remain outstanding following any partial redemption. For the avoidance of doubt, any calculation of the remaining scheduled payments of principal and interest pursuant to clause (2) of the preceding sentence shall not include interest accrued as of the applicable Redemption Date.

(c) *Redemption for Taxation Reasons.* If as a result of any change in or amendment to the laws (or any rules or regulations thereunder) of a Taxing Jurisdiction, or any amendment to or change in an official interpretation, administration or application of such laws, any treaties, rules, or related agreements to which the Taxing Jurisdiction is a party or regulations (including a holding by a court of competent jurisdiction), which change or amendment becomes effective or, in the case of a change in official position, is announced on or after the issue date of the Notes or on or after the date a successor to the Company assumes the obligations under the Notes, (i) the Company or any successor to the Company has or will become obligated to pay Additional Amounts (as defined below in Section 4.06) or (ii) either of the Guarantors or any successor to the Guarantor has or will become obligated to pay Additional Amounts in excess of the Additional Amounts either such Guarantor or any such successor to the Guarantor would be obligated to pay if payments were subject to withholding or deduction at a rate of 15% or at a rate of 25% in the case that the Holder of the Notes is resident in a tax haven jurisdiction for Brazilian tax purposes (*i.e.*, a country that does not impose any income tax or that imposes it at a maximum rate lower than 20% or where the laws impose restrictions on the disclosure of ownership composition, securities ownership or the beneficial ownership or do not allow for the identification of the beneficiary of income paid to non-resident persons pursuant to Law No. 11,727 of June 23, 2008) (the “**Minimum Withholding Level**”), as a result of the taxes, duties, assessments and other governmental charges described above, the Company or any successor to the Company may, at their option, redeem all, but not less than all, of the Notes, at a redemption price equal to 100% of their principal amount, together with accrued and unpaid interest to the date fixed for redemption, including any Additional Amounts with respect thereto, upon publication of irrevocable notice to Holders not less than 30 days nor more than 60 days prior to the date fixed for redemption. No notice of such redemption may be given earlier than 60 days prior to the earliest date on which either (x) the Company or any successor to the Company would, but for such redemption, become obligated to pay any Additional Amounts, or (y) in the case of payments made under the Guarantees, either Guarantor or any successor to the Guarantor would, but for such redemption, be obligated to pay the Additional Amounts in excess of the Minimum Withholding Level. For the avoidance of doubt, the Company or any successor to the Company shall not have the right to so redeem the Notes unless (a) it is obligated to pay Additional Amounts or (b) either Guarantor or any successor to the Guarantor is obliged to pay Additional Amounts that in the aggregate amount to more than the Additional Amounts payable at the Minimum Withholding Level. Notwithstanding the foregoing, the Company or any successor to the Company shall not have the right to so redeem the Notes unless it has taken reasonable measures to avoid the obligation to pay Additional Amounts. For the avoidance of doubt, reasonable measures do not include changing the jurisdiction of incorporation of the Company or any successor to the Company or the jurisdiction of incorporation of a Guarantor or any successor to either Guarantor.

In the event that the Company or any successor elects to so redeem the Notes pursuant to Section 3.01(c), it will deliver to the Trustee: (i) a certificate, signed in the name of the Company or any successor to the Company by any two of its executive officers or by its attorney-in-fact in accordance with its bylaws, stating that the Company or any successor to the Company is entitled to redeem the Notes pursuant to their terms and setting forth a statement of facts showing that the condition or conditions precedent to the right of the Company or any successor to the Company to so redeem have occurred or been satisfied; and (ii) an Opinion of Counsel to the effect that (1) the Company or any successor to the Company has or will become obligated to pay Additional Amounts or either Guarantor or any successor to the Guarantor has or will become obligated to pay Additional Amounts in excess of the Additional Amounts payable at the Minimum Withholding Level, (2) such obligation is the result of a change in or amendment to the laws (or any rules or regulations thereunder) of a Taxing Jurisdiction, as described above, (3) the Company or any successor to the Company, or either Guarantor or any successor to the Guarantor, as the case may be, cannot avoid payment of such Additional Amounts by taking reasonable measures available to it and (4) that all governmental requirements necessary for the Company or any successor to the Company to effect the redemption have been complied with.

Section 3.02. *Applicability of Article.* Redemption of Notes at the option of the Company, as permitted by Section 3.01 or required by any provision of this Indenture, shall be made in accordance with such provision and this Article 3. The redemption of Notes may require the prior approval of the Central Bank of Brazil.

Section 3.03. *Election to Redeem; Notice to Trustee.* The election of the Company to redeem the Notes pursuant to Section 3.01(b) or 3.01(c) shall be evidenced by a Board Resolution. In case of any redemption of Notes at the election of the Company, the Company shall, at least 70 days prior to the Redemption Date fixed by the Company (unless a shorter notice shall be satisfactory to the Trustee), notify the Trustee in writing of such Redemption Date.

Section 3.04. *Notice of Redemption by the Company.* In the case of redemption of Notes pursuant to Section 3.01(b) or 3.01(c), notice of redemption shall be mailed at least 30 but not more than 60 days before the Redemption Date to each Holder of any Note to be redeemed by first-class mail at its registered address and such notice shall be irrevocable. In addition, so long as the Notes are listed on the Euro MTF market of the Luxembourg Stock Exchange, notices shall be published in English in a leading newspaper having general circulation in Luxembourg.

The notice shall state:

- (i) the Redemption Date;

- (ii) the Redemption Price;
- (iii) the name and address of the Paying Agents;
- (iv) that Notes called for redemption must be surrendered to a Paying Agent to collect the Redemption Price;
- (v) that, unless the Company defaults in making such redemption payment or the Paying Agent is prohibited from making such payment pursuant to the terms of this Indenture, interest on Notes called for redemption ceases to accrue on and after the Redemption Date;
- (vi) the paragraph of the Notes pursuant to which the Notes called for redemption are being redeemed;
- (vii) the CUSIP or ISIN number, if any; and
- (viii) that no representation is made as to the correctness or accuracy of the CUSIP or ISIN number, if any, listed in such notice or printed on the Notes.

At the Company's election and at its request, made in writing to the Trustee at least 60 days before a date for redemption of Notes, the Trustee shall give the notice of redemption in the Company's name and at the Company's expense; *provided* that the Company shall deliver to the Trustee, at least 70 days prior to the Redemption Date, an Officers' Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding paragraph.

Section 3.05. *Deposit of Redemption Price.* By 10:00 A.M. New York City time, no later than one Business Day prior to the Redemption Date, the Company shall deposit with the Principal Paying Agent money sufficient to pay the Redemption Price of and accrued and unpaid interest on the Notes other than Notes that have been delivered by the Company to the Trustee at least 15 days prior to the Redemption Date for cancellation. The Company shall request that the bank through which such payment is to be made agree to supply to the Principal Paying Agent by 10:00 A.M. (New York time) two Business Days prior to the due date from any such payment an irrevocable confirmation (by facsimile) of its intention to make such payment.

Section 3.06. *Effect of Notice of Redemption.* Notice of redemption having been given as aforesaid, the Notes shall, on the Redemption Date, become due and payable at the applicable Redemption Price (together with accrued and unpaid interest, if any, to the Redemption Date), and from and after such date (except in the event of a default in the payment of the Redemption Price and accrued and unpaid interest) such Notes shall cease to bear interest. Upon surrender of any such Note for redemption in accordance with such notice, such Note shall be paid by the Company at the Redemption Price, together with accrued and unpaid interest, if any, to the Redemption Date; *provided, however*, that installments of interest whose Payment Date is on or prior to the Redemption Date shall be payable to the Holders of such Notes registered as such at the close of business on the relevant Record Dates according to their terms.

If any Note to be redeemed shall not be so paid upon surrender thereof in accordance with the Company's instructions for redemption, the principal shall, until paid, bear interest from the Redemption Date at the rate borne by the Notes. Upon surrender to the Paying Agent, such Notes shall be paid at the applicable Redemption Price, plus accrued and unpaid interest to the Redemption Date; *provided, however*, that installments of interest payable on or prior to the redemption date shall be payable to the Holders of such Notes registered as such at the close of business on the relevant Record Date according to their terms.

Section 3.07. *Notes Redeemed In Part.* Upon surrender of a Note that is redeemed in part, the Company shall execute and the Trustee shall authenticate for the Holder thereof (at the Company's expense) a new Note, equal in a principal amount to the unredeemed portion of the Note surrendered; *provided* that each new Note shall be in a principal amount of U.S.\$100,000 or an integral multiple of U.S.\$1,000 in excess thereof.

For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to redemption of Notes shall relate, in the case of any Note redeemed or to be redeemed only in part, to the portion of the principal amount of such Note which has been or is to be redeemed.

#### ARTICLE 4 COVENANTS

Section 4.01. *Payment of Principal and Interest Under the Notes.* The Company shall punctually pay the principal of and interest on the Notes on the dates and in the manner provided in the form of Note set forth as Exhibit A. By 10:00 a.m. (New York City time), no later than one Business Day prior to any Payment Date, the Company shall irrevocably deposit with the Trustee or with the Principal Paying Agent money sufficient to pay such principal and interest.

The Company shall pay interest on overdue principal or installments of interest, to the extent lawful, at the rate borne by the Notes plus 1% per annum.

No interest shall be payable hereunder in excess of the maximum rate permitted by applicable law.

Section 4.02. *Maintenance of Office or Agency.* The Company shall maintain in each place of payment for the Notes an office or agency where Notes may be presented or surrendered for payment and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Corporate Trust Office of the Trustee shall be such office or agency of the Company, unless the Company shall designate and maintain some other office or agency for one or more of such purposes. The Company shall give prompt written notice to the Trustee of any change in the location of any such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee, and the Company hereby appoints the Trustee as its agent to receive all such presentations, surrenders, notices and demands.

Section 4.03. Money for Note Payments to Be Held in Trust. If the Company shall at any time act as its own Paying Agent, it shall, on or before each due date of principal of or interest on any of the Notes, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay the principal and interest so becoming due until such sums shall be paid to such Persons or otherwise disposed of as herein provided and shall promptly notify the Trustee of its action or failure so to act.

Whenever the Company shall have one or more Paying Agents for the Notes, it shall, on or before each due date of principal of or interest on any Notes, irrevocably deposit with a Paying Agent a sum sufficient to pay such principal and interest so becoming due, such sum to be held in trust for the benefit of the Persons entitled to such principal or interest, and (unless such Paying Agent is the Trustee) the Company shall promptly notify the Trustee in writing of such action or any failure so to act.

Each Paying Agent, subject to the provisions of this Section 4.03, shall:

(i) hold all sums held by it for the payment of principal of or interest on Notes in trust for the benefit of the Persons entitled thereto until such sums shall be paid to such Persons or otherwise disposed of as herein; *provided, however*, such sums need not be segregated from other funds held by it, except as required by law;

(ii) give the Trustee written notice of any Default by the Company (or any other obligor upon the Notes) in the making of any payment of principal or interest; and

(iii) at any time during the continuance of any such Default, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such Paying Agent.

The Company shall cause each Paying Agent (other than the Principal Paying Agent) to execute and deliver an instrument in which such Paying Agent shall agree with the Trustee to act as a Paying Agent in accordance with this Section 4.03.

The Company may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture or for any other purpose, pay, or by Company Order direct any Paying Agent to pay, to the Trustee all sums held in trust by the Company or such Paying Agent, such sums to be held by the Trustee upon the same trusts as those upon which such sums were held by the Company or such Paying Agent; and, upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such sums.

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of principal of or interest on any Note and remaining unclaimed for two years after such principal or interest has become due and payable shall be paid to the Company at the request of the Company, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Note shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease; *provided, however*, that the Trustee or such Paying Agent, before being required to make any such repayment, shall, upon request and at the expense of the Company, cause to be published once, in a newspaper published in the English language, customarily published on each Business Day and of general circulation in (i) the Borough of Manhattan, The City of New York and (ii) so long as the Notes continue to be listed on the Euro MTF market of the Luxembourg Stock Exchange, notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such publication, any unclaimed balance of such money then remaining shall be repaid to the Company.

Section 4.04. *Maintenance of Corporate Existence.* TAM S.A. shall, and shall cause each of its Subsidiaries to, (i) maintain in effect its corporate existence and all registrations necessary therefor, *provided* that these restrictions shall not prohibit any transactions permitted by Article 5 or the merger of any Subsidiary with or into TAM S.A. or with or into any other Wholly-Owned Subsidiary of TAM S.A.; (ii) take all reasonable actions to maintain all rights, privileges, titles to property, franchises and the like necessary in the normal conduct of its business, activities or operations; and (iii) maintain or cause to be maintained in good repair, working order and condition (normal wear and tear excepted) all properties used in their business; *provided, however,* that neither TAM S.A. nor its Subsidiaries shall be prevented from discontinuing those operations (including through the transfer or dissolution of a Subsidiary) or suspending the maintenance of those properties (including through the sale thereof) which, in the reasonable judgment of TAM S.A. are no longer necessary in the conduct of TAM S.A.'s business, or that of its Subsidiaries; and *provided, further,* that such discontinuation of operations or suspension of maintenance shall not be materially disadvantageous to the Holders of the Notes.

Section 4.05. *Payment of Taxes and Claims.* TAM S.A. shall, and shall cause each of its Subsidiaries to, pay all taxes, assessments and other governmental charges imposed upon it or any of its property in respect of any of its franchises, businesses, income or profits before any penalty or interest accrues thereon, and pay all claims (including claims for labor, services, materials and supplies) for sums which have become due and payable and which by law have or might become a Lien upon its property; *provided, however,* that any such payment shall not be required unless the failure to make such payment would have a material adverse effect upon the financial condition of TAM S.A. and its Subsidiaries considered as one enterprise or a material adverse effect on the performance of TAM S.A.'s obligations hereunder; and *provided, further,* that no such charge or claim need be paid while it is being contested in good faith by appropriate proceedings and if appropriate reserves or other provisions shall have been made therefor.

Section 4.06. *Payment of Additional Amounts.* (a) All payments by the Company in respect of the Notes or the Guarantors in respect of the Note Guarantees will be made free and clear of, and without withholding or deduction for or on account of, any present or future taxes, duties, assessments, or other governmental charges of whatever nature imposed or levied by or on behalf of the Cayman Islands or Brazil, or any authority therein or thereof or any other jurisdiction in which the Company or the Guarantors are organized, doing business or otherwise subject to the power to tax (any of the aforementioned being a "**Taxing Jurisdiction**"), unless the Company or the Guarantors are compelled by law to deduct or withhold such taxes, duties,

assessments, or governmental charges. In such event, the Company or the Guarantors, as applicable, will make such deduction or withholding, make payment of the amount so withheld to the appropriate governmental authority and pay such additional amounts as may be necessary to ensure that the net amounts receivable by Holders of Notes after such withholding or deduction shall equal the respective amounts of principal and interest which would have been receivable in respect of the Notes in the absence of such withholding or deduction (“**Additional Amounts**”). Notwithstanding the foregoing, no such Additional Amounts shall be payable:

(i) to, or to a third party on behalf of, a Holder who is liable for such taxes, duties, assessments or governmental charges in respect of such Note by reason of the existence of any present or former connection between such Holder (or between a fiduciary, settlor, beneficiary, member or shareholder of such Holder, if such Holder is an estate, a trust, a partnership, or a corporation) and the relevant Taxing Jurisdiction, including, without limitation, such Holder (or such fiduciary, settlor, beneficiary, member or shareholder) being or having been a citizen or resident thereof or being or having been engaged in a trade or business or present therein or having, or having had, a permanent establishment therein, other than the mere holding of the Note or enforcement of rights under the Indenture and the receipt of payments with respect to the Note;

(ii) in respect of Notes surrendered or presented for payment (if surrender or presentment is required) more than 30 days after the Relevant Date except to the extent that payments under such Note would have been subject to withholdings and the Holder of such Note would have been entitled to such Additional Amounts, on surrender of such Note for payment on the last day of such period of 30 days;

(iii) where such Additional Amount is imposed and is required to be made pursuant to any law implementing or complying with, or introduced in order to conform to, any European Union Directive on the taxation of savings;

(iv) to, or to a third party on behalf of, a Holder who is liable for such taxes, duties, assessments or other governmental charges by reason of such Holder's failure to comply with any certification, identification, documentation or other reporting requirement concerning the nationality, residence, identity or connection with the relevant Taxing Jurisdiction of such Holder, if (1) compliance is required by law as a precondition to, exemption from, or reduction in the rate of, the tax, assessment or other governmental charge and (2) the Company has given the Holders at least 30 days' notice that Holders will be required to provide such certification, identification, documentation or other requirement;

(v) in respect of any estate, inheritance, gift, sales, transfer, capital gains, excise or personal property or similar tax, assessment or governmental charge;

(vi) in respect of any tax, assessment or other governmental charge which is payable other than by deduction or withholding from payments of principal of or interest on the Note;

(vii) in respect of any tax imposed on overall net income or any branch profits tax; or

(viii) in respect of any combination of the above.

(b) No Additional Amounts shall be paid with respect to any payment on a Note to a Holder who is a fiduciary, a partnership, a limited liability company or other than the sole beneficial owner of that payment to the extent that payment would be required by the relevant Taxing Jurisdiction to be included in the income, for tax purposes, of a beneficiary or settlor with respect to the fiduciary, a member of that partnership, an interestholder in a limited liability company or a beneficial owner who would not have been entitled to the Additional Amounts had that beneficiary, settlor, member or beneficial owner been the Holder.

(c) The Notes are subject in all cases to any tax, fiscal or other law or regulation or administrative or judicial interpretation. Except as specifically provided above, neither the Company nor the Guarantors shall be required to make a payment with respect to any tax, assessment or governmental charge imposed by any government or a political subdivision or taxing authority thereof or therein.

(d) In the event that Additional Amounts actually paid with respect to the Notes are based on rates of deduction or withholding of withholding taxes in excess of the appropriate rate applicable to the Holder of such Notes, and, as a result thereof such Holder is entitled to make claim for a refund or credit of such excess from the authority imposing such withholding tax, then such Holder shall, by accepting such Notes, be deemed to have assigned and transferred all right, title, and interest to any such claim for a refund or credit of such excess to the Company.

(e) Any reference in this Indenture or the Notes to principal, interest or any other amount payable in respect of the Notes by the Company or the Note Guaranty by the Guarantors will be deemed also to refer to any Additional Amount, unless the context requires otherwise, that may be payable with respect to that amount under the obligations referred to in this Section.

(f) Each of the Company and the Guarantors covenants that if any of the Company or the Guarantors, as applicable, is required under applicable law to make any deduction or withholding on payments of principal of or interest on the Notes for or on account of any tax, duty, assessment or other governmental charge, at least 10 days prior to the first payment date on the Notes and at least 10 days prior to each payment date thereafter where such withholding is required, the Company or the Guarantors, as applicable, shall furnish the Trustee and the Principal Paying Agent with an Officers' Certificate (but only if there has been any change with respect to the matters set forth in any previously delivered Officers' Certificate) instructing the Trustee and the Principal Paying Agent as to whether such payment of principal of or interest on the Notes shall be made without deduction or withholding for or on account of any tax, duty, assessment or other governmental charge, or, if any such deduction or withholding shall be required by the Taxing Jurisdiction, then such certificate shall: (i) specify the amount required to be deducted or withheld on such payment to the relevant recipient; (ii) certify that the Company or the Guarantors, as applicable, shall pay such deduction or withholding amount to the appropriate taxing authority; and (iii) certify that the Company or the Guarantors, as applicable, shall pay or cause to be paid to the Trustee or the Principal Paying Agent such Additional Amounts as are required by this Section 4.06.



(g) Each of the Company and the Guarantors agrees to indemnify the Trustee and the Principal Paying Agent for, and to hold each harmless against, any loss, liability or expense reasonably incurred without bad faith on its part arising out of or in connection with actions taken or omitted by it in reliance on any Officers' Certificate furnished pursuant to this Section 4.06 or any failure to furnish such a certificate.

(h) The obligations of the Company and the Guarantors pursuant to this Section 4.06 shall survive termination or discharge of this Indenture, payment of the Notes and/or resignation or removal of the Trustee or the Principal Paying Agent.

Section 4.07. *Reporting Requirements.* (a) The Company and the Guarantors shall provide the Trustee with the following reports (and shall also provide the Trustee with sufficient copies, as required, of the reports referred to in clauses (i), (ii), (iii) and (iv) for distribution, at the Company's and the Guarantors' expense, to all Holders of Notes):

(i) an English language version of TAM S.A.'s annual audited consolidated financial statements prepared in accordance with IFRS promptly upon such financial statements becoming available but not later than 120 days after the close of its fiscal year;

(ii) an English language version of TAM S.A.'s unaudited quarterly financial statements prepared in accordance with IFRS promptly upon such statements becoming available but not later than 60 days after the close of each fiscal quarter (other than the last fiscal quarter of its fiscal year);

(iii) simultaneously with the delivery of each set of financial statements referred to in clauses (i) and (ii) of this Section 4.07(a), an Officers' Certificate stating whether a Default or Event of Default exists on the date of such certificate and, if a Default or Event of Default exists, setting forth the details thereof and the action that the Company and/or the Guarantors, as applicable, are taking or propose to take with respect thereto; one of the officers signing the Officers' Certificate delivered pursuant to this section shall be the principal executive, financial or accounting officer of the Company;

(iv) without duplication, English language versions or summaries of such other reports or notices as may be filed or submitted by (and promptly after filing or submission by) the Company and/or the Guarantors, as applicable, with (a) the CVM, (b) the Euro MTF market of the Luxembourg Stock Exchange, or any other stock exchange on which the Notes may be listed or (c) the SEC (in each case, to the extent that any such report or notice is generally available to security holders of the Company or the public in Brazil or elsewhere and, in the case of clause (c), is filed or submitted pursuant to Rule 12g3-2(b) under, or Section 13 or 15(d) of, the Exchange Act, or otherwise); and

(v) upon any director or executive officer of the Company or any Guarantor becoming aware of the existence of a Default or Event of Default, an Officers' Certificate setting forth the details thereof and the action which the Company and/or such Guarantor, as applicable, are taking or propose to take with respect thereto.

Delivery of the above reports to the Trustee is for informational purposes only and the Trustee's receipt of such reports shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's or the Guarantors' compliance with any of their covenants in this Indenture (as to which the Trustee is entitled to rely exclusively on Officers' Certificates).

(b) Within 60 days of the close of each of the first three fiscal quarters and within 90 days of the close of each fiscal year, for so long as any of the Notes remain Outstanding, (i) the Company shall request from DTC, a current list of the names and addresses of each DTC participant which is a Holder of an interest in a Global Note and (ii) at the Company's written request, the Trustee shall provide the Company with the names and addresses of each Holder of a Certificated Note, if any.

Section 4.08. *Available Information.* The Company shall take all action necessary to provide information to permit resales of the Notes pursuant to Rule 144A, including furnishing to any Holder of a Note or owner of a beneficial interest in a Global Note, or to any prospective purchaser designated by such a Holder or beneficial owner, upon request to such Holder or beneficial owner, financial and other information required to be delivered under paragraph (d)(4) of Rule 144A (as amended from time to time and including any successor provision) unless, at the time of such request, the Company is subject to the reporting requirements of Section 13 or Section 15(d) of the Exchange Act or is exempt from such requirements pursuant to Rule 12g3-2(b) under the Exchange Act (as amended from time to time and including any successor provision).

Section 4.09. *Limitations on the Company.* The Company shall not (a) engage in any business or enter into, or be a party to, any transaction or agreement except for:

(i) the issuance, sale and redemption of the Notes and activities incidentally related thereto;

(ii) the incurrence of Debt to make inter-company loans to the Guarantors and entities controlled by the Guarantors to finance the acquisition and leasing of aircraft, equipment and supply materials by the Guarantors and such entities and activities reasonably related thereto;

(iii) entering into Hedging Agreements relating to the Notes or other such Debt; and

(iv) any other transaction required by law;

(b) acquire or own any Subsidiaries or other assets or properties, except an interest in the inter-company loans described in Section 4.09(a)(ii) and Hedging Agreements relating to its Debt and instruments evidencing the foregoing; and

(c) enter into any consolidation, merger, amalgamation, joint venture, or other form of combination with any Person, or sell, lease, convey or otherwise dispose of any of its assets or receivables, except as otherwise permitted under Section 5.01.

Section 4.10. *Limitation on Transactions with Affiliates.* Neither the Company nor any Guarantor will, nor will the Company or any Guarantor permit any of their respective Subsidiaries to, enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property, employee compensation arrangements or the rendering of any service) with, or for the benefit of, any Affiliate of the Company or such Guarantor, other than themselves or any of their respective Subsidiaries, (an “**Affiliate Transaction**”) unless the terms of the Affiliate Transaction are no less favorable to the Company or such Guarantor or such Subsidiary than those that could be obtained at the time of the Affiliate Transaction in arm’s length dealings with a person who is not an Affiliate.

Section 4.11. *Repurchase of Notes upon a Change of Control.* Not later than 30 days following a Rating Decline that results from a Change of Control, the Company will make an Offer to Purchase all outstanding Notes at a purchase price equal to 101% of the principal amount plus accrued interest up to, but not including the date of purchase.

An “Offer to Purchase” must be made by written offer, which will specify the purchase price. The offer must specify an expiration date (the “**expiration date**”) not less than 30 days or more than 60 days after the date of the offer and a settlement date for the purchase (the “**purchase date**”) not more than five Business Days after the expiration date. The offer must include information required by the Securities Act, Exchange Act or any other applicable laws. The offer will also contain instructions and materials necessary to enable holders to tender notes pursuant to the offer.

A Holder may tender all or any portion of its Notes pursuant to an Offer to Purchase, subject to the requirement that any portion of a Note tendered must be in a denomination of U.S.\$100,000 or an integral multiple of U.S.\$1,000 principal amount in excess thereof. Holders are entitled to withdraw Notes tendered up to the close of business on the expiration date. On the purchase date the purchase price will become due and payable on each note accepted for purchase pursuant to the Offer to Purchase, and interest on notes purchased will cease to accrue on and after the purchase date.

The Company will comply with Rule 14e-1 under the Exchange Act (to the extent applicable and not in conflict with applicable Brazilian regulations) and all other applicable laws in making any Offer to Purchase, and the above procedures will be deemed modified as necessary to permit such compliance.

The Guarantors will obtain all necessary consents and approvals from the Central Bank of Brazil that may be required at the time for the remittance of funds outside of Brazil prior to making any Offer to Purchase.

ARTICLE 5  
CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE

Section 5.01. *Limitation on Consolidation, Merger or Transfer of Assets.* Neither the Company nor any Guarantor shall consolidate with or merge with or into, or sell, convey, transfer or dispose of, or lease all or substantially all its assets as an entirety or substantially as an entirety, in one transaction or a series of related transactions, to, any Person, unless:

(i) the resulting, surviving or transferee Person (if not the Company or such Guarantor) shall be a Person organized and existing under the laws of the Cayman Islands, Brazil, or the United States of America, any State thereof or the District of Columbia, or any other country (or political subdivision thereof) that is a member country of the European Union or of the Organisation for Economic Co-operation and Development on the date of this Indenture, and such Person expressly assumes, by an indenture supplemental to this Indenture, executed and delivered to the Trustee, all the obligations of the Company or such Guarantor under this Indenture and the Notes and the Note Guaranty;

(ii) the resulting, surviving or transferee person (if not the Company or such Guarantor), if not organized and existing under the laws of a jurisdiction other than the Cayman Islands or Brazil, undertakes, in such supplemental indenture, (i) to pay such Additional Amounts in respect of principal (and premium, if any) and interest as may be necessary in order that every net payment made in respect of the Notes and the Note Guaranty after deduction or withholding for or on account of any present or future tax, penalty, fine, duty, assessment or other governmental charge imposed by such other country or any political subdivision or taxing authority thereof or therein shall not be less than the amount of principal (and premium, if any) and interest then due and payable on the Notes and the Note Guaranty subject to the same exceptions set forth under Sections 4.06(a)(i) through Section 4.06(a)(viii) and (ii) that the provisions set forth in Section 3.01(c) shall apply to such person, but in both cases, replacing existing references in such Section to Cayman Islands or Brazil or to the Taxing Jurisdiction with references to the jurisdiction of organization of the resulting, surviving or transferee Person as the case may be;

(iii) immediately prior to such transaction and immediately after giving effect to such transaction, no Default or Event of Default shall have occurred and be continuing; and

(iv) the Company or such Guarantor shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger or transfer and such supplemental indenture, if any, comply with this Indenture.

Notwithstanding anything to the contrary contained in the foregoing, any of the Guarantors may consolidate with or merge with the Company or any Subsidiary that becomes a Guarantor concurrently with the relevant transaction.

The Trustee shall be entitled to rely exclusively on and shall accept such Officers' Certificate and Opinion of Counsel as sufficient evidence of the satisfaction of the conditions precedent set forth in this Section 5.01, in which event it shall be conclusive and binding on the Holders.

Section 5.02. *Successor Substituted.* Upon any consolidation or merger, or any sale, assignment, conveyance, transfer, lease or disposition of all or substantially all of the properties and assets of the Company or any Guarantor in accordance with Section 5.01 in which the Company or such Guarantor is not the continuing obligor or Guarantor, as the case may be, under this Indenture, the surviving or transferor Person shall succeed to, and be substituted for, and may exercise every right and power of, the Company or such Guarantor, as the case may be, under this Indenture with the same effect as if such successor had been named as the Company or Guarantor therein. When a successor assumes all the obligations of its predecessor under this Indenture, the Notes and the Note Guaranty, the predecessor shall be released from those obligations; *provided* that in the case of a transfer by lease, the predecessor shall not be released from the payment of principal and interest on the Notes.

#### ARTICLE 6 EVENTS OF DEFAULT AND REMEDIES

Section 6.01. *Events of Default.* The term "**Event of Default**" means, when used herein, any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to, or as a result of any failure to obtain, any authorization, order, rule, regulation, judgment or decree of any governmental or administrative body or court):

- (a) The Company defaults in any payment of interest (including any Additional Amounts or any Additional Interest) on any Note when the same becomes due and payable, and such Default continues for a period of 30 days;
- (b) The Company defaults in the payment of principal amounts (including any Additional Amounts) of any Note when the same becomes due and payable upon acceleration or redemption or otherwise;
- (c) The Company or any Guarantor fails to comply with any of its covenants or agreements in the Notes or this Indenture (other than those referred to in clauses (a) and (b) of this Section 6.01), and such failure continues for 60 days after the notice specified below;
- (d) The Company, any Guarantor or any Significant Subsidiary defaults under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Debt for money borrowed by the Company, any such Guarantor or any such Significant Subsidiary (or the payment of which is guaranteed by the Company, such Guarantor or any such Significant Subsidiary) whether such Debt or guarantee now exists, or is created after the date of this Indenture, which default (i) is caused by failure to pay principal of or premium, if any, or interest on such Debt after giving effect to any grace period provided in such Debt on the date of such default ("**Payment Default**") or (ii) results in the acceleration of such Debt prior to its express maturity and, in each case, the principal amount of any such Debt, together with the principal amount of any other such Debt under which there has been a Payment Default or the maturity of which has been so accelerated, totals U.S.\$50,000,000 (or the equivalent thereof at the time of determination) or more in the aggregate;

(e) One or more final judgments or decrees for the payment of money in excess of U.S.\$50,000,000 (or the equivalent thereof at the time of determination) in the aggregate are rendered against the Company, any Guarantor or any Significant Subsidiary and are not paid (whether in full or in installments in accordance with the terms of the judgment) or otherwise discharged and, in the case of each such judgment or decree, either (i) an enforcement proceeding has been commenced by any creditor upon such judgment or decree and is not dismissed within 30 days following commencement of such enforcement proceedings or (ii) there is a period of 60 days following such judgment during which such judgment or decree is not discharged, waived or the execution thereof stayed;

(f) an involuntary case or other proceeding is commenced against the Company, any Guarantor or any Significant Subsidiary with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect seeking the appointment of a trustee, receiver, *síndico*, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding remains undismissed and unstayed for a period of 60 days; or an order for relief is entered against the Company, any Guarantor or any Significant Subsidiary under the bankruptcy laws now or hereafter in effect, and such order is not being contested by the Company, any Guarantor or any Significant Subsidiary, as the case may be, in good faith, or has not been dismissed, discharged or otherwise stayed, in each case within 60 days of being made;

(g) the Company, any Guarantor or any Significant Subsidiary (i) commences a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its Debts under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or consents to the entry of an order for relief in an involuntary case under any such law, (ii) consents to the appointment of or taking possession by a receiver, *síndico*, liquidator, assignee, custodian, trustee, sequestrator or similar official of the Company, any Guarantor or any Significant Subsidiary or for all or substantially all of the Property of the Company, any Guarantor or any Significant Subsidiary or (iii) effects any general assignment for the benefit of creditors (an event of default specified in clause (f) or this clause (g) a “**bankruptcy default**”);

(h) any event occurs that under the laws of the Cayman Islands, Brazil or any political subdivision thereof or any other country has substantially the same effect as any of the events referred to in any of clause (f) or (g);

(i) any Note Guaranty ceases to be in full force and effect, other than in accordance the terms of this Indenture, or a Guarantor denies or disaffirms its obligations under its Note Guaranty; or

(j) TAM S.A. ceases to own, directly or indirectly, 100% of the outstanding share capital of the Company.

A Default under clause (c) of this Section 6.01 shall not constitute an Event of Default until the Trustee or the Holders of at least 25% in principal amount of the Outstanding Notes notify the Company and the Guarantors of the Default and the Company does not cure such Default within the time specified after receipt of such notice.

Section 6.02. *Acceleration of Maturity, Rescission and Amendment.* If an Event of Default (other than an Event of Default specified in Section 6.01(f), Section 6.01(g) or Section 6.01(h)) occurs and is continuing, the Trustee or the Holders of not less than 25% in principal amount of the Outstanding Notes may declare all unpaid principal of and accrued and unpaid interest on all Notes to be due and payable immediately, by a notice in writing to the Company (and to the Trustee, if the notice is given by the Holders), stating that such notice is an "acceleration notice," and upon any such declaration such amounts shall become due and payable immediately. If an Event of Default specified in Section 6.01(f), Section 6.01(g) or Section 6.01(h) occurs and is continuing, then the principal of and accrued and unpaid interest on all Notes shall become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder.

At any time after a declaration of acceleration has been made and before a judgment or decree for payment of the money due has been obtained by the Trustee as hereinafter provided in this Article, the Holders of a majority in principal amount of the Notes by written notice to the Company and the Trustee may rescind or annul such declaration if:

(i) the Company has paid or deposited with the Trustee a sum sufficient to pay (A) all overdue interest on Outstanding Notes, (B) all unpaid principal of the Notes that has become due otherwise than by such declaration of acceleration, (C) to the extent that payment of such interest on the Notes is lawful, interest on such overdue interest (including any Additional Amounts) as provided herein and (D) all sums paid or advanced by the Trustee and Agents hereunder and the reasonable compensation, expenses, disbursements and advances of the Trustee and Agents and their agents and counsel; and

(ii) all Events of Default have been cured or waived as provided in Section 6.13 other than the nonpayment of principal that has become due solely because of acceleration.

No such rescission shall affect any subsequent Default or Event of Default or impair any right consequent thereto.

Section 6.03. *Collection Suit by Trustee.* If an Event of Default specified in Section 6.01(a) or 6.01(b) occurs, the Trustee, in its own name as trustee of an express trust, (i) may institute a judicial proceeding for the collection of the whole amount then due and payable on such Notes for principal and interest (including Additional Amounts), and interest on any overdue principal and, to the extent that payment of such interest (including Additional Amounts) shall be legally enforceable, upon any overdue installment of interest (including Additional Amounts), at the rate borne by the Notes, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, (ii) may prosecute such proceeding to judgment or final decree and (iii) may enforce the same against the Company or any other obligor upon the Notes and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Company or any other obligor upon the Notes, wherever situated.

If an Event of Default occurs and is continuing, the Trustee may in its discretion proceed to protect and enforce its rights and the rights of the Holders by any available proceeding at law or in equity, whether for the specific enforcement of any covenant or agreement in this Indenture or in aid of the exercise of any power granted herein, or to enforce any other proper remedy.

Section 6.04. *Other Remedies.* If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal of or interest (including Additional Amounts) on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

Section 6.05. *Trustee May Enforce Claims Without Possession of Notes.* All rights of action and claims under this Indenture or the Notes may be prosecuted and enforced by the Trustee without the possession of any of the Notes or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name and as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders of the Notes in respect of which such judgment has been recovered.

Section 6.06. *Application of Money Collected.* Any money collected by the Trustee pursuant to this Article 6 shall be applied in the following order:

FIRST: to the Trustee for amounts due to it hereunder (including, without limitation, under Section 7.06);

SECOND: to Holders for amounts due and unpaid on the Notes for principal and interest (including Additional Amounts), ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal and interest (including Additional Amounts), respectively; and

THIRD: to the Company or, to the extent the Trustee collects any amounts from any Guarantor, to such Guarantor or as a court of competent jurisdiction may direct.

The Trustee may fix a record date and payment date for any payment to Holders pursuant to this Section 6.06. At least 15 days before such record date, the Company shall mail to each Holder and the Trustee a notice that states the record date, the payment date and amount to be paid.



Section 6.07. Limitation on Suits. A Holder may not pursue any remedy with respect to this Indenture or the Notes unless:

- (i) the Holder has previously given to the Trustee written notice stating that an Event of Default has occurred and is continuing;
- (ii) the Holders of at least 25% in principal amount of the Notes have made a written request to the Trustee to pursue the remedy in respect of such Event of Default;
- (iii) such Holder or Holders has offered and provided to the Trustee security or indemnity reasonably satisfactory to the Trustee against any cost, loss, liability or expense to be incurred in compliance with such request;
- (iv) the Trustee does not comply with the request within 60 days after receipt of the request and the offer and provision of security or indemnity; and
- (v) no direction inconsistent with such written request has been given to the Trustee during such 60-day period by the Holders of a majority in principal amount of the Notes outstanding.

A Holder may not use this Indenture to prejudice the rights of another Holder or to obtain a preference or priority over another Holder.

Section 6.08. *Rights of Holders to Receive Principal and Interest.* Notwithstanding any other provision of this Indenture, the right of any Holder to receive payment of principal of and interest on the Notes held by such Holder, on or after the respective Payment Dates expressed in the Notes, or to institute suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

Section 6.09. *Restoration of Rights and Remedies.* If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceeding, the Company, the Guarantors, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

Section 6.10. *Trustee May File Proofs of Claim.* The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due to the trustee hereunder) and the Holders allowed in any judicial proceedings relative to the Company or any Guarantor, their respective creditors or their respective properties and, unless prohibited by law or applicable regulations, may vote on behalf of the Holders in any election of a trustee in bankruptcy or other Person performing similar functions, and any Custodian in any such judicial proceeding is hereby authorized by each Holder to make payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and its counsel, and any other amounts due the Trustee under Section 7.06. Nothing herein shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.11. *Delay or Omission Not Waiver.* No delay or omission of the Trustee or of any Holder of any Note to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article 6 or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

Section 6.12. *Control by Holders.* The Holders of a majority in principal amount of the Outstanding Notes may direct in writing the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. However, the Trustee shall be under no obligation to exercise any of the rights or powers under this Indenture at the request or direction of the Holders if such request or direction conflicts with any law or with this Indenture or, subject to Section 7.01, if the Trustee determines it is unduly prejudicial to the rights of other Holders (it being understood that, subject to Sections 7.01 and 7.02, the Trustee shall have no duty to ascertain whether or not such actions or forbearance are unduly prejudicial to such Holders) or would involve the Trustee in personal liability or expense; *provided, however,* that the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such request or direction. Prior to taking any action hereunder, the Trustee shall be entitled to indemnification satisfactory to it in its sole discretion against all costs, losses, liabilities and expenses caused by taking or not taking such action.

Section 6.13. *Waiver of Past Defaults and Events of Default.* Subject to Section 6.02, the Holders of a majority in principal amount of the Outstanding Notes by written notice to the Trustee may waive an existing Default or Event of Default and its consequences except (i) a Default or Event of Default in the payment of the principal of or interest on a Note or (ii) a Default or Event of Default in respect of a provision that under Section 9.02 cannot be amended without the consent of each Holder affected. When a Default or Event of Default is waived, it is deemed cured, but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any consequent right.

Section 6.14. *Rights and Remedies Cumulative.* Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes in Section 2.08, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 6.15. *Waiver of Stay or Extension Laws.* The Company and each Guarantor covenant (to the extent that it may lawfully do so) that it shall not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Indenture or the Notes; and the Company and each Guarantor (to the extent that it may lawfully do so) hereby expressly waive all benefit or advantage of any such law, and shall not hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law had been enacted.

ARTICLE 7  
TRUSTEE AND AGENTS

Section 7.01. *Duties of Trustee and Agents.* (a) If an Event of Default has occurred and is continuing and a Responsible Officer has actual knowledge thereof, the Trustee shall exercise the rights and powers vested in it by this Indenture and use the same degree of care and skill in its exercise as a prudent Person would exercise or use under the circumstances in the conduct of such Person's own affairs.

(b) Except during the continuance of an Event of Default in the case of the Trustee only, (i) the Trustee and each Agent undertake to perform such duties and only such duties as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustee or any Agent; and (ii) in the absence of bad faith on the part of the Trustee or any Agent, the Trustee or such Agent, as the case may be, may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee or such Agent, as the case may be, and conforming to the requirements of this Indenture. However, in the case of any certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee or any Agent, the Trustee or such Agent, as the case may be, shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of the mathematical calculations or other facts stated therein).

(c) The Trustee may not be relieved from liability for its own gross negligence, bad faith or willful misconduct, except that:

- (i) this Section 7.01(c) does not limit the effect of Section 7.01(b);
- (ii) neither the Trustee nor any Agent shall be liable for any error of judgment made in good faith by a Responsible Officer unless it is proved that the Trustee or such Agent, as the case may be, was grossly negligent in ascertaining the pertinent facts; and

(iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.07 or exercising any trust or power conferred upon it under this Indenture.

(d) Neither the Trustee nor any Agent shall be liable for interest on any money received by it except as each may agree in writing with the Company.

(e) Money held in trust by the Trustee or any Agent need not be segregated from other funds except to the extent required by law.

(f) No provision of this Indenture shall require the Trustee or any Agent to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers, if it shall have reasonable grounds to believe that repayment of such funds and/or adequate indemnity against such risk or liability is not satisfactorily assured to it.

(g) Every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee and any Agent shall be subject to the provisions of this Section 7.01.

Section 7.02. *Rights of Trustee.* (a) The Trustee and each Agent may rely upon, and shall be protected in acting or refraining from acting based upon, any document believed by it to be genuine and to have been signed or presented by the proper Person. Neither the Trustee nor any Agent need investigate any fact or matter stated in any such document.

(b) Before the Trustee or any Agent acts or refrains from acting, it may require an Officers' Certificate, the written advice of a qualified tax expert or an Opinion of Counsel. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on the Officers' Certificate, the qualified tax expert's written advice or Opinion of Counsel.

(c) The Trustee or any Agent may act through agents and shall not be responsible for the willful misconduct or gross negligence of any agent appointed with due care.

(d) Any request, direction, order or demand of the Company mentioned herein shall be sufficiently evidenced by an Officers' Certificate of the Company (unless other evidence in respect thereof be herein specifically prescribed); and any resolution of the Board of Directors of the Company may be evidenced to the Trustee or any Agent by copies thereof certified by the Secretary or an Assistant Secretary (or equivalent officer) of the Company.

(e) Neither the Trustee nor any Agent shall be under an obligation to exercise any of the trusts or powers vested in it by this Indenture at the request, order or direction of any of the Holders pursuant to the provisions of this Indenture, unless such Holders shall have offered to the Trustee or such Agent security or indemnity reasonably satisfactory to the Trustee against the costs, expenses and liabilities that might be incurred thereby.

(f) Neither the Trustee nor any Agent shall be liable for any action taken or omitted by it in good faith and believed by it to be authorized or within the discretion, rights or powers conferred upon it by this Indenture.

(g) Neither the Trustee nor any Agent shall be liable for any action it takes or omits to take in good faith which it believes to be authorized or within its rights or powers; *provided* that the conduct of the Trustee or any such Agent does not constitute willful misconduct, gross negligence or bad faith.

(h) Each of the Trustee and any Agent may consult with counsel, and the advice or opinion of counsel with respect to legal matters relating to this Indenture and the Notes shall be full and complete authorization and protection from liability in respect to any action taken, omitted or suffered by it hereunder in good faith and in accordance with the advice or opinion of such counsel.

(i) Neither the Trustee nor any Agent shall be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document unless, in the case of the Trustee, requested in writing by the Holders of not less than a majority in aggregate principal amount of the Notes Outstanding; *provided* that if the payment within a reasonable time to the Trustee of the costs, expenses or liabilities likely to be incurred by it in the making of such investigation is, in the opinion of the Trustee, not satisfactorily assured to the Trustee by the security afforded to it by the terms of this Indenture, the Trustee may require from the Holders indemnity satisfactory to the Trustee against such expenses or liabilities as a condition to proceeding; the reasonable expenses of every such investigation shall be paid by the Company or, if paid by the Trustee, shall be reimbursed by the Company upon demand.

(j) Neither the Trustee nor any Paying Agent shall be required to invest, or shall be under any liability for interest, on any moneys at any time received by it pursuant to any of the provisions of this Indenture or the Notes except as the Trustee or any Paying Agent may otherwise agree with the Company. Such moneys need not be segregated from other funds except to the extent required by mandatory provisions of law.

(k) In no event shall the Trustee or any Agent be liable for special, indirect or consequential loss or damage of any kind whatsoever (including, but not limited to, lost profits), even if the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(l) The permissive rights of the Trustee enumerated herein shall not be construed as duties of the Trustee.

(m) The Trustee and each Agent shall accept and act upon Written Directions when given to the Trustee or such Agent, as the case may be, in the form of Facsimile Instructions. Subsequent to the transmission of a Written Direction in the form of a Facsimile Instruction, the Company agrees to transmit to the Trustee or such Agent, in a timely manner, the originally executed Written Direction if required pursuant to the Governing Documents or at the request of the Trustee or such Agent. Additionally, the Trustee and each Agent shall accept a Facsimile Signature as if each such Facsimile Signature were an original signature, if the Trustee or such Agent believes in good faith that such signature is that of the individual whose signature it purports to be.

(n) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and to each agent, custodian and other Person employed to act hereunder.

Section 7.03. *Individual Rights of Trustee.* The Trustee and any Paying Agent, Registrar or co-registrar or any other agent of the Company or of the Trustee, in its individual or any other capacity, may become the owner or pledgee of Notes and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not Trustee, Paying Agent, Registrar or such other agent.

Section 7.04. *Trustee's Disclaimer.* Neither the Trustee nor any Agent shall be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Notes, it shall not be accountable for the Company's use of the proceeds from the Notes, and it shall not be responsible for any statement of the Company in this Indenture or in any document issued in connection with the sale of the Notes or in the Notes other than the Trustee's certificate of authentication.

Section 7.05. *Notice of Defaults and Events of Default.* If a Default or Event of Default occurs and is continuing, and if it is known to the Responsible Officer, the Trustee shall mail to each Holder notice of the Default or Event of Default within 90 days after a Responsible Officer acquires actual knowledge of such Default or Event of Default. Except in the case of a Default or Event of Default in payment of principal of or interest on any Note, the Trustee may withhold the notice and shall be protected from withholding the notice if and so long as a committee of its Responsible Officers of the Trustee in good faith determines that withholding the notice is in the interests of Holders. For all purposes of this Indenture and the Notes, the Trustee shall not be deemed to have knowledge of a Default or Event of Default unless either (i) an attorney, authorized officer or agent of the Trustee with direct responsibility for the Indenture has actual knowledge of such Default or Event of Default or (ii) written notice of such Default or Event of Default has been given to the Trustee by the Company or any Holder.

Section 7.06. *Compensation and Indemnity.* The Company agrees to pay to the Trustee and each Agent from time to time such compensation as shall be agreed upon in writing for its services. The Trustee's compensation shall not be limited by any law regarding compensation of a trustee of an express trust. The Company agrees to reimburse promptly the Trustee and each Agent upon request for all reasonable out-of-pocket expenses incurred or made by it, including costs of collection, in addition to the compensation for its services. Such expenses shall include the reasonable compensation and expenses, disbursements and advances of the Trustee's and each Agent's agents, counsel, accountants and experts. Payments of any such expenses by the Company to the Trustee or any Agent, as the case may be, shall be made free and clear of and

without withholding or deduction for or on account of any present or future taxes, duties, assessments, fees or other governmental charges of whatever nature (and any fines, penalties or interest related thereto) imposed or levied by or on behalf of the Cayman Islands, Brazil or any political subdivision or authority thereof or therein having power to tax, unless such withholding or deduction is required by law. In that event, the Company shall pay to the Trustee or Agent, as the case may be, such Additional Amounts as may be necessary in order that every net payment made by the Company to the Trustee and such Agent, as the case may be, after deducting or withholding for or on account of any present or future tax, penalty, fine, duty, assessment or other governmental charge imposed upon or as a result of such payment by the Cayman Islands, Brazil or any political subdivision or taxing authority thereof or therein shall not be less than the amount then due and payable to the Trustee or the Principal Paying Agent, as the case may be. The Company shall indemnify each of the Trustee and each Agent against any and all loss, liability or expense (including reasonable attorneys' fees and expenses) incurred by it without gross negligence or bad faith on its part arising out of and in connection with the administration of this Indenture, the performance of its respective duties hereunder, and the exercise of its rights hereunder including, without limitation, the costs and expenses of defending itself against any claim or liability and of complying with any process served upon it or any of its officers in connection with the exercise or performance of any of its powers or duties under this Indenture. The Company undertakes to indemnify the Trustee and each of the Agents and their affiliates against all losses, liabilities, including any and all tax liabilities, which, for the avoidance of doubt, shall include both Brazilian and Cayman Islands taxes and associated penalties, costs, claims, actions, damages, expenses or demands which any of them may incur or which may be made against any of them as a result of or in connection with the appointment of or the exercise of the powers and duties or rights by the Trustee or any Agent or its affiliates under this Indenture except as may result from its own default, gross negligence or bad faith or that of its directors, officers or employees or any of them, or breach by it of the terms of this Indenture. The Trustee and each Agent shall notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustee or such Agent to so notify the Company shall not relieve the Company of its obligations hereunder. If the Trustee or Agent, as the case may be, determines in its reasonable discretion that no conflict of interest (or potential conflict of interest) exists, the Company will be entitled to participate in the Trustee's defense of the claim or Agent's defense of the claim, as the case may be, and the Trustee or such Agent may have separate counsel and the Company shall pay the fees and expenses of such counsel.

To secure the payment obligations of the Company in this Section 7.06, the Trustee shall have a lien prior to the Notes on all money or property held or collected by the Trustee or the Principal Paying Agent, except that held in trust to pay principal of and interest on particular Notes.

The obligations of the Company pursuant to this Section 7.06 shall survive the payment of the Notes, resignation or removal of the Trustee or any Agent and the satisfaction and discharge of this Indenture. When the Trustee incurs expenses after the occurrence of a Default or Event of Default specified in Section 6.01(h), the expenses are intended to constitute expenses of administration under any bankruptcy law.

The Company acknowledges that none of the Trustee, the Principal Paying Agent or any other Agent makes any representations as to the interpretation or characterization of the transactions herein undertaken for tax or any other purpose, in any jurisdiction. The Company represents that it has fully satisfied itself as to any tax impact of this Indenture before agreeing to the terms herein, and is responsible for any and all federal, state, local, income, franchise, withholding, value added, sales, use, transfer, stamp or other taxes imposed by any jurisdiction in respect of this Indenture.

The Company agrees to pay any and all stamp and other documentary taxes or duties which may be payable in connection with the execution, delivery, performance and enforcement of this Indenture by the Trustee or any Agent.

Section 7.07. *Replacement of Trustee.* The Trustee may resign at any time by so notifying the Company in writing. The Holders of a majority in principal amount of the Notes may remove the Trustee by so notifying the Trustee in writing and may appoint a successor Trustee. The Company shall remove the Trustee if:

- (i) the Trustee fails to comply with Section 7.09;
- (ii) the Trustee is adjudged a bankrupt or insolvent;
- (iii) a receiver or other public officer takes charge of the Trustee or its property; or
- (iv) the Trustee otherwise becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason (the Trustee in such event being referred to herein as the retiring Trustee) the Company shall promptly appoint a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to Holders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, subject to the lien provided for in Section 7.06.

If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company or the Holders of a majority in principal amount of the Notes may petition any court of competent jurisdiction for the appointment of a successor Trustee.

If the Trustee fails to comply with Section 7.09, any Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

Notwithstanding the replacement of the Trustee pursuant to this Section 7.07, the Company's obligation under Section 7.06 shall continue for the benefit of the retiring Trustee.



Section 7.08. *Successor Trustee by Merger.* If the Trustee consolidates with, merges or converts into, or transfers all or substantially all its corporate trust business (including this transaction) or assets to, another corporation or banking association, the resulting, surviving or transferee corporation without any further act shall be the successor Trustee.

In case at the time such successor or successors by merger, conversion or consolidation to the Trustee shall succeed to the trusts created by this Indenture any of the Notes shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor trustee, and deliver such Notes so authenticated; and in case at that time any of the Notes shall not have been authenticated, any successor to the Trustee may authenticate such Notes in the name of the successor to the Trustee; and in all such cases such adopted certificates shall have the full force of all provisions within the Notes or in this Indenture relating to the certificate of the Trustee.

Section 7.09. *Eligibility; Disqualification.* The Trustee hereunder shall at all times be a corporation, bank or trust company organized and doing business under the laws of the United States or any state thereof (i) which is authorized under such laws to exercise corporate trust power, (ii) is subject to supervision or examination by governmental authorities, (iii) shall have at all times a combined capital and surplus of at least U.S.\$50,000,000 as set forth in its most recent published annual report of condition and (iv) shall have its Corporate Trust Office in The City of New York. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 7.09, it shall resign immediately in the manner and with the effect specified in Section 7.07.

## ARTICLE 8 DISCHARGE OF INDENTURE; DEFEASANCE

Section 8.01. *Discharge of Liability on Notes.* (a) When (i) the Company or any Guarantor delivers to the Trustee all Outstanding Notes (other than Notes replaced pursuant to Section 2.08) for cancellation or (ii) all Outstanding Notes have become due and payable and the Company or any Guarantor deposits in trust, for the benefit of the Holders, with the Trustee finally collected funds sufficient to pay at Maturity all Outstanding Notes and interest thereon (other than Notes replaced pursuant to Section 2.08 and if in any such case the Company or any Guarantor pays all other sums payable hereunder by the Company or such Guarantor, then this Indenture, and the obligations of the Company and the Guarantors pursuant hereto, shall, subject to Sections 8.01(d) and 8.06, cease to be of further effect. The Trustee shall acknowledge satisfaction and discharge of this Indenture on demand of the Company or any Guarantor accompanied by an Officers' Certificate and an Opinion of Counsel (each stating that all conditions precedent herein provided relating to the satisfaction and discharge of this Indenture have been complied with) and at the cost and expense of the Company or any Guarantor.

(b) Subject to Sections 8.01(c), 8.02 and 8.06, the Company or any Guarantor at any time may terminate (i) all its obligations under this Indenture and the Notes ("**legal defeasance option**") or (ii) its obligations under Sections 4.07, 4.08, 4.09, 5.01(iii) and 5.02 and the operation of Sections 6.01(c), 6.01(d), 6.01(e) and 6.01(j) ("**covenant defeasance option**"). The legal defeasance option may be exercised notwithstanding any prior exercise of the covenant defeasance option. Upon exercise by the Company or any Guarantor of the legal defeasance option or the covenant defeasance option, each Guarantor's obligations under its Note Guaranty will terminate.

If the legal defeasance option is exercised, payment of the Notes may not be accelerated because of an Event of Default with respect thereto. If the covenant defeasance option is exercised, payment of the Notes may not be accelerated because of an Event of Default specified in Sections 6.01(c), 6.01(d), 6.01(e) or 6.01(j).

Upon satisfaction of the conditions set forth herein and upon request of the Company or any Guarantor, the Trustee shall acknowledge in writing the discharge of the obligations of the Company or any Guarantor hereunder except those specified in Section 8.01(c).

(c) Notwithstanding Section 8.01(a) and Section 8.01(b), Sections 2.03, 2.04, 2.05, 2.06, 2.07, 2.08, 4.06, 7.06, 7.07, 8.04, 8.05 and 8.06 shall survive until the Notes have been paid in full. Thereafter, the obligations of the Company or the applicable Guarantor pursuant to Sections 7.06, 7.07, 8.04 and 8.05 shall survive. Furthermore, each Guarantor's obligations to pay fully and punctually all amounts payable by the Company or any Guarantor to the Trustee under this Indenture shall survive.

Section 8.02. *Conditions to Defeasance.* The Company or any Guarantor may exercise the legal defeasance option or the covenant defeasance option only if:

(a) the Company or any Guarantor irrevocably deposits or causes to be deposited with the Trustee as trust funds in trust, specifically pledged as security for, and dedicated solely to, the benefit of the Holders (the "**defeasance trust**") pursuant to an irrevocable trust and security agreement in form and substance satisfactory to the Trustee, money or U.S. Government Obligations, or a combination thereof, sufficient for the payment of principal of and interest on all the Notes to Maturity or redemption;

(b) the Company or any Guarantor delivers to the Trustee a certificate from an internationally recognized firm of independent accountants expressing their opinion that the payments of principal of and interest on the Notes when due and without reinvestment on the deposited U.S. Government Obligations plus any deposited money without investment and after payment of all federal, state and local taxes or other charges or assessments in respect thereof payable by the Trustee shall provide cash at such times and in such amounts as shall be sufficient to pay principal of and interest on all the Notes when due at Maturity or on redemption, as the case may be;

(c) 123 days pass after the deposit is made in accordance with the terms of Section 8.02(a) and during such 123-day period no Default or Event of Default specified in Section 6.01(h) occurs which is continuing at the end of the period;

(d) no Default or Event of Default has occurred and is continuing on the date of such deposit and after giving effect thereto;

(e) the deposit does not constitute a default or event of default under any other agreement binding on the Company or any Guarantor;

(f) the Company or any Guarantor delivers to the Trustee an Opinion of Counsel to the effect that the trust resulting from the deposit does not constitute, or is not qualified as, a regulated investment company under the U.S. Investment Company Act of 1940, as amended;

(g) the Company or any Guarantor delivers to the Trustee an Opinion of Counsel of recognized standing with respect to Brazilian tax matters stating that, under Brazilian law, Holders (other than Brazilian persons) (1) shall not recognize income gain or loss for Brazilian tax purposes as a result of such deposit and defeasance and shall be subject to Brazilian tax on the same amounts, in the same manner and at the same times as would have been the case if such deposit and defeasance had not occurred and (2) payments from the defeasance trust to any such Holder shall not be subject to withholding or deduction for or on account of any taxes, duties, assessments or other governmental charges under Brazilian law;

(h) in the case of the legal defeasance option, the Company or any Guarantor delivers to the Trustee an Opinion of Counsel of recognized standing with respect to U.S. Federal income tax matters stating that (1) the Company or such Guarantor has received from, or there has been published by, the U.S. Internal Revenue Service a ruling, or (2) since the date of this Indenture there has been a change in the applicable U.S. federal income tax law, in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, the Holders shall not recognize income, gain or loss for U.S. federal income tax purposes as a result of such deposit and defeasance and shall be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such deposit and defeasance had not occurred;

(i) in the case of the covenant defeasance option, the Company or any Guarantor delivers to the Trustee an Opinion of Counsel of recognized standing with respect to U.S. federal income tax matters to the effect that the Holders shall not recognize income, gain or loss for U.S. federal income tax purposes as a result of such deposit and defeasance and shall be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such deposit and defeasance had not occurred;

(j) the Company or any Guarantor delivers to the Trustee an Opinion of Counsel of recognized standing with respect to Cayman Islands tax matters and Opinions of Counsel of recognized standing with respect to tax matters of any other jurisdiction in which the Company is conducting business in a manner which causes the Holders of the Notes to be liable for taxes on payments under the Notes for which they would not have been so liable but for such conduct of business in such other jurisdiction, stating that the Holders will not recognize income, gain or loss in the relevant jurisdiction as a result of such deposit and the defeasance and will be subject to taxes in the relevant jurisdiction (including any withholding taxes) on the same amount and in the same manner and at the same times as would otherwise have been the case if such deposit and defeasance had not occurred;

(k) the Company or any Guarantor delivers to the Trustee an Opinion of Counsel, in form and substance reasonably satisfactory to Trustee, to the effect that, after the passage of 123 days following the deposit, the trust funds shall not be subject to any applicable bankruptcy, insolvency, reorganization or similar law affecting creditors' rights generally; and

(l) the Company or any Guarantor delivers to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent to the defeasance and discharge of the Notes as contemplated by this Article 8 have been complied with.

Before or after a deposit, the Company or any Guarantor may make arrangements satisfactory to the Trustee for the redemption of Notes at a future date in accordance with Article 3.

Section 8.03. *Application of Trust Money.* The Trustee shall hold in trust money or U.S. Government Obligations deposited with it pursuant to Section 8.02. It shall apply the deposited money and the money from U.S. Government Obligations through the Principal Paying Agent or Paying Agents and in accordance with this Indenture to the payment of principal of and interest on the Notes.

Section 8.04. *Repayment to Company.* Upon termination of the trust established pursuant to Section 8.02, the Trustee and each Paying Agent shall promptly pay to the Company upon request, any excess cash or U.S. Government Obligations held by them.

The Trustee and each Paying Agent shall pay to the Company, upon request, any money held by them for the payment of principal of or interest on the Notes that remains unclaimed for two years after the due date for such payment of principal or interest, and, thereafter, the Trustee and each Paying Agent, as the case may be, shall not be liable for payment of such amounts hereunder and the Holders shall be entitled to such recovery of such amounts only from the Company.

Section 8.05. *Indemnity for U.S. Governmental Obligations.* The Company shall pay and shall indemnify the Trustee against any tax, fee or other charge imposed on or assessed against deposited U.S. Government Obligations or the principal and interest received on such U.S. Government Obligations.

Section 8.06. *Reinstatement.* If the Trustee or any Paying Agent is unable to apply any money or U.S. Government Obligations in accordance with this Article 8 by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the obligations of the Company and the Guarantors under this Indenture, the Notes and the Note Guarantees shall be revived and reinstated as though no deposit had occurred pursuant to this Article 8 until such time as the Trustee or such Paying Agent is permitted to apply all such money or U.S. Government Obligations in accordance with this Article 8; *provided, however,* that, if the Company or any Guarantor has made any payment of principal of or interest on any Notes because of the reinstatement of its obligations, the Company and the Guarantors shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or U.S. Government Obligations held by the Trustee or such Paying Agent.

ARTICLE 9  
AMENDMENTS

Section 9.01. *Without Consent of Holders.* The Company and the Guarantors, when authorized by a Board Resolution, and the Trustee may amend or supplement this Indenture or the Notes, without notice to or consent or vote of any Holder for the following purposes:

- (i) to cure any ambiguity, omission, defect or inconsistency;
- (ii) to add guarantees or collateral with respect to the Notes;
- (iii) to comply with Section 5.01;
- (iv) to provide for any guarantee of the Notes, to secure the Notes or to confirm and evidence the release, termination or discharge of any guarantee of the Notes when such release, termination or discharge is permitted by this Indenture;
- Holder(s); (v) to add to the covenants of the Company or the Guarantors for the benefit of the
- (vi) to surrender any right herein conferred upon the Company or the Guarantors;
- (vii) to evidence and provide for the acceptance of an appointment by a successor Trustee;
- (viii) to provide for the issuance of Additional Notes;
- (ix) to make any other change that does not materially and adversely affect the rights of any Holder or to conform this Indenture to the section "Description of Notes" in the Offering Memorandum; or
- (x) to comply with any applicable requirements of the SEC, including in connection with a required qualification of the Indenture under the Trust Indenture Act

*provided* that, in the case of clause (i) or (ii) above, the Company has delivered to the Trustee an Opinion of Counsel and an Officers' Certificate, each stating that such amendment or supplement complies with the provisions of this Section 9.01.

Upon the written request of the Company, accompanied by a Board Resolution authorizing the execution of any supplemental indenture, and upon receipt by the Trustee of the documents described in Section 9.05, the Trustee shall join with the Company and the Guarantors in the execution of any supplemental indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations which may be therein contained, but the Trustee shall not be obligated to enter into any such supplemental indenture which affects its own rights, duties or immunities under this Indenture or otherwise.

Each Guarantor must consent to any amendment or supplement hereunder.

Section 9.02. *With Consent of Holders.* Except as specified in Section 9.01, the Company, when authorized by a Board Resolution, the Guarantors and the Trustee, together, may amend or supplement this Indenture or the Notes with the written consent of the Holders of at least a majority in principal amount of the Outstanding Notes for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or modifying in any manner the rights of the Holders under this Indenture, and the Holders of at least a majority in principal amount of the Outstanding Notes may, except as set forth below, waive any past Default or compliance with any provision of this Indenture; *provided, however,* that, without the consent of each Holder affected, an amendment or waiver may not:

- Note; (i) reduce the principal amount of or change the Stated Maturity of any payment on any
- (ii) reduce the rate of any interest on any Note;
- (iii) reduce the amount payable upon the redemption of any Note or change the time at which any Note may be redeemed;
- on, any Note; (iv) change the currency for payment of principal of, or interest or any Additional Amounts
- respect to any Note; (v) impair the right to institute suit for the enforcement of any right to payment on or with
- Notes; (vi) waive a Default or Event of Default in payment of principal of and interest on the
- (vii) reduce the principal amount of Notes whose Holders must consent to any amendment, supplement or waiver;
- (viii) make any change in this first paragraph of this Section 9.02;
- (ix) modify or change any provision of the Indenture affecting the ranking of the Notes or any Note Guaranty in a manner adverse to the Holders of the Notes; or
- Notes. (x) make any change in any Note Guaranty that would adversely affect the Holders of the

*provided* that the provisions of the covenants described in Section 4.09 may, except as provided above, be amended or waived with the consent of Holders holding not less than 66 2/3% in aggregate principal amount of the Notes.

Upon the written request of the Company, accompanied by a Board Resolution authorizing the execution of any such supplemental indenture, and upon the filing with the Trustee of evidence of the consent of the Holders as aforesaid, and upon receipt by the Trustee of the documents described in Section 9.05 hereof, the Trustee shall join with the Company and the Guarantors in the execution of such supplemental indenture but the Trustee shall not be obligated to enter into any such supplemental indenture which affects its own rights, duties or immunities under this Indenture or otherwise.

The Company shall mail to Holders prior written notice of any amendment or waiver proposed to be adopted under this Section 9.02.

It shall not be necessary for the consent of the Holders under this Section 9.02 to approve the particular form of any proposed amendment or waiver, but it shall be sufficient if such consent approves the substance thereof.

After an amendment or waiver under this Section 9.02 becomes effective, the Company shall mail to Holders a notice briefly describing such amendment or waiver. The failure to give such notice to all Holders, or any defect therein, shall not impair or affect the validity of an amendment or waiver under this Section 9.02.

Each Guarantor must consent to the amendment, supplement or waiver under this Section 9.02.

Section 9.03. *Revocation and Effect of Consents and Waivers.* (a) A consent to an amendment or a waiver by a Holder of Notes shall bind the Holder and every subsequent Holder of that Note or portion of the Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent or waiver is not made on the Note. However, any such Holder or subsequent Holder may revoke the consent or waiver as to such Holder's Note or portion of the Note if the Trustee receives the written notice of revocation at least one Business Day prior to the date the amendment or waiver becomes effective. After it becomes effective, an amendment or waiver shall bind every Holder.

(b) The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to give their consent or take any other action described above. If a record date is fixed, then notwithstanding Section 9.03(a) those Persons who were Holders at such record date (or their duly designated proxies), and only those Persons, shall be entitled to give such consent or to revoke any consent previously given or to take any such action, whether or not such Persons continue to be Holders after such record date. No such consent shall be valid or effective for more than 120 days after such record date.

Section 9.04. *Notation on or Exchange of Notes.* If an amendment changes the terms of a Note, the Company may require the Holder to deliver the Note to the Trustee. If so instructed by the Company, the Trustee may place an appropriate notation on the Note regarding the changed terms and return it to the Holder. Alternatively, if the Company so determines, the Company in exchange for the Note shall issue and the Trustee shall authenticate a new Note that reflects the changed terms. Failure to make the appropriate notation or to issue a new Note shall not affect the validity of such amendment.

Section 9.05. *Trustee to Sign Amendments.* The Trustee shall sign any amendment authorized pursuant to this Article 9 if the amendment, waiver or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. In signing such amendment, waiver or supplement, in addition to the documents required by Section 11.03, the Trustee shall be entitled to receive indemnity satisfactory to the Trustee and to receive, and, subject to Section 7.01, shall be fully protected in relying upon, an Officers' Certificate and an Opinion of Counsel each stating and as conclusive evidence that such amendment, waiver or supplemental indenture is authorized or permitted by this Indenture, that it is not inconsistent herewith, and that it shall be valid and binding upon the Company in accordance with its terms.

Section 9.06. *Payment for Consent.* Neither the Company nor any of its Affiliates shall, directly or indirectly, pay or cause to be paid any consideration, whether by way of interest, fee or otherwise, to any Holder for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of this Indenture or the Notes unless such consideration is offered to be paid or agreed to be paid to all Holders which so consent, waive or agree to amend in the time frame set forth in solicitation documents relating to such consent, waiver or agreement.

## ARTICLE 10 GUARANTEE

Section 10.01. *The Note Guaranty.* Subject to the provisions of this Article, each Guarantor hereby irrevocably and unconditionally guarantees, jointly and severally, on an unsecured basis, the full and punctual payment (whether at Stated Maturity, upon redemption, acceleration, or otherwise) of the principal of, premium, if any, and interest on, and all other amounts payable under, each Note, and the full and punctual payment of all other amounts payable by the Company under the Indenture. Upon failure by the Company to pay punctually any such amount, each Guarantor shall forthwith on demand pay the amount not so paid at the place and in the manner specified in this Indenture. Each of the Guarantors hereby waives any rights to which it might otherwise have a claim pursuant to Articles 827 et seq. of the Brazilian Civil Code.

Section 10.02. *Guaranty Unconditional.* The obligations of each Guarantor hereunder are unconditional and absolute and, without limiting the generality of the foregoing, will not be released, discharged or otherwise affected by:

- (i) any extension, renewal, settlement, compromise, waiver or release in respect of any obligation of the Company under this Indenture or any Note, by operation of law or otherwise;



- (ii) any modification or amendment of or supplement to this Indenture or any Note;
- (iii) any change in the corporate existence, structure or ownership of the Company, or any insolvency, bankruptcy, reorganization or other similar proceeding affecting the Company or its assets or any resulting release or discharge of any obligation of the Company contained in this Indenture or any Note;
- (iv) the existence of any claim, set-off or other rights which the Guarantor may have at any time against the Company, the Trustee or any other Person, whether in connection with the Indenture or any unrelated transactions; *provided* that nothing herein prevents the assertion of any such claim by separate suit or compulsory counterclaim;
- (v) any invalidity or unenforceability relating to or against the Company for any reason of this Indenture or any Note, or any provision of applicable law or regulation purporting to prohibit the payment by the Company of the principal of or interest on any Note or any other amount payable by the Company under the Indenture; or
- (vi) any other act or omission to act or delay of any kind by the Company, the Trustee or any other Person or any other circumstance whatsoever which might, but for the provisions of this paragraph, constitute a legal or equitable discharge of or defense to such Guarantor's obligations hereunder.

Section 10.03. *Discharge; Reinstatement.* Each Guarantor's obligations hereunder will remain in full force and effect until the principal of, premium, if any, and interest on the Notes and all other amounts payable by the Company under the Indenture have been paid in full. If at any time any payment of the principal of, premium, if any, or interest on any Note or any other amount payable by the Company under this Indenture is rescinded or must be otherwise restored or returned upon the insolvency, bankruptcy or reorganization of the Company or otherwise, each Guarantor's obligations hereunder with respect to such payment will be reinstated as though such payment had been due but not made at such time.

Section 10.04. *Waiver by the Guarantors.* Each Guarantor irrevocably waives acceptance hereof, presentment, demand, protest and any notice not provided for herein, as well as any requirement that at any time any action be taken by any Person against the Company or any other Person.

Section 10.05. *Subrogation and Contribution.* Upon making any payment with respect to any obligation of the Company under this Article, the Guarantor making such payment will be subrogated to the rights of the payee against the Company with respect to such obligation; *provided* that the Guarantor may not enforce either any right of subrogation, or any right to receive payment in the nature of contribution, or otherwise, from any other Guarantor, with respect to such payment so long as any amount payable by the Company hereunder or under the Notes remains unpaid.

Section 10.06. *Stay of Acceleration.* If acceleration of the time for payment of any amount payable by the Company under this Indenture or the Notes is stayed upon the insolvency, bankruptcy or reorganization of the Company, all such amounts otherwise subject to acceleration under the terms of this Indenture are nonetheless payable by the Guarantors hereunder forthwith on demand by the Trustee or the Holders.

Section 10.07. *Limitation on Amount of Guaranty.* Notwithstanding anything to the contrary in this Article, each Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Note Guaranty of such Guarantor not constitute a fraudulent conveyance under applicable fraudulent conveyance provisions of the laws of the Cayman Islands, Brazil, the United States Bankruptcy Code or any comparable provision of state law. To effectuate that intention, the Trustee, the Holders and the Guarantors hereby irrevocably agree that the obligations of each Guarantor under its Note Guaranty are limited to the maximum amount that would not render the Guarantor's obligations subject to avoidance under applicable fraudulent conveyance provisions of the laws of the Cayman Islands, Brazil, the United States Bankruptcy Code or any comparable provision of state law.

Section 10.08. *Execution and Delivery of Guaranty.* The execution by each Guarantor of this Indenture (or a supplemental indenture in the form of Exhibit B) evidences the Note Guaranty of such Guarantor, whether or not the person signing as an officer of the Guarantor still holds that office at the time of authentication of any Note. The delivery of any Note by the Trustee after authentication constitutes due delivery of the Note Guaranty set forth in this Indenture on behalf of each Guarantor.

Section 10.09. *Release of Guaranty.* The Note Guaranty of a Guarantor will terminate upon:

- (i) a sale or other disposition (including by way of consolidation or merger) of the Guarantor or the sale or disposition of all or substantially all the assets of the Guarantor (in each case other than to the Company or a Subsidiary) otherwise permitted by this Indenture;
- (ii) if the Note Guaranty was required pursuant to the terms of this Indenture, the cessation of the circumstances requiring the Note Guaranty; or
- (iii) defeasance or discharge of the Notes, as provided in Article 8.

Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the foregoing effect, the Trustee will execute any documents reasonably requested by the Company in writing in order to evidence the release of the Guarantor from its obligations under its Note Guaranty.

ARTICLE 11  
MISCELLANEOUS

Section 11.01. *Provisions of Indenture and Notes for the Sole Benefit of Parties and Holders of Notes.* Nothing in this Indenture or the Notes, expressed or implied, shall give to any Person other than the parties hereto and their successors hereunder and the Holders of the Notes any benefit or any legal or equitable right, remedy or claim under this Indenture or the Notes.

Section 11.02. *Notices.* Any request, demand, authorization, direction, notice, consent, waiver or other communication or document provided or permitted by this Indenture to be made upon, given, provided or furnished to, or filed with, any party to this Indenture shall, except as otherwise expressly provided herein, be in writing and shall be deemed to have been received only upon actual receipt thereof by prepaid first class mail, courier, telecopier or electronic transmission, addressed to the relevant party as follows:

*To the Company and the Guarantors:*

Av. Jurandir, 856, Lote 4  
04072 000  
São Paulo, SP  
Brasil  
Attention: Legal Department  
Facsimile: 55-11-5582-8813

With a copy to:  
Clifford Chance US LLP  
31 West 52<sup>nd</sup> Street  
New York, NY 10019  
USA  
Attention: Jon Zonis  
Facsimile: 1-212-878-3250

*To the Trustee, Registrar, Transfer Agent or Principal Paying Agent:*

The Bank of New York Mellon  
Corporate Trust Administration- Global Finance Unit  
101 Barclay Street, Floor 4 East  
New York, New York 10286  
USA  
Telephone: (212) 815-5346  
Facsimile: (212) 815-5802/3

*With a Copy to the Transfer Agent in Luxembourg:*

The Bank of New York Mellon (Luxembourg) S.A.  
Aerogolf Center

1A Hoehenhof  
L-1736 Senningerberg  
Luxembourg

Notices or communications to a Guarantor will be deemed given if given to the Company.

Any party by written notice to the other parties may designate additional or different addresses for subsequent notices or communications.

Where this Indenture provides for the giving of notice to Holders, such notice shall be deemed to have been given upon (i) the mailing of first class mail, postage prepaid, of such notice to Holders of the Notes at their registered addresses as recorded in the Register; and (ii) for so long as the Notes are listed on the Euro MTF market of the Luxembourg Stock Exchange, and it is required by the rules of the Luxembourg Stock Exchange, publication of such notice to the Holders of the Notes in English in a leading newspaper having general circulation in Luxembourg or, if such publication is not practicable, in one other leading English language daily newspaper with general circulation in Europe, such newspaper being published on each Business Day in morning editions, whether or not it shall be published in Saturday, Sunday or holiday editions.

The Company shall also cause all other such publications of such notices as may be required from time to time by applicable Brazilian law, including, without limitation, those required under the applicable regulations issued by the CVM.

Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or communication is mailed to a Holder in the manner provided above, it is duly given, whether or not the addressee receives it.

Section 11.03. *Officers' Certificate and Opinion of Counsel as to Conditions Precedent.* Upon any request or application by the Company to the Trustee to take or refrain from taking any action under this Indenture, the Company shall furnish to the Trustee:

(i) an Officers' Certificate in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 11.04) stating that, in the opinion of the signers, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(ii) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 11.04) stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

Section 11.04. *Statements Required in Officers' Certificate or Opinion of Counsel.* Each certificate or opinion with respect to compliance with a covenant or condition provided for in this Indenture shall include substantially:

(i) a statement that each Person making or rendering such Officers' Certificate or Opinion of Counsel has read such covenant or condition and the related definitions;

(ii) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such Officers' Certificate or Opinion of Counsel are based;

(iii) a statement that, in the opinion of each such Person, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(iv) a statement as to whether or not, in the opinion of each such Person, such covenant or condition has been complied with.

Section 11.05. *Rules by Trustee, Registrar, Paying Agent and Transfer Agents.* The Trustee may make reasonable rules for action by or a meeting of Holders. The Registrar, the Paying Agents and the Transfer Agents may make reasonable rules for their functions.

Section 11.06. *Currency Indemnity.* U.S. Dollars are the sole currency of account and payment for all sums payable by the Company or the Guarantors under or in connection with the Notes and the Note Guarantees, including damages. Any amount received or recovered in a currency other than U.S. Dollars (whether as a result of, or of the enforcement of, a judgment or order of a court of any jurisdiction, in the winding-up or dissolution of the Company or otherwise) by any Holder of a Note in respect of any sum expressed to be due to it from the Company or any Guarantor shall only constitute a discharge to the Company or the Guarantors, as the case may be, to the extent of the U.S. Dollar amount that the recipient is able to purchase with the amount so received or recovered in that other currency on the date of that receipt or recovery (or, if it is not practicable to make that purchase on that date, on the first date on which it is practicable to do so). If that U.S. Dollar amount is less than the U.S. Dollar amount expressed to be due to the recipient under any Note, the Company and the Guarantors shall indemnify such Holder against any loss sustained by it as a result, and if the amount of U.S. Dollars so purchased is greater than the sum originally due to such Holder, such Holder shall, by accepting a Note, be deemed to have agreed to repay such excess. In any event, the Company and the Guarantors shall indemnify the recipient against the cost of making any such purchase.

For the purposes of this Section 11.06, it shall be sufficient for the Holder of a Note to certify in a satisfactory manner (indicating the sources of information used) that it would have suffered a loss had an actual purchase of U.S. Dollars been made with the amount so received in that other currency on the date of receipt or recovery (or, if a purchase of U.S. Dollars on such date had not been practicable, on the first date on which it would have been practicable, it being required that the need for a change of date be certified in the manner mentioned above). These indemnities constitute a separate and independent obligation from the other obligations of the Company and the Guarantors, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by any Holder of a Note and shall continue in full force and effect despite any other judgment, order, claim or proof for a liquidated amount in respect of any sum due under any Note.

Section 11.07. *No Recourse Against Others.* No director, officer, employee or shareholder, as such, of the Company, the Guarantors or the Trustee shall have any liability for any obligations of the Company, the Guarantors or the Trustee, respectively, under this Indenture or the Notes or for any claim based on, in respect of or by reason of such obligations or their creation. By accepting a Note, each Holder shall waive and release all such liability. The waiver and release shall be part of the consideration for the issue of the Notes.

Section 11.08. *Legal Holidays.* In any case where any Interest Payment Date or Redemption Date or date of Maturity of any Note shall not be a Business Day, then (notwithstanding any other provision of this Indenture or of the Notes) payment of interest or principal need not be made on such date, but may be made on the next succeeding Business Day with the same force and effect as if made on the Interest Payment Date or Redemption Date or date of Maturity; *provided* that no interest shall accrue for the period from and after such Interest Payment Date or Redemption Date or date of Maturity, as the case may be on account of such delay.

Section 11.09. *Governing Law.* THE INTERNAL LAW OF THE STATE OF NEW YORK WILL GOVERN AND BE USED TO CONSTRUE THIS INDENTURE, THE NOTES AND THE NOTES GUARANTEES WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY. EACH OF PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 11.10. *Consent to Jurisdiction; Waiver of Immunities.* (a) Each of the parties hereto hereby irrevocably submits to the non-exclusive jurisdiction of any New York state or U.S. federal court sitting in the Borough of Manhattan in The City of New York with respect to actions brought against it as a defendant in respect of any suit, action or proceeding or arbitral award arising out of or relating to this Indenture or the Notes or any transaction contemplated hereby or thereby (a "**Proceeding**"), and irrevocably accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts. Each of the parties hereto irrevocably waives, to the fullest extent it may do so under applicable law, trial by jury and any objection which it may now or hereafter have to the laying of the venue of any such Proceeding brought in any such court and any claim that any such Proceeding brought in any such court has been brought in an inconvenient forum. Each of the Company and the Guarantors irrevocably appoints National Corporate Research Limited (the "**Process Agent**"), with an office at 225 West 34<sup>th</sup> Street, Suite 910, New York, NY 10122, USA, as its authorized agent to receive on behalf of it and its property service of copies of the summons and complaint and any other process which may be served in any Proceeding. If for any reason such Person shall cease to be such agent for service of process, each of the Company and the Guarantors shall forthwith appoint a new agent of recognized standing for service of process in the State of New York and deliver to the Trustee a copy of the new agent's acceptance of that appointment within 30 days. Nothing herein shall affect the right of the Trustee, any Agent or any Holder to serve process in any other manner permitted by law or to commence legal proceedings or otherwise proceed against the Company and the Guarantors in any other court of competent jurisdiction.

(b) Each of the Company and the Guarantors hereby irrevocably appoints the Process Agent as its agent to receive, on behalf of itself and its property, service of copies of the summons and complaint and any other process which may be served in any such suit, action or proceeding brought in such New York state or U.S. federal court sitting in the Borough of Manhattan in The City of New York. Such service shall be made by delivering by hand a copy of such process to the Company or any Guarantor, as the case may be, in care of the Process Agent at the address specified above. Each of the Company and the Guarantors hereby irrevocably authorizes and directs the Process Agent to accept such service on its behalf. Failure of the Process Agent to give notice to the Company or any Guarantor, as the case may be, or failure of the Company or any Guarantor, as the case may be, to receive notice of such service of process shall not affect in any way the validity of such service on the Process Agent, the Company or the Guarantors. As an alternative method of service, each of the Company and the Guarantors also irrevocably consents to the service of any and all process in any such Proceeding by the delivery by hand of copies of such process to the Company or Guarantor, as the case may be, at its address specified in Section 11.02 or at any other address previously furnished in writing by the Company or the Guarantors to the Trustee. Each of the Company and the Guarantors covenants and agrees that it shall take any and all reasonable action, including the execution and filing of any and all documents, that may be necessary to continue the designation of the Process Agent above in full force and effect during the term of the Notes, and to cause the Process Agent to continue to act as such.

(c) Nothing in this Section 11.10 shall affect the right of any party, including the Trustee, any Agent or any Holder, to serve legal process in any other manner permitted by law or affect the right of any party to bring any action or proceeding against any other party or its property in the courts of other competent jurisdictions.

(d) Each of the Company and the Guarantors irrevocably agrees that, in any proceedings anywhere (whether for an injunction, specific performance or otherwise), no immunity (to the extent that it may at any time exist, whether on the grounds of sovereignty or otherwise) from such proceedings, from attachment (whether in aid of execution, before judgment or otherwise) of its assets or from execution of judgment shall be claimed by it or on its behalf or with respect to its assets, except to the extent required by applicable law, any such immunity being irrevocably waived, to the fullest extent permitted by applicable law. Each of the Company and the Guarantors irrevocably agrees that, where permitted by applicable law, it and its assets are, and shall be, subject to such proceedings, attachment or execution in respect of its obligations under this Indenture or the Notes.

Section 11.11. *Successors and Assigns.* All covenants and agreements of the Company and the Guarantors in this Indenture, the Notes and the Note Guarantees shall bind their respective successors and assigns, whether so expressed or not. All agreements of the Trustee in this Indenture shall bind its successors.

Section 11.12. *Multiple Originals.* The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. One signed copy is enough to prove this Indenture.

Section 11.13. *Severability Clause.* In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. To the extent permitted by applicable law, the parties hereby waive any provision of law which renders any term or provision hereof invalid or unenforceable in any respect.

Section 11.14. *Force Majeure.* In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

Section 11.15. *Trust Indenture Act Of 1939.* This Indenture shall incorporate and be governed by the provisions of the Trust Indenture Act that are required to be part of and to govern indentures qualified under the Trust Indenture Act.

Section 11.16. The parties hereto acknowledge that, in accordance with Section 326 of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (as amended, modified or supplemented from time to time, the "USA Patriot Act"), the Trustee, like all financial institutions, is required to obtain, verify and record information that identifies each person or legal entity that opens an account. The parties to this Agreement agree that they will provide the Trustee with such information as the Trustee may request in order for the Trustee to satisfy the requirements of the USA Patriot Act.



IN WITNESS WHEREOF, the parties hereto have caused the Indenture to be duly executed as of the date first written above.

TAM CAPITAL 2 INC.,  
as the Company

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

TAM S.A.,  
as Guarantor

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

TAM LINHAS AÉREAS S.A.,  
as Guarantor

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

Witnesses:

By: \_\_\_\_\_  
Name:

By: \_\_\_\_\_  
Name:

Exh. 2.3-66

THE BANK OF NEW YORK MELLON,  
as Trustee, Registrar, Transfer Agent and  
Principal Paying Agent

By: \_\_\_\_\_  
Name:  
Title:

THE BANK OF NEW YORK MELLON  
(Luxembourg) S.A.,  
as Luxembourg Transfer Agent

By: \_\_\_\_\_  
Name:  
Title:

STATE OF NEW YORK            )  
                                          ) ss:  
COUNTY OF NEW YORK        )

On the \_\_\_ day of \_\_\_\_\_, 2009, before me personally came \_\_\_\_\_, to me known, who, being by me duly sworn, did depose and say that \_\_\_\_\_ is a \_\_\_\_\_ of The Bank of New York Mellon, one of the corporations described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by authority of the Board of Directors of said corporation; and that he signed his name thereto by like authority.

[Notarial Seal]

\_\_\_\_\_  
Notary Public  
COMMISSION EXPIRES

STATE OF NEW YORK            )  
                                          ) ss:  
COUNTY OF NEW YORK        )

On the \_\_\_ day of \_\_\_\_\_, 2009, before me personally came \_\_\_\_\_, to me known, who, being by me  
duly sworn, did depose and say that \_\_\_\_\_ is a \_\_\_\_\_ of The Bank of New York Mellon  
(Luxembourg) S.A., one of the corporations described in and which executed the foregoing instrument; that he knows the seal of  
said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by authority of the Board of  
Directors of said corporation; and that he signed his name thereto by like authority.

[Notarial Seal]

\_\_\_\_\_  
Notary Public  
COMMISSION EXPIRES

## FORM OF NOTE

[FACE OF NOTE]

UNLESS THIS GLOBAL NOTE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK LIMITED PURPOSE TRUST COMPANY (“DTC”), TO THE COMPANY NAMED HEREIN (THE “COMPANY”) OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL NOTE IN WHOLE SHALL BE LIMITED TO TRANSFERS TO A NOMINEE OF DTC OR BY A NOMINEE OF DTC TO DTC OR ANOTHER NOMINEE OF DTC OR BY DTC OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY AND TRANSFERS OF THIS GLOBAL NOTE IN PART SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE AND REFERRED TO ON THE REVERSE HEREOF.

*[Include if Note is a Restricted Global Note, or a Note issued in exchange therefor, as required under this Indenture: THIS NOTE (AND RELATED NOTE GUARANTEES) HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER (1) REPRESENTS THAT (A) IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A “QUALIFIED INSTITUTIONAL BUYER” (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT OR (B) IT IS NOT A U.S. PERSON (WITHIN THE MEANING OF REGULATION S UNDER THE SECURITIES ACT), AND (2) AGREES FOR THE BENEFIT OF THE COMPANY THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS NOTE OR ANY BENEFICIAL INTEREST HEREIN, EXCEPT IN ACCORDANCE WITH THE SECURITIES ACT AND ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES AND ONLY (A) TO THE COMPANY, (B) PURSUANT TO A REGISTRATION STATEMENT WHICH HAS BECOME EFFECTIVE UNDER THE SECURITIES ACT, (C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, (D) IN AN OFFSHORE TRANSACTION IN COMPLIANCE WITH RULE 904 OF REGULATION S UNDER THE*

SECURITIES ACT, OR (E) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT OR ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT. PRIOR TO THE REGISTRATION OF ANY TRANSFER IN ACCORDANCE WITH (2)(E) ABOVE, THE COMPANY RESERVES THE RIGHT TO REQUIRE THE DELIVERY OF SUCH LEGAL OPINIONS, CERTIFICATIONS OR OTHER EVIDENCE AS MAY REASONABLY BE REQUIRED IN ORDER TO DETERMINE THAT THE PROPOSED TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF ANY RULE 144 EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

THE FOREGOING LEGEND MAY BE REMOVED FROM THIS NOTE ON SATISFACTION OF THE CONDITIONS SPECIFIED IN THE INDENTURE REFERRED TO HEREIN. ]

*[Include if Note is Regulation S Global Note, or a Note issued in exchange therefor, in accordance with this Indenture:* “THIS NOTE (AND RELATED NOTE GUARANTEES) HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE “**SECURITIES ACT**”), OR ANY OTHER SECURITIES LAWS. THE HOLDER HEREOF, BY PURCHASING THIS NOTE, AGREES THAT NEITHER THIS NOTE NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, SUCH REGISTRATION.

THE FOREGOING LEGEND MAY BE REMOVED FROM THIS NOTE AFTER 40 DAYS BEGINNING ON AND INCLUDING THE LATER OF (A) THE DATE ON WHICH THE NOTES ARE OFFERED TO PERSONS OTHER THAN DISTRIBUTORS (AS DEFINED IN REGULATION S UNDER THE SECURITIES ACT) AND (B) THE ORIGINAL ISSUE DATE OF THIS NOTE.”]

**TAM CAPITAL 2 INC.**

U.S.\$300,000,000

9.50% Senior Guaranteed Notes Due 2020

[RESTRICTED GLOBAL NOTE]  
[REGULATION S GLOBAL NOTE]  
[CERTIFICATED NOTE]

Representing U.S.\$ \_\_\_\_\_  
9.50% Senior Guaranteed Notes Due 2020

No. [R-1] [S-1]

CUSIP No. [144A: 87217A AA1] [Reg S: G86665 AA7]  
ISIN No. [144A: US87217AAA16] [Reg S: USG86665AA70]  
Common Code [144A: 046296907] [Reg S: 046282744]

Principal Amount  
U.S.\$ \_\_\_\_\_

TAM CAPITAL 2 INC., an exempted company incorporated with limited liability in the Cayman Islands (the “**Company**”, which term includes any successor corporation under the Indenture referred to on the reverse hereof), for value received, hereby promises to pay to Cede & Co., or registered assigns, U.S.\$ \_\_\_\_\_, upon presentment and surrender of this Note on January 29, 2020 or on such date or dates as the then relevant principal sum may become payable in accordance with the provisions hereof and in the Indenture.

Interest on the outstanding principal amount shall be borne at the rate of 9.50% per annum payable semi-annually in arrears on each January 29 and July 29 (each such date an “**Interest Payment Date**”), commencing on January 29, 2009, all subject to and in accordance with the terms and conditions set forth herein and in the Indenture; *provided, however*, that in the event that the Company shall at any time default on the payment of interest or such other amounts as any may be payable in respect of the Notes, the Company shall pay interest on overdue principal or installments of interest, to the extent lawful, at the rate borne by the Notes plus 1% per annum.

Reference is hereby made to the further provisions of this Note set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.



Unless the certificate of authentication herein has been executed by the Trustee or Authenticating Agent by the manual signature of one of its authorized signatories, this Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed.

Dated: October 29, 2009

TAM CAPITAL 2 INC.

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

Witnesses:

By: \_\_\_\_\_  
Name:

By: \_\_\_\_\_  
Name:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Notes referred to in the within mentioned Indenture.

THE BANK OF NEW YORK MELLON,  
as Trustee

By: \_\_\_\_\_  
Name:  
Title: Authorized Signatory

5

Exh. 2.3-74

[FORM OF REVERSE SIDE OF NOTE]

9.50% Senior Guaranteed Notes Due 2020

TERMS AND CONDITIONS OF THE NOTES

This Note is one of a duly authorized issue of 9.50% Senior Guaranteed Notes Due 2020 of the Company. The Notes constitute unsecured unsubordinated obligations of the Company, initially in an aggregate principal amount of U.S.\$300,000,000.

1. *Indenture.*

The Notes are, and shall be, issued under an Indenture, dated as of October 29, 2009 (the “**Indenture**”), among the Company, the Guarantors party thereto, The Bank of New York Mellon, as trustee (the “**Trustee**”), Registrar, Transfer Agent and Principal Paying agent (the “**Principal Paying Agent**”) (collectively, the “**Agents**” and each individually an “**Agent**”) and The Bank of New York Mellon (Luxembourg) S.A., as Luxembourg Transfer Agent. The terms of the Notes include those stated in the Indenture. The Holders of the Notes shall be entitled to the benefit of, be bound by and be deemed to have notice of, all provisions of the Indenture. Reference is hereby made to the Indenture and all supplemental indentures thereto for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Company, the Trustee, each Agent and the Holders of the Notes and the terms upon which the Notes, are, and are to be, authenticated and delivered. All terms used in this Note that are defined in the Indenture shall have the meanings assigned to them in the Indenture. Copies of the Indenture and each Global Note shall be available for inspection at the offices of the Trustee and each Paying Agent.

The Company may from time to time, without the consent of the Holders of the Notes, create and issue Additional Notes having the same terms and conditions as the Notes in all respects, except for issue date, issue price and the first payment of interest thereon. Additional Notes issued in this manner shall be consolidated with and shall form a single series with the previously outstanding Notes. Unless the context otherwise requires, for all purposes of the Indenture and this Note, references to the Notes include any Additional Notes actually issued.

The Indenture imposes certain limitations on the creation of Liens by the Company or its Subsidiaries, and consolidation, merger and certain other transactions involving the Company. In addition, the Indenture requires the maintenance of insurance for the Company and its Subsidiaries, the maintenance of the existence of the Company and its Subsidiaries, the payment of certain taxes and claims and reporting requirements applicable to the Company.

The Note is one of the [Initial] <sup>[1]</sup> [Additional] <sup>[2]</sup> Notes referred to in the Indenture. The Notes include the Notes issued on the Issue Date and any Additional Notes issued in accordance with Section 2.14 of the Indenture. The Notes, any Additional Notes are treated as a single class of securities under the Indenture.

2. *Principal.*

The Company promises to pay the principal of this Note on January 29, 2020.

3. *Interest.*

The Notes bear interest at the rate per annum shown above from October 29, 2009, or from the most recent Interest Payment Date (as defined below) to which interest has been paid or provided for, payable semi-annually in arrears on January 29 and July 29 of each year (each such date, an “**Interest Payment Date**”), commencing on January 29, 2010. Interest on the Notes shall be computed on the basis of a 360-day year of twelve 30-day months. The Company shall pay interest on overdue principal or installments of interest, to the extent lawful, at the rate borne by the Notes plus 1% per annum.

4. *Method of Payment.*

Payments of interest in respect of each Note shall be made on each Interest Payment Date by the Paying Agents to the Persons shown on the Register at the close of business on the January 14 and July 14, as the case may be (each, a “**Record Date**”), immediately preceding such Interest Payment Date.

Payments in respect of each Note shall be made by U.S. Dollar check drawn on a bank in The City of New York and may be mailed to the Holder of such Note at its address appearing in the Register. Upon written application by the Holder to the specified office of any Paying Agent not less than 15 days before the due date for any payment in respect of a Note, such payment may be made by wire transfer to a U.S. Dollar account maintained by the payee with a bank in The City of New York. Payment of principal in respect of each Note shall be made on any Payment Date for such principal to the Person shown on the Register at the close of business on the fifteenth day immediately preceding such Payment Date.

All payments on this Note are subject in all cases to any applicable tax or other laws and regulations, but without prejudice to the provisions of Paragraph 6 hereof. Except as provided in Section 2.08 of the Indenture, no fees or expenses shall be charged to the Holders in respect of such payments.

If the Payment Date in respect of any Note is not a business day at the place in which it is presented for payment, the Holder thereof shall not be entitled to payment of the amount due until the next succeeding business day at such place and shall not be entitled to any further interest or other payment in respect of any such delay.

If the amount of principal or interest which is due on the Notes is not paid in full, the Registrar shall annotate the Register with a record of the amount of interest, if any, in fact paid.

5. *Registrar, Paying Agent and Transfer Agent.*

The Trustee shall act as Registrar, Transfer Agent and Principal Paying Agent of the Notes. The Company may appoint and change any Registrar, Paying Agent or Transfer Agent in accordance with the terms of the Indenture. The Bank of New York Mellon (Luxembourg) S.A. shall initially act as Transfer Agent in Luxembourg.

6. *Additional Amounts.*

All payments by the Company in respect of the Notes or the Guarantors in respect of the Note Guarantees will be made free and clear of, and without withholding or deduction for, or on account of any present or future taxes, duties, assessments, or other governmental charges of whatever nature imposed or levied by or on behalf of the Cayman Islands or Brazil, or any authority therein or thereof or any other jurisdiction in which the Company or the Guarantors are organized, doing business or otherwise subject to the power to tax (any of the aforementioned being a “**Taxing Jurisdiction**”), unless the Company or the Guarantors are compelled by law to deduct or withhold such taxes, duties, assessments, or governmental charges. In such event, the Company or the Guarantors, as applicable, will make such deduction or withholding, make payment of the amount so withheld to the appropriate governmental authority and pay such additional amounts as may be necessary to ensure that the net amounts receivable by Holders of Notes after such withholding or deduction shall equal the respective amounts of principal and interest which would have been receivable in respect of the Notes in the absence of such withholding or deduction (“**Additional Amounts**”). Notwithstanding the foregoing, no such Additional Amounts shall be payable:

(i) to, or to a third party on behalf of, a Holder who is liable for such taxes, duties, assessments or governmental charges in respect of such Note by reason of the existence of any present or former connection between such Holder (or between a fiduciary, settlor, beneficiary, member or shareholder of such Holder, if such Holder is an estate, a trust, a partnership, or a corporation) and the relevant Taxing Jurisdiction, including, without limitation, such Holder (or such fiduciary, settlor, beneficiary, member or shareholder) being or having been a citizen or resident thereof or being or having been engaged in a trade or business or present therein or having, or having had, a permanent establishment therein, other than the mere holding of the Note or enforcement of rights under the Indenture and the receipt of payments with respect to the Note;

(ii) in respect of Notes surrendered or presented for payment (if surrender or presentment is required) more than 30 days after the Relevant Date except to the extent that payments under such Note would have been subject to withholdings and the Holder of such Note would have been entitled to such Additional Amounts, on surrender of such Note for payment on the last day of such period of 30 days;

(iii) where such Additional Amount is imposed and is required to be made pursuant to any law implementing or complying with, or introduced in order to conform to, any European Union Directive on the taxation of savings;

(iv) to, or to a third party on behalf of, a Holder who is liable for such taxes, duties, assessments or other governmental charges by reason of such Holder's failure to comply with any certification, identification, documentation or other reporting requirement concerning the nationality, residence, identity or connection with the relevant Taxing Jurisdiction of such Holder, if (1) compliance is required by law as a precondition to, exemption from, or reduction in the rate of, the tax, assessment or other governmental charge and (2) the Company has given the Holders at least 30 days' notice that Holders will be required to provide such certification, identification, documentation or other requirement;

(v) in respect of any estate, inheritance, gift, sales, transfer, capital gains, excise or personal property or similar tax, assessment or governmental charge;

(vi) in respect of any tax, assessment or other governmental charge which is payable other than by deduction or withholding from payments of principal of or interest on the Note;

(vii) in respect of any tax imposed on overall net income or any branch profits tax; or

(viii) in respect of any combination of the above.

No Additional Amounts shall be paid with respect to any payment on a Note to a Holder who is a fiduciary, a partnership, a limited liability company or other than the sole beneficial owner of that payment to the extent that payment would be required by the relevant Taxing Jurisdiction to be included in the income, for tax purposes, of a beneficiary or settlor with respect to the fiduciary, a member of that partnership, an interestholder in a limited liability company or a beneficial owner who would not have been entitled to the Additional Amounts had that beneficiary, settlor, member or beneficial owner been the Holder.

The Notes are subject in all cases to any tax, fiscal or other law or regulation or administrative or judicial interpretation. Except as specifically provided above, neither the Company nor the Guarantors shall be required to make a payment with respect to any tax, assessment or governmental charge imposed by any government or a political subdivision or taxing authority thereof or therein.

In the event that Additional Amounts actually paid with respect to the Notes are based on rates of deduction or withholding of withholding taxes in excess of the appropriate rate applicable to the Holder of such Notes, and, as a result thereof such Holder is entitled to make claim for a refund or credit of such excess from the authority imposing such withholding tax, then such Holder shall, by accepting such Notes, be deemed to have assigned and transferred all right, title, and interest to any such claim for a refund or credit of such excess to the Company.

Any reference in the Indenture or the Notes to principal, interest or any other amount payable in respect of the Notes by the Company or the Note Guaranty by the Guarantors will be deemed also to refer to any Additional Amount, unless the context requires otherwise, that may be payable with respect to that amount under the obligations referred to in this Paragraph 6.

The foregoing obligation will survive termination or discharge of the Indenture.

7. *Open Market Purchases.*

The Company or any of its Affiliates may at any time purchase Notes in the open market or otherwise at any agreed upon price. All Notes so purchased may not be reissued or resold, except in compliance with applicable requirements or exemptions under the relevant securities laws.

8. *Redemption.*

Except as described in Section 3.01 of the Indenture and this Paragraph 8, the Notes may not be redeemed.

(1) On or prior to January 29, 2015, the Notes shall be redeemable, at the option of the Company, in whole or in part, on any Interest Payment Date, at a redemption price equal to the greater of (1) 100% of the principal amount of the notes to be redeemed and (2) the sum of the present values of the remaining scheduled payments of principal and interest on such notes (exclusive of interest accrued on the Redemption Date) discounted to the Redemption Date on a semiannual basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Rate (as defined below) plus 100 basis points, plus, in either case, accrued and unpaid interest and additional amounts, if any, on the principal amount being redeemed to such Redemption Date; and

(2) After January 29, 2015, the notes will be redeemable, at the option of the Company, in whole or in part, on any Redemption Date, at the redemption prices (expressed as percentages of their principal amount at maturity), during the 12 month period commencing on January 29, 2015 of any year set forth below:

<b><u>Year</u></b>	<b><u>Redemption Price</u></b>
2015	104.75%
2016	103.17%
2017	101.58%
2018 and thereafter	100.00%

plus in the case of either (1) or (2), any interest accrued but not paid and additional amounts, if any, to the Redemption Date; *provided, however*, that if the notes are redeemed in part, at least U.S.\$100,000,000 aggregate principal amount of the notes must remain outstanding following any partial redemption. For the avoidance of doubt, any calculation of the remaining scheduled payments of principal and interest pursuant to clause (2) of the preceding sentence shall not include interest accrued as of the applicable Redemption Date

If as a result of any change in or amendment to the laws (or any rules or regulations thereunder) of a Taxing Jurisdiction, or any amendment to or change in an official interpretation, administration or application of such laws, any treaties, rules, or related agreements to which a Taxing Jurisdiction is a party or regulations (including a holding by a court of competent jurisdiction), which change or amendment becomes effective or, in the case of a change in official position, is announced on or after the issue date of the Notes or on or after the date a successor to the Company assumes the obligations under the Notes, (i) the Company or any successor to the Company has or will become obligated to pay Additional Amounts (as defined in Section 4.06 of the Indenture and Paragraph 5 hereof) or (ii) either of the Guarantors or any successor to the Guarantor has or will become obligated to pay Additional Amounts in excess of the Additional Amounts either such Guarantor or any such successor to the Guarantor would be obligated to pay if payments were subject to withholding or deduction at a rate of 15% or at a rate of 25% in the case that the Holder of the Notes is resident in a tax haven jurisdiction for Brazilian tax purposes (i.e., a country that does not impose any income tax or that imposes it at a maximum rate lower than 20% or where the laws impose restrictions on the disclosure of ownership composition, securities ownership or the beneficial ownership or do not allow for the identification of the beneficiary of income paid to non-resident persons pursuant to Law No. 11,727 of June 23, 2008) (the “**Minimum Withholding Level**”), as a result of the taxes, duties, assessments and other governmental charges described above, the Company or any of its successors may, at their option, redeem all, but not less than all, of the Notes, at a redemption price equal to 100% of their principal amount, together with accrued and unpaid interest to the date fixed for redemption, upon publication of irrevocable notice to Holders not less than 30 days nor more than 60 days prior to the date fixed for redemption. No notice of such redemption may be given earlier than 60 days prior to the earliest date on which either (x) the Issuer or successor to the Issuer would, but for such redemption, become obligated to pay any additional amounts, or (y) in the case of payments made under the Guarantees, either Guarantor or any successor to the Guarantor would, but for such redemption, be obligated to pay the Additional Amounts in excess of the Minimum Withholding Level. For the avoidance of doubt, the Company or any successor to the Company shall not have the right to so redeem the Notes unless (a) it is obligated to pay Additional Amounts or (b) either Guarantor or any successor to the Guarantor is obliged to pay Additional Amounts that in the aggregate amount exceed the Additional Amounts payable at the Minimum Withholding Level. Notwithstanding the foregoing, the Company or any successor to the Company shall not have the right to so redeem the Notes unless it has taken reasonable measures to avoid the obligation to pay Additional Amounts. For the avoidance of doubt, reasonable measures do not include changing the jurisdiction of incorporation of the Company or any successor to the Company or the jurisdiction of incorporation of a Guarantor or any successor to either Guarantor.



In the event that the Company or any successor elects to so redeem the Notes pursuant to Section 3.01(c) of the Indenture, it will deliver to the Trustee: (i) a certificate, signed in the name of the Company by any two of its executive officers or by its attorney-in-fact in accordance with its bylaws, stating that the Company or any successor to the Company is entitled to redeem the Notes pursuant to their terms and setting forth a statement of facts showing that the condition or conditions precedent to the right of the Company or any successor to the Company to so redeem have occurred or been satisfied; and (ii) an Opinion of Counsel to the effect that (1) the Company or any successor to the Company has or will become obligated to pay Additional Amounts or either Guarantor or any successor to the Guarantor has or will become obligated to pay Additional Amounts in excess of the Additional Amounts payable at the Minimum Withholding Level, (2) such obligation is the result of a change in or amendment to the laws (or any rules or regulations thereunder) of a Taxing Jurisdiction, as described above, (3) the Company or any successor to the Company, or either Guarantor or any successor to the Guarantor, as the case may be cannot avoid payment of such Additional Amounts by taking reasonable measures available to it and (4) that all governmental requirements necessary for the Company to effect the redemption have been complied with.

9. *Denominations; Transfer; Exchange.*

The Notes are in registered form without coupons in minimum denominations of U.S.\$100,000 and integral multiples of U.S.\$1,000 in excess thereof.

A Holder may transfer or exchange Notes in accordance with the Indenture. The Trustee, the Registrar or Transfer Agent, as the case may be, may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and to pay any taxes and fees required by law or permitted by the Indenture.

The Trustee, the Registrar or Transfer Agent, as the case may be, need not register the transfer or exchange of any Notes selected for redemption or any Notes for a period of 15 days before a selection of Notes to be redeemed or before an Interest Payment Date.

10. *Persons Deemed Owners.*

The registered Holder of this Note may be treated as the owner thereof for all purposes.

11. *Unclaimed Money.*

Subject to applicable law, the Trustee and the Paying Agents shall pay to the Company upon request any monies held by them for the payment of principal or interest that remains unclaimed for two years, and thereafter, Holders entitled to such monies must look to the Company for payment as general creditors.

12. *Defeasance.*

Subject to the terms of the Indenture, the Company and the Guarantors at any time may terminate some or all of their obligations under the Notes, the Indenture and the Note Guarantees, as the case may be, if the Company or the Guarantors irrevocably deposit in trust with the Trustee money or U.S. Government Obligations sufficient for the payment of principal of and interest on all the Notes to Maturity or redemption. At such time, each Guarantor's obligations under its Note Guaranty will terminate.

13. *Amendment; Waiver.*

Subject to certain exceptions set forth in the Indenture, the Indenture or the Notes may be amended or supplemented without notice to any Holder but with the written consent of the Holders of at least a majority in principal amount of the Notes then outstanding, and any past Default or compliance with any provision may be waived with the consent of the Holders of at least a majority in principal amount of the Notes then outstanding. However, subject to certain exceptions set forth in the Indenture, without the consent of each Holder of an outstanding Note affected thereby, no amendment or waiver may, among other things:

- (i) reduce the principal amount of or change the Stated Maturity of any payment on any Note;
- (ii) reduce the rate of any interest on any Note;
- (iii) reduce the amount payable upon the redemption of any Note or change the time at which any Note may be redeemed;
- (iv) change the currency for payment of principal of, or interest or any Additional Amounts on, any Note;
- (v) impair the right to institute suit for the enforcement of any right to payment on or with respect to any Note;
- (vi) waive a Default or Event of Default in payment of principal of and interest on the Notes;
- (vii) reduce the principal amount of Notes whose Holders must consent to any amendment, supplement or waiver;
- (viii) make any change to the first paragraph of Section 9.02 of the Indenture;
- (ix) modify or change any provision of the Indenture affecting the ranking of the Notes or any Note Guaranty in a manner adverse to the Holders of the Notes; or
- (x) make any change in any Note Guaranty that would adversely affect the Holders of the Notes.

*provided* that the provisions of the covenants described in Section 4.11 of the Indenture may, except as provided above, be amended or waived with the consent of Holders holding not less than 66 2/3% in aggregate principal amount of the Notes.

The Company, the Guarantors and the Trustee may, without the consent of any Holder of the Notes, amend the Indenture or the Notes to:

- (i) to cure any ambiguity, omission, defect or inconsistency;
- (ii) to add guarantees or collateral with respect to the Notes;
- (iii) to comply with Section 5.01 of the Indenture;
- (iv) to provide for any guarantee of the Notes, to secure the Notes or to confirm and evidence the release, termination or discharge of any guarantee of the Notes when such release, termination or discharge is permitted by this Indenture;
- (v) to add to the covenants of the Company or the Guarantors for the benefit of the Holders;
- (vi) to surrender any right herein conferred upon the Company or the Guarantors;
- (vii) to evidence and provide for the acceptance of an appointment by a successor Trustee;
- (viii) to provide for the issuance of Additional Notes;
- (ix) to make any other change that does not materially and adversely affect the rights of any Holder or to conform this Indenture to the section "Description of Notes" in the Offering Memorandum; or
- (x) to comply with any applicable requirements of the SEC, including in connection with an required qualification of the Indenture under the Trust Indenture Act

*provided* that, in such case, the Company has delivered to the Trustee an Opinion of Counsel and an Officers' Certificate, each stating that such amendment or supplement complies with the provisions of Section 9.01 of the Indenture.

Each Guarantor must consent to any amendment, supplement or waiver.

14. *Defaults and Remedies.*

An "**Event of Default**" occurs if:

- (i) the Company defaults in any payment of interest (including any Additional Amounts) on any Note when the same becomes due and payable, and such default continues for a period of 30 days;
- (ii) the Company defaults in the payment of principal amounts (including any Additional Amounts) of any Note when the same becomes due and payable upon acceleration or redemption or otherwise;

(iii) the Company or any Guarantor fails to comply with any of its covenants or agreements in the Notes or the Indenture (other than those referred to in (i) and (ii) above), and such failure continues for 60 days after the notice specified below;

(iv) the Company, any Guarantor or any Significant Subsidiary defaults under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Debt for money borrowed by the Company, any such Guarantor or any such Significant Subsidiary (or the payment of which is guaranteed by the Company, such Guarantor or any such Significant Subsidiary) whether such Debt or guarantee now exists, or is created after the date of the Indenture, which default (a) is caused by failure to pay principal of or premium, if any, or interest on such Debt after giving effect to any grace period provided in such Debt on the date of such default (“**Payment Default**”) or (b) results in the acceleration of such Debt prior to its express maturity and, in each case, the principal amount of any such Debt, together with the principal amount of any other such Debt under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates U.S.\$50,000,000 (or the equivalent thereof at the time of determination) or more in the aggregate;

(v) one or more final judgments or decrees for the payment of money in excess of U.S.\$50,000,000 (or the equivalent thereof at the time of determination) in the aggregate are rendered against the Company, any Guarantor or any Significant Subsidiary and are not paid (whether in full or in installments in accordance with the terms of the judgment) or otherwise discharged and, in the case of each such judgment or decree, either (a) an enforcement proceeding has been commenced by any creditor upon such judgment or decree and is not dismissed within 30 days following commencement of such enforcement proceedings or (b) there is a period of 60 days following such judgment during which such judgment or decree is not discharged, waived or the execution thereof stayed;

(vi) an involuntary case or other proceeding is commenced against the Company, any Guarantor or any Significant Subsidiary with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect seeking the appointment of a trustee, receiver, *síndico*, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding remains undismitted and unstayed for a period of 60 days; or an order for relief is entered against the Company, any Guarantor or any Significant Subsidiary under the bankruptcy laws now or hereafter in effect, and such order is not being contested by the Company, any Guarantor or any Significant Subsidiary, as the case may be, in good faith, or has not been dismissed, discharged or otherwise stayed, in each case within 60 days of being made;

(vii) the Company, any Guarantor or any Significant Subsidiary (i) commences a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its Debts under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or consents to the entry of an order for relief in an involuntary case under any such law, (ii) consents to the appointment of or taking possession by a receiver, *sindico*, liquidator, assignee, custodian, trustee, sequestrator or similar official of the Company, any Guarantor or any Significant Subsidiary or for all or substantially all of the Property of the Company, any Guarantor or any Significant Subsidiary or (iii) effects any general assignment for the benefit of creditors;

(viii) any event occurs that under the laws of the Cayman Islands, Brazil or any political subdivision thereof or any other country has substantially the same effect as any of the events referred to in any of clause (vi) or (vii);

(ix) any Note Guaranty ceases to be in full force and effect, other than in accordance the terms of the Indenture, or a Guarantor denies or disaffirms its obligations under its Note Guaranty; or

(x) TAM S.A. ceases to own, directly or indirectly, 100% of the outstanding share capital of the Company.

A Default under clause (iii) above shall not constitute an Event of Default until the Trustee or the Holders of at least 25% in principal amount of the Outstanding Notes notify the Company and the Guarantors of the Default and the Company does not cure such Default within the time specified after receipt of such notice.

The Trustee is not to be charged with knowledge of any Default or Event of Default or knowledge of any cure of any Default or Event of Default unless either (i) an attorney, Responsible Officer, has actual knowledge of such Default or Event of Default or (ii) written notice of such Default or Event of Default has been given to a Responsible Officer of the Trustee by the Company or any Holder.

If an Event of Default (other than an Event of Default specified in clauses (vi), (vii) and (viii) above) occurs and is continuing, the Trustee or the Holders of not less than 25% in principal amount of the Outstanding Notes may declare all unpaid principal of and accrued and unpaid interest on all Notes to be due and payable immediately, by a notice in writing to the Company, and upon any such declaration such amounts shall become due and payable immediately. If an Event of Default specified in clause (vi), (vii) or (viii) above occurs and is continuing, then the principal of, and accrued and unpaid interest on, all Notes shall become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder.

Subject to the provisions of the Indenture relating to the duties of the Trustee in case an Event of Default shall occur and be continuing, the Trustee shall be under no obligation to exercise any of its rights or powers under the Indenture at the request or direction of any of the Holders, unless such Holders shall have offered to the Trustee indemnity reasonably satisfactory to it. Subject to such provision for the indemnification of the Trustee, the Holders of a majority in aggregate principal amount of the outstanding Notes shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee.

At any time after a declaration of acceleration has been made and before a judgment or decree for payment of the money due has been obtained by the Trustee as provided in the Indenture, the Holders of a majority in principal amount of the Notes by written notice to the Company and the Trustee may rescind or annul a declaration of acceleration if (i) the Company has paid or deposited with the Trustee a sum sufficient to pay all overdue interest (including any Additional Amounts) on Outstanding Notes, all unpaid principal of the Notes that has become due otherwise than by such declaration of acceleration, interest on such overdue interest (including any Additional Amounts) as provided in the Indenture and all sums paid or advanced by the Trustee under the Indenture and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel and (ii) all Events of Default have been cured or waived except nonpayment of principal that has become due solely because of acceleration.

No such rescission shall affect any subsequent Default or Event of Default or impair any right consequent thereto.

15. *Trustee Dealings with the Company.*

Subject to certain limitations imposed by the Indenture, the Trustee and any Agent or co-registrar or any other agent of the Company or of the Trustee, in its individual or any other capacity, may become the owner or pledgee of Notes and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not Trustee, Agent, or such other agent.

16. *Governing Law.*

THE INTERNAL LAW OF THE STATE OF NEW YORK WILL GOVERN AND BE USED TO CONSTRUE THE INDENTURE, THIS NOTE AND THE NOTES GUARANTEES WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

17. *No Recourse Against Others.*

No director, officer, employee or shareholder, as such, of the Company, the Guarantors or the Trustee shall have any liability for any obligations of the Company, the Guarantors or the Trustee, respectively, under this Indenture or the Notes or for any claim based on, in respect of or by reason of such obligations or their creation. By accepting a Note, each Holder shall waive and release all such liability. The waiver and release shall be part of the consideration for the issue of the Notes.

18. *CUSIP and ISIN Numbers.*

Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP or ISIN numbers, as applicable, to be printed on the Notes and has directed the Trustee to use CUSIP or ISIN numbers, as applicable, in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

The Company shall furnish to any Holder upon written request and without charge a copy of the Indenture, which includes the form of this Note. Requests may be made to:

TAM Capital 2 Inc.  
c/o TAM S.A.  
Av. Jurandir, 856, Lote 4  
04072 000  
São Paulo, SP  
Brasil  
Attention: Legal Department  
Facsimile: 55-11-5582-8813

## NOTATION OF GUARANTY

For value received, each Guarantor (which term includes any successor Person under the Indenture) has unconditionally guaranteed, to the extent set forth in the Indenture and subject to the provisions in the Indenture dated as of October 29, 2009 (as amended from time to time, the “**Indenture**”), among the Company, the Guarantor, The Bank of New York Mellon, as Trustee, Registrar, Transfer Agent and Principal Paying Agent (collectively, the “**Agents**” and each individually an “**Agent**”) and The Bank of New York Mellon (Luxembourg) S.A., as Luxembourg Transfer Agent, the full and punctual payment (whether at Stated Maturity, upon redemption, acceleration, or otherwise) of the principal of, premium, if any, and interest on, and all other amounts payable under, each Note, and the full and punctual payment of all other amounts payable by the Company under the Indenture. The obligations of each Guarantor to the Holders of Notes and to the Trustee pursuant to the guaranty and the Indenture are expressly set forth in Article 10 of the Indenture and reference is hereby made to the Indenture for the precise terms of the guaranty.



IN WITNESS WHEREOF, each Guarantor has caused this guaranty to be duly executed.

TAM S.A.,  
as Guarantor

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

TAM LINHAS AÉREAS S.A.,  
as Guarantor

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

Witnesses:

By: \_\_\_\_\_  
Name:

By: \_\_\_\_\_  
Name:

**SUPPLEMENTAL INDENTURE**

dated as of \_\_\_\_\_, \_\_\_\_

among

TAM CAPITAL 2 INC.,

the [ADDITIONAL GUARANTOR(S)] Party Hereto

THE BANK OF NEW YORK MELLON  
as Trustee, Registrar, Transfer Agent and Principal Paying Agent

and

THE BANK OF NEW YORK MELLON (LUXEMBOURG) S.A.,  
as Luxembourg Transfer Agent

9.50% Senior Guaranteed Notes Due 2020

THIS SUPPLEMENTAL INDENTURE (this “**Supplemental Indenture**”), entered into as of \_\_\_\_\_, \_\_\_\_\_, among TAM Capital 2 Inc., an exempted company incorporated with limited liability in the Cayman Islands (the “**Company**”), [Additional Guarantor(s)] (each an “**Undersigned**”), The Bank of New York Mellon, as trustee, registrar, transfer agent and principal paying agent (the “**Trustee**”) and The Bank of New York Mellon (Luxembourg) S.A., as Luxembourg Transfer Agent.

#### RECITALS

WHEREAS, the Company, the Guarantors party thereto, The Bank of New York Mellon, as Trustee, Registrar, Transfer Agent and Principal Paying Agent (the “**Trustee**”) and The Bank of New York Mellon (Luxembourg) S.A., as Luxembourg Transfer Agent, entered into the Indenture, dated as of October 29, 2009 (the “**Indenture**”), relating to the Company’s 9.50% Senior Guaranteed Notes Due 2020 (the “**Notes**”);

WHEREAS, as a condition to the Trustee entering into the Indenture and the purchase of the Notes by the Holders, the Company and the Guarantors agreed pursuant to the Indenture to cause any newly acquired or created Subsidiaries to provide Guarantees in certain circumstances.

#### AGREEMENT

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained and intending to be legally bound, the parties to this Supplemental Indenture hereby agree as follows:

Section 1. Capitalized terms used herein and not otherwise defined herein are used as defined in the Indenture.

Section 2. Each Undersigned, by its execution of this Supplemental Indenture, agrees to be a Guarantor under the Indenture and to be bound by the terms of the Indenture applicable to Guarantors, including, but not limited to, Article 10 thereof. [Specify % to be guaranteed, if less than 100%.]

Section 3. This Supplemental Indenture shall be governed by, and construed in accordance with, the laws of the State of New York.

Section 4. This Supplemental Indenture may be signed in various counterparts which together will constitute one and the same instrument.

Section 5. This Supplemental Indenture is an amendment supplemental to the Indenture, and the Indenture and this Supplemental Indenture will henceforth be read together.

Section 6. The Trustee makes no representation or warranty as to the validity or sufficiency of this Supplemental Indenture or the recitals contained herein.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed as of the date first above written.

TAM CAPITAL 2 INC.,  
as the Company

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

[ADDITIONAL GUARANTOR],  
as Guarantor

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

THE BANK OF NEW YORK MELLON,  
as Trustee, Registrar, Transfer Agent and  
Principal Paying Agent

By: \_\_\_\_\_  
Name:  
Title:

THE BANK OF NEW YORK MELLON  
(Luxembourg) S.A.,  
as Luxembourg Transfer Agent

By: \_\_\_\_\_  
Name:  
Title:

FORM OF  
TRANSFER NOTICE

FOR VALUE RECEIVED, the undersigned Holder hereby sell(s), assign(s) and transfer(s) unto

Insert Taxpayer Identification No.

\_\_\_\_\_  
Please print or typewrite name and address, including postal zip code, of assignee

\_\_\_\_\_  
this Note and all rights hereunder, hereby irrevocably constituting and appointing

\_\_\_\_\_ attorney to transfer said Note on the books of TAM Capital 2 Inc. with full power of substitution in the premises.

\_\_\_\_\_

In connection with any transfer of this Note occurring prior to the date [which is two years after the original issue date of the Notes,]<sup>[3]</sup> [which is on or prior to the 40th day after the Closing Date (as defined in the Indenture governing the Notes),]<sup>[4]</sup> the undersigned confirms that:

[Check one]

- ? (a) This Note is being transferred to a person whom the Holder reasonably believes is a qualified institutional buyer (as defined in Rule 144A under the U.S. Securities Act of 1933, as amended (the “**Securities Act**”), in a transaction meeting the requirement of Rule 144A;
- ? (b) This Note is being transferred in an offshore transaction in accordance with Rule 904 under the Securities Act;
- ? (c) This Note is being transferred pursuant to an exemption from registration under the Securities Act provided by Rule 144 thereunder (if available);
- ? (d) This Note is being transferred pursuant to an effective registration statement under the Securities Act; or
- ? (e) This Note is being transferred to TAM Capital 2 Inc., in each of cases (a) through (e) above, in accordance with any applicable securities laws of any State of the United States.

If none of the foregoing boxes is checked, the Transfer Agent shall not be obligated to register this Note in the name of any Person other than the Holder hereof unless and until the conditions to any such transfer of registration set forth herein and in Section 2.07 of the Indenture shall have been satisfied.

Date: \_\_\_\_\_

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NOTICE: The signature to this assignment must correspond with the name as written upon the face of this instrument in every particular, without alteration, enlargement or any other change whatever.

FORM OF CERTIFICATE  
FOR TRANSFER FROM RESTRICTED GLOBAL  
NOTE OR CERTIFICATED NOTE BEARING  
A SECURITIES ACT LEGEND TO REGULATION S  
GLOBAL NOTE OR CERTIFICATED NOTE  
NOT BEARING A SECURITIES ACT LEGEND

The Bank of New York Mellon  
101 Barclay Street, Floor 4 East  
New York, New York 10286  
Attn: Global Finance Americas

Re: 9.50% Senior Guaranteed Notes Due 2020 (the “Notes”)

Reference is hereby made to the Indenture, dated October 29, 2009 (the “**Indenture**”), among TAM Capital 2 Inc., the Guarantors party thereto, The Bank of New York Mellon, as Trustee, Registrar, Transfer Agent and Principal Paying Agent and The Bank of New York Mellon (Luxembourg) S.A., as Luxembourg Transfer Agent. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

This letter relates to U.S.\$\_\_\_\_\_ principal amount of Notes which are held in the form of [a beneficial interest in the Restricted Global Note with the Depository in the name of the undersigned] [a Certificated Note bearing a Securities Act Legend].

The undersigned has requested a transfer of such [beneficial interest] [Certificated Note] to a Person who shall take delivery thereof in the form of [a beneficial interest of equal principal amount in the Regulation S Global Note (ISIN No. USG86665AA70) to be held with [Euroclear]\* [Clearstream, Luxembourg]<sup>[51]</sup> (Common Code No. 046282744) through the Depository] [a Certificated Note of equal principal amount not bearing a Securities Act Legend]. In connection with such transfer, the undersigned does hereby certify that such transfer has been effected in accordance with the transfer restrictions set forth in the Indenture and the Notes and pursuant to and in accordance with Rule 903 or 904 of Regulation S under the U.S. Securities Act of 1933, as amended (the “**Securities Act**”), and, accordingly, the undersigned further certifies that:

- (1) the offer of the Notes was not made to a U.S. Person (as defined under Regulation S);

[(2) at the time the buy order was originated, the transferee was outside the United States or the undersigned and any Person acting on behalf of the undersigned reasonably believed that the transferee was outside the United States;]<sup>[6]</sup>

[(2) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither the undersigned nor any Person acting on behalf of the undersigned knows that the transaction was prearranged with a buyer in the United States;]<sup>[7]</sup>

(3) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or 904(b) of Regulation S, as applicable;

(4) the undersigned is not the Company, a distributor, an affiliate of either the Company or a distributor, or a Person acting on behalf of any of the foregoing; and

(5) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act.

This certificate and the statements contained herein are made for your benefit and for the benefit of TAM Capital 2 Inc. Terms used in this certificate and not otherwise defined in the Indenture have the meanings set forth in Regulation S.

[INSERT NAME OF TRANSFEROR]

By: \_\_\_\_\_  
Name:  
Title:

Dated: \_\_\_\_\_, \_\_\_\_\_

cc: TAM Capital 2 Inc.



FORM OF TRANSFER CERTIFICATE  
FOR TRANSFER FROM REGULATION S GLOBAL  
NOTE OR CERTIFICATED NOTE NOT BEARING  
A SECURITIES ACT LEGEND TO RESTRICTED GLOBAL  
NOTE OR CERTIFICATED NOTE BEARING  
A SECURITIES ACT LEGEND  
(PRIOR TO 40TH DAY AFTER CLOSING DATE)

The Bank of New York Mellon  
101 Barclay Street, Floor 4 East  
New York, New York 10286  
Attn: Global Finance Americas

Re: 9.50% Senior Guaranteed Notes Due 2020 (the "Notes")

Reference is hereby made to the Indenture, dated October 29, 2009 (the "**Indenture**"), among TAM Capital 2 Inc., the Guarantors party thereto, The Bank of New York Mellon, as Trustee, Registrar, Transfer Agent and Principal Paying Agent and The Bank of New York Mellon (Luxembourg) S.A., as Luxembourg Transfer Agent. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

This letter relates to U.S.\$\_\_\_\_\_ principal amount of Notes which are held in the form of [a beneficial interest in the Regulation S Global Note (ISIN No. USG86665AA70) with the Depository in the name of the undersigned] [a Certificated Note not bearing the Securities Act Legend].

The undersigned has requested a transfer of such [beneficial interest] [Certificated Note] to a Person who shall take delivery thereof in the form of [a beneficial interest in the Restricted Global Note (CUSIP No. 87217A AA1) to be held through the Depository] [a Certificated Note bearing the Securities Act Legend]. In connection with such transfer, the undersigned does hereby confirm that such transfer has been effected in accordance with the transfer restrictions set forth in the Indenture and the Notes and pursuant to and in accordance with Rule 144A under the U.S. Securities Act of 1933, as amended, and accordingly, the undersigned represents that:

(1) the Notes are being transferred to a transferee that the undersigned reasonably believes is purchasing the Notes for its own account or one or more accounts with respect to which the transferee exercises sole investment discretion; and

(2) the transferee and any such account is a "qualified institutional buyer" within the meaning of Rule 144A, in a transaction meeting the requirements of Rule 144A and in accordance with any applicable securities laws of any state of the United States or any other jurisdiction.

This certificate and the statements contained herein are made for your benefit and for the benefit of TAM Capital 2 Inc.

[INSERT NAME OF TRANSFEROR]

By: \_\_\_\_\_  
Name:  
Title:

Dated: \_\_\_\_\_, \_\_\_\_\_

cc: TAM Capital 2 Inc.

FORM OF CERTIFICATE FOR REMOVAL  
OF THE SECURITIES ACT LEGEND ON A CERTIFICATED NOTE

The Bank of New York Mellon  
101 Barclay Street, Floor 4 East  
New York, New York 10286  
Attn: Global Finance Americas

Re: 9.50% Senior Guaranteed Notes Due 2020 (the "Notes")

Reference is hereby made to the Indenture, dated [•], 2009 (the "**Indenture**"), among TAM Capital 2 Inc., the Guarantors party thereto, The Bank of New York Mellon, as Trustee, Registrar, Transfer Agent and Principal Paying Agent and The Bank of New York Mellon (Luxembourg) S.A., as Luxembourg Transfer Agent. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

This letter relates to U.S.\$\_\_\_\_\_ principal amount of Notes which are held in the form of [a beneficial interest in the Restricted Global Note (CUSIP No. 87217A AA1) with the Depository] [[a] Certificated Note(s) in the name of the undersigned.]<sup>181</sup>

The undersigned has requested for the restrictive Legend on the Certificated Note(s) to be removed.

In connection with such transfer, the undersigned does hereby certify that such transfer has been effected only (i) in an offshore transaction in accordance with Rule 904 under the Securities Act, (ii) pursuant to an exemption from registration under the Securities Act provided by Rule 144 thereunder (if available) or (iii) pursuant to an effective registration statement under the Securities Act, in each of cases (i) through (iii) in accordance with any applicable securities laws of any State of the United States.

Inc. This certificate and the statements contained herein are made for your benefit and for the benefit of and TAM Capital 2

[NAME OF UNDERSIGNED]

By: \_\_\_\_\_  
Name:  
Title:

Dated: \_\_\_\_\_, \_\_\_\_\_

cc: TAM Capital 2 Inc.

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<sup>[1]</sup> Include if Initial Note.

<sup>[2]</sup> Include if Additional Note.

<sup>[3]</sup> ***Include in Restricted Note.***

<sup>[4]</sup> ***Include in Regulation S Note.***

<sup>[5]</sup> ***Indicate appropriate clearing system.***

<sup>[6]</sup> ***Insert one of the two provisions.***

<sup>[7]</sup> ***Insert one of the two provisions.***

<sup>[8]</sup> ***Indicate form in which Notes are held.***

**Exhibit 2.4**

**SHAREHOLDERS' AGREEMENT OF TAM S.A.**

By this present private instrument and in the best terms of the law, the parties on the one hand:

**I. AMARO & AVIATION PARTICIPAÇÕES S.A.**, a company headquartered in the City and State of São Paulo, at Rua Julio Diniz, 56 – 9º andar (parte), Corporate Taxpayer's ID (CNPJ/MF) 08.720.707/0001 -84, herein represented by its Bylaws and by its Executive Officer, Mr. Marcos Adolfo Tadeu Senamo Amaro, a Brazilian citizen, single, businessman, Identity Card (RG) 34.476.447 -3, issued by SSP/SP, and Individual Taxpayer's Register (CPF/MF) 319.018.448 -89, resident and domiciled in the City and State of São Paulo, at Rua Dr. Seráfico Assis de Carvalho, 103, apto. 43, Jardim Guedala, CEP 05614-040 ("A&A");

and on the other hand:

**II. TAM EMPREENDIMENTOS E PARTICIPAÇÕES S.A.**, a company headquartered in the City and State of São Paulo, at Rua Monsenhor Antonio Pepe, 397, Corporate Taxpayer's ID (CNPJ/MF) 03.168.654/0001 -17, herein represented by its Bylaws and by its Executive Officers, Mr. Maurício Rolim Amaro, a Brazilian citizen, separated by consent, businessman, Identity Card (RG) 12.238.201 -8 SSP/SP, and Individual Taxpayer's Register (CPF/MF) 269.303.758 -10, and Ms. Maria Cláudia Oliveira Amaro, a Brazilian citizen, legally separated, businesswoman, Identity Card (RG) 12.238.200 -6 SSP/SP, and Individual Taxpayer's Register (CPF/MF) 113.879.198 -90, both with business address at Rua Monsenhor Antonio Pepe, 397, in the City and State of Paulo ("TEP"), and

**III. AGROPECUÁRIA DA NOVA FRONTEIRA LTDA.**, a company headquartered in the City of Ponta Porã, State of Mato Grosso do Sul, at Fazenda Jaguarundy, s/n., margem esquerda da Rodovia BR-463, km 109, Corporate Taxpayer's ID (CNPJ/MF) 15.543.176/0001 -67, herein represented by its Bylaws and by its Managers, Messrs. Maurício Rolim Amaro and Maria Cláudia Oliveira Amaro, identified above ("NF")

A&A, NF and TEP are hereinafter referred to, severally and indistinctly, as "Shareholder", and, jointly, as "Shareholders";

and, also, as intervening and consenting party:

**IV. TAM S.A.**, a company headquartered in the City and State of São Paulo, at Av. Jurandir, 856, Lote 04, Corporate Taxpayer's ID (CNPJ/MF) 01.832.635/0001 -18, herein represented by its Bylaws and by its Executive Officers, Messrs. David Barioni Neto, who also signs as David Barion Neto, a Brazilian citizen, married, aeronaut, Individual Taxpayer's Register (CPF/MF) 012.237.358 -85 and Identity Card (RG) 3.818.902 -1 SSP/SP, and Líbano Miranda Barroso, a Brazilian citizen, married, economist, Identity Card (RG) M-2.063.971 -SSP/SP and Individual Taxpayer's Register (CPF) 421.016.386 -49, both with business address in the City and State of São Paulo, with offices at Av. Jurandir, 856, Lote 4, Jardim Ceci ("Company");

**WHEREAS:**

A. the Shareholders own fifty-nine million, seven hundred and seventy-five thousand, eight hundred and nine (59,775,809) registered non-par common shares, representing 39.6957% of the total capital, and 99.9730% of the voting capital of the Company;

B. the Shareholders intend, by means of the execution of the shareholders' agreement, pursuant to and for purposes of Article 118 of Law 6,404/76, to set forth the conditions that shall rule the right to convert common shares into preferred shares issued by the Company, as well as the purchase, sale and burden of the common shares bound to this Agreement;

RESOLVE to execute TAM S.A. Shareholders' Agreement ("Agreement"), which shall be ruled according to the following terms and conditions:

1. **DEFINITIONS AND CONSTRUAL**

- 1.1. For all purposes and effects of this Agreement, the following expressions and capital letters initials shall have the meanings attributed thereto as follows:
- 1.1.1. "**Shareholder(s)**" has the meaning attributed thereto in the introduction of this Agreement and includes Affiliated Company or Affiliated Companies to become successors or assignees of the Shares Bound to this present Agreement, defined as such in clause 5.1.
- 1.1.2. "**Agreement**" means this present Shareholders' Agreement;
- 1.1.3. "**Affiliated Company**" means, related to a party, any individual, legal entity or investment fund that Controls or is Controlled, company under the same Control of its Parent Company, funds or entities established and managed by the Shareholder or by a company under the common control of the Shareholder, or, also, spouses, direct descendents and respective heirs and other relatives up to the second degree (including their respective spouses) of Shareholders who are individuals;
- 1.1.4. "**Dispose**" or "**Disposal**" means to sell, swap, donate, assign to capital, loan, or otherwise grant, sell or transfer, on any account, directly or indirectly, in full or partially, or, also, commitment to practice any of the aforementioned acts, give as pledge, collateral, conditional sale, or any other type of guarantee or beneficial ownership;
- 1.1.5. "**Subsidiary (Subsidiaries)**", in relation to any Shareholder, means the legal entity (entities) or investment fund(s) under a Shareholder's Control;
- 1.1.6. "**Parent Company (Companies)**" means the individual(s) or legal entity (entities), or, also, the investment fund manager holding the Control of a legal entity or an investment fund;
- 1.1.7. "**Control**" means to directly or indirectly hold the power to determine the management, select the majority of the managers and the lines of action of a legal entity or an investment fund, whether (i) through holding more than 50% of the voting shares of this legal entity or of the investment fund quotas; (ii) through the right to elect the majority of the managers of this legal entity or appoint the manager of the investment fund; (iii) through agreement; or (iv) otherwise;
- 1.1.8. "**IGP-M**" means the Market General Price Index calculated by Fundação Getulio Vargas, or another corresponding base index that may come to replace it;
- 1.1.9. "**Lien**" means any burden, charge, debt, guarantee, beneficial ownership, encumbrance, pledge, collateral, conditional sale, or any other type of restriction or claim, directly or indirectly, regardless of any title or nature;
- 1.1.10. "**Subsidiaries**" mean the companies directly or indirectly Controlled by the Company.
- 1.2. The headings and titles herein are included for reference purposes only and shall not limit or rule the clauses, items or paragraphs to which they refer.
- 1.3. The terms "include", "including" and similar terms shall be construed as if they were accompanied by the phrase "as an example".
- 1.4. Whenever the context so requires, references herein in the singular form shall include the plural, and vice-versa, and the male gender shall include the female and vice-versa.
- 1.5. References to legal provisions shall be construed as references thereto as respectively amended, expanded or consolidated and as effective on the date of execution of this Agreement, and shall include any provisions to which such references are restatements (whether amended or not) and any decrees, regulations or other regulatory acts issued pursuant to the law under consideration.

- 1.6. The language in all the parts herein shall, in all cases, be construed in a simple manner, according to its fair meaning, and not strictly in favor or against any of the Shareholders or the Company.
- 1.7. The Recitals of this Agreement represent the integral and inseparable part hereof for all legal purposes, and shall subsidy and guide, whether in court or out of court, any disagreement that may arise regarding the matters agreed upon herein.

2. **CAPITAL AND BYLAWS**

- 2.1. The Company is ruled by its Bylaws, which were approved at the Annual and Extraordinary General Meeting held on April 28, 2006 ("**Bylaws**"). In the event of conflict between the Bylaws and this Agreement, the provisions herein shall prevail in relation to the Shareholders.
- 2.2. On this date, the Company's capital stock is composed of fifty-nine million, seven hundred and ninety-one thousand, nine hundred and fifty-five (59,791,955) common shares, and ninety million, seven hundred and ninety-three thousand, one hundred and ninety-two (90,793,192) preferred shares, amounting to a total capital of one hundred and fifty million, five hundred and eighty-five thousand, one hundred and forty-seven (150,585,147) issued shares.
- 2.3. The Shareholders signing this Agreement own the Company's shares as follows:

<b>Shareholder</b>	<b>Amount of Common Shares</b>	<b>Amount of Preferred Shares</b>
A&A	9,133,912	628,068
NF	79,516	0
TEP	50,562,381	18,860,612

3. **CONVERSION OF COMMON SHARES INTO PREFERRED SHARES ISSUED BY THE COMPANY**

- 3.1. On this same date, the Shareholders A&A and TEP make an addendum to request the conversion of common shares into preferred shares, submitted prior to the execution of this present Agreement to the Company's Board of Executive Officers, whereby: (i) A&A requests the conversion of three million, eight hundred and thirty-eight thousand, seven hundred and sixty-three (3,838,763) common shares issued by the Company owned by these Shareholders into three million, eight hundred and thirty-eight thousand, seven hundred and sixty-three (3,838,763) preferred shares issued by the Company, and (ii) TEP requests the conversion of five million, seven hundred and fifty-eight thousand, one hundred and forty-three (5,758,143) common shares issued by the Company owned by these Shareholders into five million, seven hundred and fifty-eight thousand, one hundred and forty-three (5,758,143) preferred shares issued by the Company. The aforementioned addendum to the conversion requests represents an integral part hereof, attached herein as Exhibit 1.
  - 3.1.1. The parties take cognizance that the actual conversion is subject to the approval of the added requests by the Board of Executive Officers and on the ratification of the conversion by the Board of Directors, to be carried out at the first Board of Directors Meeting following the date of execution hereof.
- 3.2. Once the conversion is approved by the Board of Executive Officers and ratified by the Board of Directors pursuant to clause 3.1., the Shareholders undertake to exercise their voting rights toward amending the Bylaws, at a General Meeting to be called for that purpose. The amendments to be approved are as follows: (i) alteration of the capital stock in order to declare the amount of common and preferred shares of the Company following the aforementioned conversion; and (ii) suppression of paragraph 2 of article 8 in order to eliminate the possibility of conversion of common shares into preferred shares.

- 3.3. Once the conversion of common shares into preferred shares pursuant to clause above is conducted, the Company's voting capital stock shall be distributed among the Shareholders signing this Agreement as follows:

<b>Shareholder</b>	<b>Amount of Common Shares</b>
A&A	5,295,149
NF	79,516
TEP	44,804,238

4. **EFFECTIVENESS – CONDITION PRECEDENT**

- 4.1. The effectiveness hereof, as well as of addenda to the conversion requests mentioned in clause 3.1. above, pursuant to articles 121 and 125 and further provisions of Brazilian Civil Code, is subject to the effective approval of said requests added by the Company's Board of Executive Officers and to the Board of Directors' ratification of share conversion referred to in the previous clause.

5. **BINDING SHARES**

- 5.1. This Agreement binds the common shares issued by the Company and owned by Shareholders mentioned in clause 3.3. above, as well as those resulting from potential share splitting and/or bonus imputed to said common shares ("**Binding Shares**").
- 5.2. Should one or more Shareholder(s), for any reason, become holder(s) of new Binding Shares, following this present date, pursuant to item 5.1 above, the Company, within ten (10) days as of the date of respective transaction, shall adopt the measures referred to in clause 12.6, in relation to the Custodian Bank for the Company's shares, so that to declare the binding nature of these new shares hereto.
- 5.3. The Binding Shares are subject to all provisions hereof, and any disposal of common shares carried out by Shareholders shall be deemed as a disposal of Binding Shares up to the limit of these same shares as specified in clause 5.1. above, regardless of the total volume of common shares that said Shareholders own upon said disposal.

6. **DISPOSAL AND BURDEN ON BINDING SHARES**

- 6.1. Each Shareholder undertakes herein, on an irrevocable and irreversible basis, not to Dispose of, in full or partially, or create Burden on any Binding Shares held thereby, not in compliance with provisions herein, said obligation not being applicable in the event of Disposal to Affiliated Company or Affiliated Companies thereof. Therefore, the Disposal of Binding Shares or the creation of any Burden on Binding Shares will not be valid, in disagreement with the provisions herein and the Company shall abstain itself from recording them.

6.1.1. Without prejudice to the provisions in Clause 6.1 above, each Shareholder shall be entitled to transfer on a fiduciary basis one Binding Share to each one of the members of the Company's Board of Directors to be appointed thereby.

7. **TAG-ALONG RIGHT**

- 7.1. Should NF and/or TEP intend to sell partially or all of their Binding Shares ("Assignor Shareholder") in view of receiving a call offer ("Offer"), submitted by any third party ("Potential Buyer"), A&A shall be entitled to tag-along right related to the Binding Shares held thereby ("Tag-Along Right"), as provided for hereinbelow.

7.1.1. In this case, the lot of Binding Shares to be sold to the Potential Buyer for the same price per share and under same conditions provided for in the Offer, shall be divided between the Binding Shares of Assignor Shareholder and the Binding Shares of A&A, pro rata to the set of corresponding interest in the Binding Shares tendered on the exercise date of Tag-Along Right.



- 7.2. The Assignor Shareholder may only validly sell the Binding Shares should the Potential Buyer (i) acquire said shares concurrently with the acquisition of A&A's Binding Shares, for the same price per share and under same conditions of the operation provided for in the offer; and (ii) firstly acquire the Assignor Shareholder's Binding Shares, should said Assignor Shareholder be holder of common shares rather than Binding Shares.
- 7.3. The Offer, in writing, from a Potential Buyer shall be immediately announced by the Assignor Shareholder to A&A and to the Company, in the form and for the purposes laid down in this Chapter ("Announcement of the Offer"), informing (i) the amount of Binding Shares tendered; (ii) the price and payment conditions offered by Potential Buyer for each Binding Share tendered; and (iii) the name and qualification of Potential Buyer. The Announcement of the Offer shall be accompanied by a certified copy of the Offer.
- 7.4. A&A shall have no later than fifteen (15) days as of the date of receipt of Announcement of the Offer to express if it does not intend to exercise its Tag-Along Right.
- 7.5. A&A's failure to express its intention within the term mentioned in 7.4. above shall be deemed by Assignor Shareholder as intent to exercise the Tag-Along Right of A&A, presupposing the inclusion of A&A's Binding Shares in the Offer.
- 7.6. NF and/or TEP shall arrange that the Potential Buyer acknowledges A&A's rights provided for herein.
- 7.7. Once exercised the Tag-Along Right, A&A upon request of NF and/or TEP, shall be required to sell the Binding Shares, unless terms and conditions of the Offer are amended, assumption in which, a new Announcement of the Offer shall be forwarded to A&A with a view to resuming the procedures provided for in this Chapter 7. Nothing declared herein shall mean a requirement binding upon NF and/or TEP to carry out any transaction proposed, notwithstanding the presentation of any Offer or intent on the part of A&A pursuant to this Agreement.
- 7.8. In the event NF and/or TEP sell Binding Shares representing the Company's Control, the conditions set forth in articles 37 and following of the Company's Bylaws shall be observed, ensuring A&A's rights, in this assumption, of selling all its Binding Shares.

## 8. **EFFECTIVENESS**

- 8.1. This present Agreement is entered into on an irrevocable and irreversible basis and shall enure (i) for a ten-(10) year term; (ii) until the moment the Company has their Binding Shares traded at the São Paulo Stock Exchange – Bolsa de Valores d São Paulo S.A. – BVSP called Novo Mercado or "New Market", or entity to succeed it for any reason that adopts the Novo Mercado securities trading system; or (iii) should all Binding Shares held by A&A be sold by any form, whichever occurs first.
- 8.2. This Agreement only may be extended or renewed by means of written Addendum, executed by Shareholders.as.

## 9. **APPLICABLE LAWS AND RESOLUTION OF CONTROVERSIES**

- 9.1. All controversies arisen among Shareholders or between the Shareholders and the Company ("Controversy") shall be resolved by means of arbitration, pursuant to paragraph 3 of Article 109 of Law 6,404/76 and Law 9,307/96.
- 9.2. The Shareholders and the Company agree hereby that before bringing a litigation in relation to the Controversy, representatives of each one of the Shareholders and the Company, where applicable, shall hold a meeting no later than thirty (30) days as of the date of notice referring to said Controversy, forwarded by either party to the other, and shall attempt in good faith to reach an agreement to solve the Controversy.
- 9.3. In the event it is not possible to solve the Controversy as provided for in Clause 9.2, any and all Controversy that has not been solved amicably it shall be solved by means of arbitration, pursuant to the Market Arbitration Panel Rules ("Arbitration Rules"), as provided for in Article 44 of the Company's Bylaws.

9.4. The Shareholders acknowledge that the Company may be harmed on an irrecoverable basis should the information about the arbitration proceeding brought to settle any doubts related hereto be disclosed. Therefore, shareholders undertake not to disclose (or allow to be disclosed) any information about said arbitration proceeding (including its existence), until an arbitration report is issued, unless (i) the disclosure of this information is required by law or regulation or also in view of status as publicly-held company of any Shareholder; (ii) the disclosure of this information is required by governmental authority or by appropriate court order; or (iii) this information becomes available to the public by other means rather than by means of Shareholders' disclosure.

#### 10. **SPECIFIC PERFORMANCE**

10.1. Without prejudice to provisions in Chapter 9, the default or the failure to comply with any of the obligations provided for herein shall entitle the aggrieved Shareholder the right to require the compliance with obligation, pursuant to paragraph 3 of Article 118 of Law 6,404/76, and the Shareholders agree hereby that eventual payment for losses and damages shall not be deemed as sufficient remedy for the default.

10.1.1. The failure to comply with relevant obligations provided for herein that do not accept due to their nature, specific performance, shall subject the infringing party to a non-compensatory fine of ten million reais (R\$ 10,000,000.00), without prejudice to the payment for losses and damages giving rise thereto. The provision of this Clause 10.1.1 may not be invoked concerning the exercise of voting right or the opinion expressed in disagreement with the provision herein, and the Shareholders acknowledging that these obligations accept specific performance.

10.1.2. The amount of non-compensatory fine referred to by Clause 10.1.1 above shall be restated, as of the date this Agreement is executed, by the accumulated positive variation of IGP-M (General Market Price Index), or by another similar index to replace it, within the smaller periodicity accepted.

#### 11. **NOTICES AND NOTIFICATIONS**

11.1. All notices, notifications, claims or other communications related to this Agreement shall be made in writing and deemed as duly carried out(a) when received, if delivered personally (b) when sent by means of courier service or registered or certified mail, requesting receipt acknowledgment, with postage paid to the parties at the following addresses (or any other address to be specified by either party in notice sent by the interested party, as provided for in this clause, informing other parties about the change of its address):

(i) NF, to:

Rua Monsenhor Antonio Pepe, 397  
04357-080 São Paulo – SP  
Phone: (5511) 5035-2555  
Fax: (5511) 5035-2560

(ii) TEP to:

Rua Monsenhor Antonio Pepe, 397  
04357-080 São Paulo – SP  
Phone: (5511) 5035-2555  
Fax: (5511) 5035-2560

(iii) A&A to:

Rua Júlio Diniz, 56, 9º andar (parte)  
Vila Olímpia,  
04547-090 São Paulo – SP  
Attn: Marcos Adolfo Tadeu Senamo Amaro  
Phone: (5511) 3849-3696  
Fax: (5511) 3168-7019

(iv) the Company to:

Departamento Jurídico (Legal Department)  
Av. Jurandir, 856 – Hangar VII – Aeroporto  
04072-000  
São Paulo – SP  
Phone: (5511) 5582 8497  
Fax: (5511) 5582-8813

11.1.1. The party whose address indicated above has been changed, shall promptly notify other parties about the new address. Until this notice is made, the notifications, communications and summons sent to the addresses above shall be deemed as valid and effective.

11.1.2. Any notice or notification forwarded to either Shareholder or to the Company shall be sent with copy to other Shareholders and to the Company.

## 12. GENERAL PROVISIONS

12.1. This present Agreement binds the Shareholders and its successors and assignees affiliated companies of Binding Shares, exclusively, not binding successors and assignees third parties of Binding Shares acquired under the conditions authorized hereby. Any amendment to the terms and conditions hereof only shall be deemed as valid if formalized in writing in a proper instrument signed by Shareholders.

12.2. Nevertheless, the Company shall not be liable for the compliance with any adjustment altering the rights and obligations provided for herein if the document of amendment is not executed thereby or sent to it for registration.

12.3. Any and all cost or expense incurred by Shareholders or by the Company in the compliance with obligations or exercise of rights provided for herein or in the applicable laws, including costs and expenses incurred with registrations, approvals or execution, as well as a result of lawsuits, proceedings and/or other in-court or out-of-court proceedings necessary to safekeeping the rights and prerogatives provided for herein, including costs, fees, expenses, charges, attorney's fees and expert's fees or any other charges related said lawsuits, proceedings or processes, shall be the responsibility of the defaulting party and shall be reimbursed within ten (10) business days as of the date this notice is received to be sent to the defaulting party, at the discretion of the aggrieved party.

12.4. The cancellation of annulment, in full or partially of any Clauses hereof shall not affect other parties, which shall remain always valid and effective until the observance by Shareholders and by the Company of all their obligations provided for herein. Should occur a statement of cancellation or annulment of any Clause hereof, the Shareholders undertake herein to negotiate, within the least term as possible, in replacement of Clause deemed as null and void, the inclusion herein of valid terms and conditions that reflect the terms and conditions of the cancelled or annulled Clause, observing the intention and purpose of Shareholders upon negotiation of cancelled or annulled Clause and the context in which it is inserted.

12.5. The waiver of any Shareholder or the Company related to the exercise of any rights assigned pursuant to this Agreement or applicable laws, shall take effect only if it is expressed in writing. No forbearance, delay or tolerance from either Shareholder or the Company to cause the compliance with any provision hereof shall harm or restrict the rights of said party, neither shall prevent said party from exercising these rights or any others when it deems necessary, regardless of previous communications or notifications.

12.6. The Company files herein at its headquarters, the Agreement pursuant to Law 6,404/76, and undertakes to observe it, providing faithful compliance with its provisions. The institution in charge of the custody of the Company's book-entry shares shall be liable, subject to the Company's Board of Executive Officers, for making the proper notes in its books and in the bank statement provided to Shareholders, referring to this present Agreement and thus, it may adopt the code system.

Exh. 2.4-7

- 12.7. Each Shareholder appoints itself as representative of the Company pursuant to paragraph 10 of Article 118 of Law 6,404/76.
- 12.8. Except for referring to addenda to this agreement, the execution of any other instrument among the Shareholders regulating any of the subject-matters hereof shall be forbidden, and the Company is also forbidden to acknowledge the existence and validity of other agreements of this kind.
- 12.9. The Company undertakes to announce immediately to Shareholders about any agreement, fact or omission which may imply breach hereto, as well as to adopt the necessary measures required by subsequent law in order to maintain this Agreement valid and effective.

IN WITNESS WHEREOF, the Shareholders and the Company execute this present instrument into four counterparts of equal tenor and form, together with two witnesses.

São Paulo, August 27, 2008.

AMARO & AVIATION PARTICIPAÇÕES S.A.

\_\_\_\_\_  
by Marcos Adolfo Tadeu Senamo Amaro

TAM EMPREENDIMENTOS E PARTICIPAÇÕES S.A.

\_\_\_\_\_  
by Maurício Rolim Amaro

\_\_\_\_\_  
by Maria Cláudia Oliveira Amaro

AGROPECUÁRIA DA NOVA FRONTEIRA LTDA.

\_\_\_\_\_  
p. Maurício Rolim Amaro

\_\_\_\_\_  
p. Maria Cláudia Oliveira Amaro

TAM S.A.

\_\_\_\_\_  
by David Barioni Neto

\_\_\_\_\_  
by Líbano Miranda Barroso

Witnesses:

1. \_\_\_\_\_  
Name:  
Identity Card (RG):  
Individual  
Taxpayer's Register (CPF/MF):

2. \_\_\_\_\_  
Name:  
Identity Card (RG):  
Individual Taxpayer's Register  
CPF/MF

Exh. 2.4-8

Exhibit 2.5

FIRST AMENDMENT TO TAM S.A. SHAREHOLDERS' AGREEMENT

By this private instrument and under the law, the parties below,

I. **AMARO & AVIATION PARTICIPAÇÕES S.A.**, a company having principal offices in the City of São Paulo, State of São Paulo, at Rua Julio Diniz, 56 – 9º andar (parte), enrolled with CNPJ/MF under no. 08.720.707/0001-84, herein represented in accordance with its by-laws by its Officer, Mr. Marcos Adolfo Tadeu Senamo Amaro, Brazilian citizen, single, businessman, bearer of Identity Card RG no. 34.476.447-3, issued by SSP/SP and enrolled with CPF/MF under no. 319.018.448-89, resident and domiciled in the City of São Paulo, State of São Paulo at Rua Dr. Seráfico Assis de Carvalho, 103, apto. 43, Jardim Guedala, CEP 05614-040 (“**A&A**”);

and:

II. **TAM EMPREENDIMENTOS E PARTICIPAÇÕES S.A.**, a company having principal offices in the City of São Paulo, State of São Paulo, at Rua Monsenhor Antonio Pepe, n. 397, enrolled with CNPJ/MF under no.168.654/0001-17, herein represented in accordance with its by-laws by its Officers, Mr. Maurício Rolim Amaro, Brazilian citizen, divorced, businessman, bearer of Identity Card RG 12.238.201-8 SSP/SP and enrolled with CPF/MF under no. 269.303.758-10, and Ms. Maria Cláudia Oliveira Amaro, Brazilian citizen, judicially separated, businesswoman, bearer of Identity Card RG no. 12.238.200-6 SSP/SP and enrolled with CPF/MF under no. 113.879.198-90, both having business address at Rua Monsenhor Antonio Pepe, n. 397, City of São Paulo, State of São Paulo (“**TEP**”), and

III. **AGROPECUÁRIA DA NOVA FRONTEIRA LTDA.**, a company having principal offices in the city of Ponta Porã, State of Mato Grosso do Sul, at Fazenda Jaguarundy, s/n., margem esquerda da Rodovia BR-463, km 109, enrolled with CNPJ/MF under no.15.543.176/0001-67, herein represented in accordance with its social contract by its managers, Mr. Maurício Rolim Amaro and Ms. Maria Cláudia Oliveira Amaro, described above (“**NF**”)

A&A, NF and TEP hereinafter referred to individually as “**Shareholder**” and collectively as “**Shareholders**”;

And in the condition of intervening party and consenting party:

IV. **TAM S.A.**, a company having principal offices in the City of São Paulo, State of São Paulo, at Av. Jurandir, n. 856, Lote 04 , enrolled with CNPJ/MF under no. 01.832.635/0001-18, herein represented in accordance with its by-laws by its Officers Mr. David Barioni Neto, also known as David Barion Neto, Brazilian citizen, married, aeronaut, enrolled with CPF/MF under no. 012.237.358-85 and bearer of Identity Card RG no. 3.818.902-1 SSP/SP, and Mr. Líbano Miranda Barroso, Brazilian citizen, married, economist, bearer of Identity Card RG no. M-2.063.971-SSP/SP, enrolled with CPF under no. 421.016.386-49, both having business address in the City of São Paulo, State of São Paulo, at Av. Jurandir, n. 856, Lote 4, Jardim Ceci (the “**Company**”);

**WHEREAS:**

- A. On August 27, 2008, the shareholders executed the instrument called TAM S.A. Shareholders' Agreement (the "Agreement"), that established, among other covenants, certain restrictions to the circulation of shares issued by TAM S.A. owned by them; and
- B. The Shareholders with to establish, as an exception to certain restrictions set forth in the Agreement, a limit below which the Shareholders may place liens and encumbrances on a specified number of shares that are restricted by the Agreement;

The Shareholders RESOLVED to execute this First Amendment to TAM S.A. Shareholders' Agreement and mutually undertake to:

1. A&A and TEP shareholders are free, at any time during the Agreement term, to provide as pledge, collateral, payment, rental, loan, beneficial ownership or chattel mortgage, the Restricted shares referred to in the Fifth Clause of the Agreement, up to the limits identified below, in deals with financial institutions, credit institutions, and investment institutions, always ensuring TEP's and A&A's political rights attached to the Restricted Shares ("Exceptional Shares"):

A&A – two million, one hundred and eighteen thousand and sixty (2,118,060) Restricted Shares;

TEP – seventeen million, nine thousand and twenty-one, six hundred and ninety-six (17,921,696) Restricted Shares.

2. Considering the above mention exception, those Exceptional Shares involved in the actions referred to in item 1 above and potential disposal actions arising from payments in kind or the foreclosure of the Exceptional Shares, are not subject to the Agreement provisions, in particular its clauses 6 and 7.

2.1. In the light of the provision in item 2 above, Exceptional Shares in A&A which may be subject to any lien, encumbrance or which have been disposed of at the date of the Offer mentioned in clause 7.1 of the Agreement shall not be entitled to the Tag-Along Right and shall not be included in the total interest of A&A in Restricted Shares referred to in clause 7.1.1, for the purposes of determining the number of shares entitled to the Tag-Along Right, even when such Exceptional Shares, after the receipt of the Offer, may be released from liens or encumbrances previously placed on them.

2.2. The Agreement is not binding on successors and assignees of Exceptional Shares which may be disposed of as a result of payment in kind or foreclosure of collateral referred to in item 2 above.

3. The restrictions and duties provided for in the Agreement shall remain in effect for instances or sale, exchange, donation, verification of the company share capital, or any other legal deals that give rise to the disposal of Exceptional Shares, other than those explicitly mentioned in the prior items.

4. All other provisions of the Shareholders' Agreement, provided that they do not conflict with the provisions of this First Amendment, shall remain unaltered and in full effect.

In witness whereof, the Shareholders and the Company have executed this instrument in four counterparts of equal wording and format, together with two witnesses.

São Paulo, June 17, 2009.

**AMARO & AVIATION PARTICIPAÇÕES S.A.**

-----  
Marcos Adolfo Tadeu Senamo Amaro

**TAM EMPREENDIMENTOS E PARTICIPAÇÕES S.A.**

-----  
Maurício Rolim Amaro

-----  
Maria Cláudia Oliveira Amaro

**AGROPECUÁRIA DA NOVA FRONTEIRA LTDA.**

-----  
Maurício Rolim Amaro

-----  
Maria Cláudia Oliveira Amaro

**TAM S.A.**

-----  
David Barioni Neto

-----  
Líbano Miranda Barroso

Exh. 2.5-3

**Witnesses:**

1. \_\_\_\_\_  
Name:  
RG:  
CPF/MF:

2. \_\_\_\_\_  
Name:  
RG:  
CPF/MF:

**(Sequence of the signature page of the First Amendment to TAM S.A. Shareholders' Agreement, entered into on June 17, 2009, among Amaro & Aviation Participações S.A., TAM Empreendimentos e Participações S.A., and Agropecuária da Nova Fronteira Ltda., with TAM S.A. as intervening party)**



**Exhibit 12.1**

**CERTIFICATION**

I, Marco Antonio Bologna, Chief Executive Officer, certify that:

1. I have reviewed this Annual Report on Form 20-F of TAM S.A. (the "company");
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the company as of, and for, the periods presented in this report;
4. The company's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the company and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the company's internal control over financial reporting that occurred during the period covered by the Annual Report that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and
5. The company's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company's auditors and the audit committee of the company's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the company's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the company's internal control over financial reporting.

Date: June 30, 2010

By: /s/ Marco Antonio Bologna  
Marco Antonio Bologna  
Chief Executive Officer

## Exhibit 12.2

### CERTIFICATION

I, Lbano Miranda Barroso, Chief Financial Officer, certify that:

1. I have reviewed this Annual Report on Form 20-F of TAM S.A. (the "company");
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the company as of, and for, the periods presented in this report;
4. The company's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the company and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the company's internal control over financial reporting that occurred during the period covered by the Annual Report that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and
5. The company's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company's auditors and the audit committee of the company's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the company's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the company's internal control over financial reporting.

Date: June 30, 2010

By: /s/ Lbano Miranda Barroso

Lbano Miranda Barroso  
Chief Financial Officer

### Exhibit 12.3

#### CERTIFICATION

I, Líbano Miranda Barroso, Chief Executive Officer, certify that:

1. I have reviewed this Annual Report on Form 20-F of TAM Linhas Aéreas S.A. (the "company");
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the company as of, and for, the periods presented in this report;
4. The company's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the company and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the company's internal control over financial reporting that occurred during the period covered by the Annual Report that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and
5. The company's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company's auditors and the audit committee of the company's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the company's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the company's internal control over financial reporting.

Date: June 30, 2010

By: /s/ Líbano Miranda Barroso

Líbano Miranda Barroso  
Chief Executive Officer

## Exhibit 12.4

### CERTIFICATION

I, Ricardo Froes Alves Ferreira, Chief Financial Officer, certify that:

1. I have reviewed this Annual Report on Form 20-F of TAM Linhas Aéreas S.A. (the "company");
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the company as of, and for, the periods presented in this report;
4. The company's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the company and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the company's internal control over financial reporting that occurred during the period covered by the Annual Report that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and
5. The company's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company's auditors and the audit committee of the company's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the company's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the company's internal control over financial reporting.

Date: June 30, 2010

By: /s/ Ricardo Froes Alves Ferreira  
Ricardo Froes Alves Ferreira  
Chief Financial Officer

## Exhibit 12.5

### CERTIFICATION

I, LÍbano Miranda Barroso, Chief Executive Officer, certify that:

1. I have reviewed this Annual Report on Form 20-F of TAM Capital Inc. (the "company");
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the company as of, and for, the periods presented in this report;
4. The company's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the company and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the company's internal control over financial reporting that occurred during the period covered by the Annual Report that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and
5. The company's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company's auditors and the audit committee of the company's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the company's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the company's internal control over financial reporting.

Date: June 30, 2010

By: /s/ LÍbano Miranda Barroso

LÍbano Miranda Barroso  
Chief Executive Officer

## Exhibit 12.6

### CERTIFICATION

I, LÍbano Miranda Barroso, Chief Financial Officer, certify that:

1. I have reviewed this Annual Report on Form 20-F of TAM Capital Inc. (the "company");
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the company as of, and for, the periods presented in this report;
4. The company's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the company and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the company's internal control over financial reporting that occurred during the period covered by the Annual Report that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and
5. The company's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company's auditors and the audit committee of the company's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the company's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the company's internal control over financial reporting.

Date: June 30, 2010

By: /s/ LÍbano Miranda Barroso

LÍbano Miranda Barroso  
Chief Financial Officer

**Exhibit 13.1**

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

In connection with the Annual Report of TAM S.A. (the "Company") on Form 20-F for the fiscal year ended December 31, 2009, as filed with the U.S. Securities and Exchange Commission on the date hereof (the "Report"), I, Marco Antonio Bologna, Chief Executive Officer, certify, pursuant to 18 U.S.C. section 1350, as adopted pursuant to section 906 of the U.S. Sarbanes-Oxley Act of 2002, that to the best of my knowledge:

(i) the Report fully complies with the requirements of section 13(a) or 15(d) of the U.S. Securities Exchange Act of 1934; and

(ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: June 30, 2010

By: /s/ Marco Antonio Bologna

Marco Antonio Bologna  
Chief Executive Officer

**Exhibit 13.2**

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

In connection with the Annual Report of TAM S.A. (the "Company") on Form 20-F for the fiscal year ended December 31, 2009, as filed with the U.S. Securities and Exchange Commission on the date hereof (the "Report"), I, Líbano Miranda Barroso, Chief Financial Officer, certify, pursuant to 18 U.S.C. section 1350, as adopted pursuant to section 906 of the U.S. Sarbanes-Oxley Act of 2002, that to the best of my knowledge:

(i) the Report fully complies with the requirements of section 13(a) or 15(d) of the U.S. Securities Exchange Act of 1934; and

(ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: June 30, 2010

By: /s/ Líbano Miranda Barroso

Líbano Miranda Barroso  
Chief Financial Officer



**Exhibit 13.3**

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

In connection with the Annual Report of TAM Linhas Aéreas S.A. (the "Company") on Form 20-F for the fiscal year ended December 31, 2009, as filed with the U.S. Securities and Exchange Commission on the date hereof (the "Report"), I, Líbano Miranda Barroso, Chief Executive Officer, certify, pursuant to 18 U.S.C. section 1350, as adopted pursuant to section 906 of the U.S. Sarbanes-Oxley Act of 2002, that to the best of my knowledge:

(i) the Report fully complies with the requirements of section 13(a) or 15(d) of the U.S. Securities Exchange Act of 1934; and

(ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: June 30, 2010

By: /s/ Líbano Miranda Barroso  
Líbano Miranda Barroso  
Chief Executive Officer

**Exhibit 13.4**

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

In connection with the Annual Report of TAM Linhas Aéreas S.A. (the "Company") on Form 20-F for the fiscal year ended December 31, 2009, as filed with the U.S. Securities and Exchange Commission on the date hereof (the "Report"), I, Ricardo Froes Alves Ferreira, Chief Financial Officer, certify, pursuant to 18 U.S.C. section 1350, as adopted pursuant to section 906 of the U.S. Sarbanes-Oxley Act of 2002, that to the best of my knowledge:

(i) the Report fully complies with the requirements of section 13(a) or 15(d) of the U.S. Securities Exchange Act of 1934; and

(ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: June 30, 2010

By: /s/ Ricardo Froes Alves Ferreira  
Ricardo Froes Alves Ferreira  
Chief Financial Officer

**Exhibit 13.5**

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

In connection with the Annual Report of TAM Capital Inc. (the "Company") on Form 20-F for the fiscal year ended December 31, 2009, as filed with the U.S. Securities and Exchange Commission on the date hereof (the "Report"), I, Libano Miranda Barroso, Chief Executive Officer, certify, pursuant to 18 U.S.C. section 1350, as adopted pursuant to section 906 of the U.S. Sarbanes-Oxley Act of 2002, that to the best of my knowledge:

(i) the Report fully complies with the requirements of section 13(a) or 15(d) of the U.S. Securities Exchange Act of 1934; and

(ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: June 30, 2010

By: /s/ Libano Miranda Barroso

Libano Miranda Barroso  
Chief Executive Officer

**Exhibit 13.6**

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

In connection with the Annual Report of TAM Capital Inc. (the "Company") on Form 20-F for the fiscal year ended December 31, 2009, as filed with the U.S. Securities and Exchange Commission on the date hereof (the "Report"), I, Libano Miranda Barroso, Chief Financial Officer, certify, pursuant to 18 U.S.C. section 1350, as adopted pursuant to section 906 of the U.S. Sarbanes-Oxley Act of 2002, that to the best of my knowledge:

(i) the Report fully complies with the requirements of section 13(a) or 15(d) of the U.S. Securities Exchange Act of 1934; and

(ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: June 30, 2010

By: /s/ Libano Miranda Barroso  
Libano Miranda Barroso  
Chief Financial Officer

**Exhibit 15.1**

**Consent of Engeval Engenharia de Avaliações Ltda**

June 23, 2010

TAM S.A.  
TAM Linhas Aéreas S.A.  
TAM Capital Inc.

c/o TAM S.A.  
Av. Jurandir, 856, Lote 4, 1º andar  
04072-000, São Paulo, SP  
Federative Republic of Brazil

Ladies and Gentlemen:

We, Engeval Engenharia de Avaliações Ltda., part of the ArcaLaudis — Global Network of International Valuers and Loss Assessors, hereby consent to being named in the Annual Report on Form 20-F of TAM S.A., TAM Linhas Aéreas S.A. and TAM Capital Inc. (together, "TAM") for the year ended December 31, 2009 (the "2009 20-F") in reference to our preparation of valuations of TAM's flight equipment as at January 1, 2007, December 31, 2007, December 31, 2008 and December 31, 2009.

We also consent to the incorporation by reference of the 2009 20-F into the Registration Statement on Form F-3 of TAM S.A. (File No. 333-147020), TAM Linhas Aéreas S.A. (File No. 333-147020-01) and TAM Capital Inc. (File No. 333-147020-02), in each case including all amendments thereto.

Very truly yours,

Engeval Engenharia de Avaliações Ltda.  
part of the ArcaLaudis — Global Network of International Valuers and Loss  
Assessors

/s/ Normado Descio  
Normado Descio

Exhibit 15.2

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We hereby consent to the incorporation by reference in the Registration Statement on Form F-3 of TAM S.A. (File No. 333-147020), TAM Linhas Aéreas S.A. (File No. 333-147020-01) and TAM Capital Inc. (File No. 333-147020-02), of our report dated June 29, 2010 relating to the financial statements and the effectiveness of internal control over financial reporting, which appears in this Form 20-F of TAM S.A., TAM Linhas Aéreas S.A. and TAM Capital Inc. (together, “**TAM**”) for the year ended December 31, 2009.

São Paulo, Brazil, June 29, 2010

/s/ PricewaterhouseCoopers Auditores Independentes  
PricewaterhouseCoopers  
Auditores Independentes