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# UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

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## FORM 10-Q

(Mark One)

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

For the quarterly period ended December 31, 2009

OR

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number: 000-24786

### Aspen Technology, Inc.

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of  
incorporation or organization)

**04-2739697**

(I.R.S. Employer  
Identification No.)

**200 Wheeler Road**

**Burlington, Massachusetts**  
(Address of principal executive  
offices)

**01803**

(Zip Code)

**(781) 221-6400**

(Registrant's telephone number, including area code)

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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 twelve 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 is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large Accelerated Filer

Accelerated Filer

Non-Accelerated Filer

Smaller reporting company

(Do not check if a  
smaller reporting company)

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

As of February 2, 2010, there were 91,773,023 shares of the registrant's common stock (par value \$0.10 per share) outstanding.

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Our registered trademarks include aspenONE, AspenTech and HYSYS.

## PART I—FINANCIAL INFORMATION

## Item 1. Financial Statements.

## Condensed Consolidated Financial Statements (unaudited)

## ASPEN TECHNOLOGY, INC. AND SUBSIDIARIES

## CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS

(Unaudited and in thousands, except per share data)

	Three Months Ended December 31,		Six Months Ended December 31,	
	2009	2008	2009	2008
<b>Revenue:</b>				
Subscription	\$ 1,214	\$ —	\$ 1,239	\$ —
Software	8,976	47,272	20,058	96,909
Total subscription and software	10,190	47,272	21,297	96,909
Services and other	32,496	35,355	61,185	72,124
Total revenue	42,686	82,627	82,482	169,033
<b>Cost of revenue:</b>				
Subscription and software	1,677	2,877	3,450	5,524
Services and other	14,792	15,287	30,488	31,806
Total cost of revenue	16,469	18,164	33,938	37,330
Gross profit	26,217	64,463	48,544	131,703
<b>Operating costs:</b>				
Selling and marketing	23,757	19,988	44,309	42,113
Research and development	12,515	10,514	23,409	23,166
General and administrative	19,226	14,276	34,640	28,391
Restructuring charges	32	231	303	265
Loss (gain) on sales and disposals of assets	2	(1)	2	3
Impairment of goodwill and intangible assets	—	623	—	623
Total operating costs	55,532	45,631	102,663	94,561
(Loss) income from operations	(29,315)	18,832	(54,119)	37,142
Interest income	5,083	5,955	10,532	11,870
Interest expense	(2,480)	(2,743)	(4,891)	(5,597)
Other income (expense), net	(222)	2,920	2,047	(661)
(Loss) income before provision for income taxes	(26,934)	24,964	(46,431)	42,754
Provision for income taxes	(3,723)	(2,003)	(5,288)	(8,140)
Net (loss) income	\$ (30,657)	\$ 22,961	\$ (51,719)	\$ 34,614
<b>(Loss) earnings per common share:</b>				
Basic	\$ (0.34)	\$ 0.26	\$ (0.57)	\$ 0.38
Diluted	\$ (0.34)	\$ 0.25	\$ (0.57)	\$ 0.37
<b>Weighted average shares outstanding:</b>				
Basic	91,002	90,043	90,538	90,031
Diluted	91,002	92,030	90,538	93,055

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**ASPEN TECHNOLOGY, INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**  
(Unaudited and in thousands, except share data)

	December 31, 2009	June 30, 2009
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 109,437	\$ 122,213
Accounts receivable, net of allowance for doubtful accounts of \$3,840 and \$5,809	35,507	49,882
Current portion of installments receivable, net of allowance for doubtful accounts of \$990 and \$1,015	52,405	64,531
Current portion of collateralized receivables, net of unamortized discount	30,874	38,695
Unbilled services	1,859	298
Prepaid expenses and other current assets	6,075	9,413
Prepaid income taxes	13,593	13,159
Deferred tax assets	3,839	3,795
<b>Total current assets</b>	<b>253,589</b>	<b>301,986</b>
Non-current installments receivable, net of allowance for doubtful accounts of \$1,682 and \$1,663	104,144	113,390
Non-current collateralized receivables, net of unamortized discount	49,607	57,671
Property, equipment and leasehold improvements, net of accumulated depreciation of \$28,703 and \$27,438	9,154	9,604
Computer software development costs	2,560	3,918
Goodwill	17,672	16,686
Non-current deferred tax assets	10,737	10,788
Other non-current assets	1,854	1,933
<b>Total assets</b>	<b>\$ 449,317</b>	<b>\$ 515,976</b>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current liabilities:		
Current portion of secured borrowing	\$ 33,166	\$ 83,885
Accounts payable	6,972	5,135
Accrued expenses	39,819	47,882
Income taxes payable	3,387	1,888
Deferred revenue	57,592	62,801
Current deferred tax liability	2,496	2,481
<b>Total current liabilities</b>	<b>143,432</b>	<b>204,072</b>
Long-term secured borrowing	63,347	28,211
Deferred revenue	15,401	16,070
Non-current deferred tax liability	2,362	2,354
Other non-current liabilities	33,065	35,859
Commitments and contingencies (Note 11)		
Stockholders' equity:		
Series D redeemable convertible preferred stock, \$0.10 par value—		
Authorized—3,636 shares as of December 31, 2009 and June 30, 2009		
Issued and outstanding—none as of December 31, 2009 and June 30, 2009	—	—
Common stock, \$0.10 par value—Authorized—210,000,000 shares		
Issued—91,741,941 shares as of December 31, 2009 and 90,326,513 shares at June 30, 2009		
Outstanding—91,508,477 shares at December 31, 2009 and 90,093,049 shares at June 30, 2009	9,174	9,033
Additional paid-in capital	509,880	497,478
Accumulated deficit	(335,312)	(283,593)
Accumulated other comprehensive income	8,481	7,005
Treasury stock, at cost—233,464 shares of common stock as of December 31, 2009 and June 30, 2009	(513)	(513)
<b>Total stockholders' equity</b>	<b>191,710</b>	<b>229,410</b>
	<b>\$ 449,317</b>	<b>\$ 515,976</b>

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**ASPEN TECHNOLOGY, INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**

(Unaudited and in thousands)

	Six Months Ended December 31,	
	2009	2008
Cash flows from operating activities:		
Net (loss) income	\$ (51,719)	\$ 34,614
Adjustments to reconcile net (loss) income to net cash (used in) provided by operating activities		
Depreciation and amortization	3,729	4,615
Net foreign currency (gain) loss	(126)	2,025
Stock-based compensation	11,532	2,379
Loss on disposal of property, equipment and leasehold improvements	43	299
Deferred income taxes	41	1,273
Provision for doubtful accounts	(75)	516
Loss on impairment of goodwill and intangible assets	—	628
Changes in assets and liabilities:		
Accounts receivable	14,467	30,067
Unbilled services	(1,565)	840
Prepaid expenses, other current assets and prepaid income taxes	2,963	(10,744)
Installments and collateralized receivables	38,202	(12,043)
Income taxes payable	1,437	(2,507)
Accounts payable, accrued expenses and other current liabilities	(8,421)	(16,201)
Deferred revenue	(5,862)	(28,575)
Net cash provided by operating activities	<u>4,646</u>	<u>7,186</u>
Cash flows from investing activities:		
Purchase of property, equipment and leasehold improvements	(1,592)	(1,391)
Capitalized computer software development costs	(265)	(1,465)
Net cash used in investing activities	<u>(1,857)</u>	<u>(2,856)</u>
Cash flows from financing activities:		
Exercise of stock options	3,652	—
Proceeds from secured borrowings	—	5,532
Repayment of secured borrowings	(16,365)	(19,905)
Payment of tax withholding obligations related to restricted stock	(2,694)	(205)
Net cash used in financing activities	<u>(15,407)</u>	<u>(14,578)</u>
Effects of exchange rate changes on cash and cash equivalents	(158)	(997)
Decrease in cash and cash equivalents	(12,776)	(11,245)
Cash and cash equivalents, beginning of period	122,213	134,048
Cash and cash equivalents, end of period	<u>\$ 109,437</u>	<u>\$ 122,803</u>
Supplemental disclosure of cash flow information:		
Interest paid	4,894	5,633
Income taxes paid	4,629	18,226

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS****1. Interim Unaudited Condensed Consolidated Financial Statements**

The accompanying interim unaudited condensed consolidated financial statements (Interim Financial Statements) of Aspen Technology, Inc. and its subsidiaries have been prepared on the same basis as our annual consolidated financial statements. We condensed or omitted certain information and footnote disclosures normally included in our annual consolidated financial statements. Such Interim Financial Statements have been prepared in conformity with U.S. generally accepted accounting principles (GAAP), as defined in the Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) 270, for interim financial information and with the instructions to Rule 10-01 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by GAAP for complete financial statements. It is suggested that these Interim Financial Statements be read in conjunction with the audited consolidated financial statements for the year ended June 30, 2009, which are contained in our Annual Report on Form 10-K as previously filed with the U.S. Securities and Exchange Commission (SEC). In the opinion of management, all adjustments, consisting of normal and recurring adjustments, considered necessary for a fair presentation of the financial position, results of operations, and cash flows at the dates and for the periods presented have been included and all intercompany accounts and transactions have been eliminated in consolidation. The results of operations for the three and six months ended December 31, 2009 are not necessarily indicative of the results to be expected for the full fiscal year.

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions. These estimates and assumptions affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expense during the reporting period. Actual results could differ from those estimates.

Unless the context requires otherwise, references to we, our and us refer to Aspen Technology, Inc. and our subsidiaries.

**2. Immaterial Correction of Errors**

During the first and second quarters of fiscal 2010, we identified errors related to stock compensation expense, license and professional services revenue, and income taxes that originated in prior periods and concluded that the errors were not material to any of the previously reported periods. These immaterial errors were corrected in the first and second quarter 2010 Interim Financial Statements. The impact to certain captions in the unaudited condensed consolidated statement of operations for the three and six months ended December 31, 2009, resulting from these out-of-period components of the immaterial corrections, is as follows (in thousands):

	<u>Three Months Ended</u> <u>December 31, 2009</u> Increase (Decrease)	<u>Six Months Ended</u> <u>December 31, 2009</u> Increase (Decrease)
Total revenue	\$ (370)	\$ (277)
Income (loss) from operations	(370)	(1,092)
Income (loss) before provision for income taxes	(370)	(1,092)
Net income (loss)	(1,540)	(2,842)

During the first quarter of fiscal 2009, we identified certain errors related to income taxes, stock compensation expense, and foreign transactions that originated in prior periods and concluded that the errors were not material to any of the previously reported periods. These immaterial errors were

**NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)****2. Immaterial Correction of Errors (Continued)**

corrected in the first fiscal quarter 2009 Interim Financial Statements. The impact to certain captions in the unaudited condensed consolidated statement of operations for the six months ended December 31, 2008, resulting from these out-of-period components of the immaterial corrections, is as follows (in thousands):

	<u>Six Months Ended</u> <u>December 31, 2008</u> Increase (Decrease)
Total revenue	\$ —
Income from operations	887
Income before provision for income taxes	315
Provision for income taxes	(3,933)
Net income	(3,618)

**3. Significant Accounting Policies*****Revenue Recognition***

We generate revenue from the following sources: (1) licensing software products; (2) providing post contract support (referred to as SMS); and (3) providing professional services including consulting and training. We sell our software products to end users under fixed-term and perpetual licenses. As a standard business practice, we offer extended payment term options for our fixed-term license contracts, which are generally payable on an annual basis. Certain of our fixed-term license agreements include product mixing rights that allow customers the flexibility to change or alternate the use of multiple products included in the license arrangement after those products are delivered to the customer. We refer to these arrangements as token arrangements. Tokens are fixed units of measure. The amount of software usage is limited by the value of the tokens purchased by the customer.

Historically, we executed software license arrangements that included contractual provisions that resulted in the "upfront" recognition of license revenue upon delivery of the software products provided all other revenue recognition requirements were met. We refer to these traditional licensing arrangements as our "upfront revenue model".

In the first quarter of fiscal 2010, we began offering a new term licensing model for our software. This new licensing model includes contractual provisions that provide customers with greater flexibility, in that customers receive SMS for the term of the arrangement and the right to unspecified future software products that may be introduced during the term of the arrangement for no additional fee. We refer to this licensing model as the new aspenONE licensing model. Under this licensing model, we recognize revenue over the term of the agreement on a subscription basis, beginning when the first payment is due, typically 30 days after signing the agreement, provided all other revenue recognition requirements are met.

Additionally, in the first quarter of fiscal 2010, we also began licensing fixed-term point product arrangements in which customers receive SMS for the term of the arrangement. With the inclusion of SMS for the full term of the license, revenue can no longer be recognized under the upfront revenue model as the aggregate fees are not considered fixed or determinable. Revenue for these arrangements will be recognized as payments become due over the term of the contract, provided all other revenue recognition requirements are met. The related SMS is recognized over the term of the SMS agreement beginning with the due date of the annual payment and reported in services and other on the

**NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)****3. Significant Accounting Policies (Continued)**

consolidated statements of operations. Occasionally, we expect certain customers to elect upfront payment terms. For these arrangements with upfront payment, all of the license revenue will be recognized upfront by applying the residual method of accounting when the four revenue recognition requirements below have been met.

Over the next several years, we expect to transition substantially all of our customers to our new aspenONE licensing model or to point product arrangements with SMS bundled for the contract term. However, during this transition period we expect to execute some license contracts under the upfront revenue model, including perpetual licenses, which will continue to be recognized on an upfront basis.

Four basic criteria must be satisfied before software license revenue can be recognized: persuasive evidence of an arrangement between us and an end user; delivery of our product has occurred; the fee for the product is fixed or determinable; and collection of the fee is probable.

*Persuasive evidence of an arrangement*—We use a contract signed by the customer as evidence of an arrangement for software licenses and SMS. For professional services we use a signed contract and a statement of work to evidence an arrangement. In cases where both a signed contract and a purchase order are required by the customer, we consider both taken together as evidence of the arrangement.

*Delivery of our product*—Software and the corresponding access keys are generally delivered to customers via disk media with standard shipping terms of Free Carrier, Aspen Technology's warehouse (i.e., FCA, named place). Our software license agreements do not contain conditions for acceptance.

*Fee is fixed or determinable*—We assess whether a fee is fixed or determinable at the outset of the arrangement. Significant judgment is involved in making this assessment.

Under our upfront revenue model, we are able to demonstrate that the fees are fixed or determinable for all arrangements, including those for our term licenses that contain extended payment terms. We have an established history of collecting under the terms of these contracts without providing concessions to customers. In addition, we also assess whether contract modifications to an existing term arrangement constitute a concession. In making this assessment, significant analysis is performed to ensure that no concessions are given. Our software license agreements do not include right of return or exchange. For license arrangements executed under the upfront revenue model, we recognize license revenue upon delivery of the software products, provided all other revenue recognition requirements are met.

With the introduction of the new aspenONE licensing model, and the changes to the licensing terms of our historical point product agreements sold on a fixed-term basis, we cannot assert that the fees in these arrangements are fixed or determinable because the rights provided to customers and the economics of the arrangements are not comparable to our historical transactions with other customers under the upfront revenue model. As a result, the amount of revenue recognized for these new arrangements will be limited by the amount of customer payments currently due, which generally results in the fees being recognized over the term of the license contracts.

*Collection of fee is probable*—We assess the probability of collecting from each customer at the outset of the arrangement based on a number of factors, including the customer's payment history, its current creditworthiness, economic conditions in the customer's industry and geographic location, and general economic conditions. If in our judgment collection of a fee is not probable, revenue is recognized as cash is collected, provided all other conditions for revenue recognition have been met.



**NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)****3. Significant Accounting Policies (Continued)**

We have established vendor-specific objective evidence (VSOE) of fair value for SMS and professional services, but not for our software products. Our VSOE determination is based upon the price charged to similarly situated customers when the elements are sold separately. We allocate the arrangement consideration among the elements included in our multi-element arrangements using the residual method. Under the residual method, the VSOE of the undelivered elements is deferred, and the remaining portion of the arrangement fee for perpetual and term licenses is recognized as revenue upon delivery of the software, assuming all other revenue recognition criteria are met. If VSOE does not exist for an undelivered element in an arrangement, revenue is deferred until such evidence does exist for the undelivered elements, or until all elements are delivered, whichever is earlier.

Under the upfront revenue model, the residual license fee is recognized upfront upon delivery of the software provided all other revenue recognition criteria were met. For arrangements entered into since July 2009, the arrangement fees are generally recognized over the term of the license agreement since these arrangements include contractual provisions such as rights to future unspecified software products for no additional fee or because we cannot assert that the fees are fixed or determinable.

**Subscription Revenue**

When our fixed-term customers elect to license our products under the new aspenONE licensing model, SMS is included for the entire term of the arrangement and the customer receives the right to unspecified future software products that may be introduced during the term of the arrangement for no additional fee. These agreements combine the right to use all software products within a given product suite with SMS for the term of the arrangement. Due to our obligation to provide unspecified future software products, we are required to recognize the revenue ratably (i.e., on a subscription basis) over the term of the license, once the four revenue recognition criteria noted above are met. License and SMS revenue for arrangements sold under the new aspenONE licensing model are combined and presented together as subscription revenue in the consolidated statement of operations.

**Software Revenue**

Software revenue consists of all license transactions that do not contain rights to future unspecified software products for no additional fee. Specifically, it includes license revenue recognized under the upfront revenue model upon the delivery of the license products (i.e., both perpetual and term license contracts); license revenue recognized over the term of the license agreements for fixed-term contracts including point product licenses with SMS bundled for the entire license term; and other license revenue derived from transactions that are being recognized over time as the result of not previously meeting one or more of the requirements for recognition under the upfront revenue model.

The license fees derived from the sale of fixed-term point product arrangements with SMS included for the contract term are recognized under the residual method, as payments come due. The related SMS is recognized over the term of the SMS agreement beginning with the due date of the annual payment and is reported in services and other on the consolidated statement of operations. Occasionally, we expect certain customers to elect upfront payment terms. For these arrangements with upfront payment, all of the license revenue will be recognized upfront by applying the residual method of accounting when the above four revenue recognition requirements have been met.

Perpetual license arrangements do not include the same rights as those provided to customers under the new aspenONE licensing model. Accordingly, the license fees for perpetual license agreements will continue to be recognized upon delivery of the software products using the residual

**NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)****3. Significant Accounting Policies (Continued)**

method provided all other revenue recognition requirements are met. The revenue attributable to perpetual software licenses is recognized in software revenue in the consolidated statement of operations.

**Services and Other****SMS Revenue**

Under the upfront revenue model, SMS is typically bundled with the license for the initial year of the license term. Under these arrangements, the fair value of SMS is deferred and subsequently amortized into service and other in the consolidated statement of operations over the contractual term of the SMS arrangement. SMS renewals are at the option of the customer.

For arrangements executed under the new aspenONE licensing model or where point product licenses are sold with SMS for the contract term, the customer commits to SMS for the entire term of the license arrangement. The revenue related to the SMS component of the new aspenONE licensing model is reported in subscription revenue in the consolidated statements of operations. The revenue related to the SMS component of point product licenses, for which we have VSOE, is reported in services and other in the consolidated statement of operations.

**Professional Services**

Professional services are provided to customers on a time-and-materials (T&M) or fixed-price basis and are generally recognized as the services are performed, assuming all other revenue recognition criteria have been met. We recognize professional services fees for our T&M contracts based upon hours worked and contractually agreed-upon hourly rates. Revenue from fixed-price engagements is recognized using the proportional performance method based on the ratio of costs incurred, substantially all of which are labor-related, to the total estimated project costs. All revenue amounts are recognized within services and other in the statement of operations. Project costs are based on standard rates, which vary by the consultant's professional level, plus all direct expenses incurred to complete the engagement that are not reimbursed by the client. All project costs are expensed as incurred. The use of the proportional performance method is dependent upon our ability to reliably estimate the direct costs to complete a project. We use historical experience as a basis for future estimates to complete current projects. Additionally, management believes that costs are the best available measure of performance. Reimbursables received from customers for out-of-pocket expenses are recorded as revenue. If the costs to complete a project are not estimable or the completion is uncertain, the revenue is recognized upon completion of the services. Revenue from committed professional services arrangements that are sold within close proximity or in contemplation of a new aspenONE license transaction is deferred and recognized on a ratable basis over the term of the related software arrangement.

Occasionally, we provide professional services considered essential to the functionality of the software. We recognize the combined revenue from the sale of the software and related services using the percentage-of-completion method. However, when these professional services are combined with, and essential to, the functionality of a new aspenONE license transaction, the amount of combined revenue recognized will be the lesser of the amount determined by either the subscription method or the percentage-of-completion method.

**NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)****3. Significant Accounting Policies (Continued)**

In the past, we have occasionally been required to commit unanticipated additional resources to complete projects, which have resulted in lower than anticipated income or losses on those contracts. We may experience similar situations in the future. Provisions for estimated losses on contracts are made during the period in which such losses become probable and can be reasonably estimated. To date, such losses have not been significant.

**Installments Receivable**

Installments receivable resulting from product sales under the upfront revenue model are discounted to present value at prevailing market rates. Finance fees are recognized using the effective interest method over the relevant license term and are classified as interest income. The amount of the installments receivable is split between current and non-current in the consolidated balance sheets.

Under the new aspenONE licensing model and for point product arrangements sold with SMS bundled for the entire license term, receivables are recorded when the payments become due and payable. Payment amounts under extended payment term arrangements are not presented in the consolidated balance sheets as the related arrangement fees are not fixed or determinable. As a result, all contractual payments will be recorded as revenue on a gross basis in the consolidated statements of operations either as subscription or software revenue.

**Deferred Revenue**

Under the upfront revenue model and point product arrangements, a portion of the arrangement fee is generally recorded as deferred revenue due to the inclusion of an undelivered element, typically SMS. The amount of revenue allocated to undelivered elements is based on the VSOE of fair value for those elements using the residual method and is earned and recognized as revenue as each element is delivered. Deferred revenue related to these transactions generally consists of SMS and represents payments received in advance of services rendered as of the balance sheet dates.

Under the new aspenONE licensing model, customers receive SMS for the full contract term, and receive rights to unspecified future products for no additional fee. As VSOE does not exist for both of these undelivered elements, we are required to recognize the revenue ratably (i.e., on a subscription basis) over the term of the license. Therefore, deferred revenue is recorded as each payment comes due and revenue is recognized ratably over the associated license period.

**Other Licensing Matters**

Our standard licensing agreements include a product warranty provision. Such warranties are accounted for in accordance with ASC 460, "Guarantees" (ASC 460). The likelihood that we will be required to make refunds to customers under such provisions is considered remote. Historically, any such payments have been de minimis.

Under the terms of substantially all of our license agreements, we have agreed to indemnify customers for costs and damages arising from claims against such customers based on, among other things, allegations that our software products infringe the intellectual property rights of a third party. In most cases, in the event of an infringement claim, we retain the right to (i) procure for the customer the right to continue using the software product; (ii) replace or modify the software product to eliminate the infringement while providing substantially equivalent functionality; or (iii) if neither (i) nor (ii) can be reasonably achieved, we may terminate the license agreement and provide a refund

**NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)****3. Significant Accounting Policies (Continued)**

to the customer up to the license fees paid by the customer. Such indemnification provisions are accounted for in accordance with ASC 460. The likelihood that we will be required to make refunds to customers under such provisions is considered remote. In most cases and where legally enforceable, the indemnification is limited to the amount paid by the customer.

***Legal fees and contingencies***

We accrue estimated future legal fees associated with claims, assessments or litigation for which management has determined that it is probable that a loss contingency exists. Liabilities for loss contingencies arising from claims, assessments, litigation and other sources are recorded when it is probable that a liability has been incurred and the amount of the claim, assessment or damages can be reasonably estimated. We believe that we have sufficient accruals to cover any obligations resulting from claims, assessments or litigation that have met this criteria.

***Reclassifications***

Certain line items in the prior period financial statements have been reclassified to conform to currently reported presentations.

For further information with regard to our "Significant Accounting Policies," please refer to Note 2 of our Consolidated Financial Statements and Notes thereto included in our Annual Report on Form 10-K for the fiscal year ended June 30, 2009.

**4. Goodwill**

We test goodwill for impairment annually at the reporting unit level using a fair value approach in accordance with the provisions of ASC 350, "Intangibles—Goodwill and Other." We conduct our annual impairment test as of December 31 of each year. The initial step requires us to determine the fair value of each reporting unit and compare it to the carrying value, including goodwill, of such reporting unit. If the fair value exceeds the carrying value, no impairment loss is to be recognized. However, if the carrying value of the reporting unit exceeds its fair value, the goodwill of this unit may be impaired. The amount of impairment, if any, is then measured based upon the estimated fair value of goodwill at the valuation date. As of December 31, 2009, we performed a goodwill impairment test for each reporting unit and determined that the estimated fair values substantially exceeded the carrying values. As such, no impairment losses were recognized as a result of the analysis.

In late calendar 2008, certain negative macroeconomic factors began to impact the global credit markets and we noted significant unfavorable trends in business conditions in the second quarter of fiscal 2009. In connection with preparing the annual impairment assessment, we identified significant deterioration in the expected future financial performance of our professional services segment compared to the expected future financial performance of this segment at the end of fiscal 2008. As a result, we recognized goodwill and intangible assets impairments of \$0.5 million and \$0.1 million, respectively, in the professional services segment during the second fiscal quarter of 2009, which ended December 31, 2008 to write off all of the goodwill and intangible assets of this reporting unit.

**5. Income Taxes**

The provision for income taxes in the three months ended December 31, 2009 increased by \$1.7 million compared to the corresponding period in the prior year. The increase was primarily a result of higher profit before tax in our foreign subsidiaries.

## NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

### 5. Income Taxes (Continued)

The provision for income taxes in the six months ended December 31, 2009 decreased by \$2.9 million compared to the corresponding period in the prior year. This decrease was primarily due to the required recognition of additional reserves for uncertain tax positions in the amount of \$4.3 million in the first half of fiscal 2009 while no additional reserves were identified in the first half of fiscal 2010, partially offset by higher foreign taxes.

We are projecting a consolidated loss before tax in fiscal 2010 as a result of the change to the new aspenONE licensing model. While we are expecting profitable results for certain of our foreign subsidiaries, the loss is primarily related to U.S. results and, therefore, cannot be used to offset foreign income or reduce foreign taxes. Our foreign subsidiaries are required to remit income tax payments to their respective taxing authorities and will provide for such taxes on a quarterly basis.

### 6. Fair Value

Effective July 1, 2008, we adopted the provisions of ASC 820, "Fair Value Measurements and Disclosures" (ASC 820), for financial assets and financial liabilities. Effective July 1, 2009, we adopted the provisions of ASC 820 for non-financial assets and non-financial liabilities. ASC 820 defines fair value, establishes a framework for measuring fair value in GAAP and expands disclosures about fair value measurements.

ASC 820 defines fair value as the price that would be received to sell an asset, or paid to transfer a liability, in an orderly transaction between market participants. ASC 820 establishes a fair value hierarchy for valuation inputs that gives the highest priority to quoted prices in active markets for identical assets or liabilities and the lowest priority to unobservable inputs. The fair value hierarchy is as follows:

- Level 1 Inputs—Unadjusted quoted prices in active markets for identical assets or liabilities that the reporting entity has the ability to access at the measurement date.
- Level 2 Inputs—Inputs other than quoted prices included in Level 1 that are observable for the asset or liability, either directly or indirectly. These might include quoted prices for similar assets or liabilities in active markets, quoted prices for identical or similar assets or liabilities in markets that are not active, inputs other than quoted prices that are observable for the asset or liability (such as interest rates, volatilities, prepayment speeds, credit risks, etc.) or inputs that are derived principally from or corroborated by market data by correlation or other means.
- Level 3 Inputs—Unobservable inputs for determining the fair values of assets or liabilities that reflect an entity's own assumptions about the assumptions that market participants would use in pricing the assets or liabilities.

*Cash Equivalents.* Cash equivalents are reported at fair value utilizing Level 1 Inputs. We obtain quoted market prices in identical markets to estimate the fair value of our cash equivalents.

Financial instruments not measured or recorded at fair value in the accompanying financial statements consist of accounts receivable, installments receivable, collateralized receivables, accounts payable and secured borrowings. The estimated fair value of accounts receivable, installments receivable, collateralized receivables and accounts payable approximates the carrying value. The estimated fair value of secured borrowings exceeds the carrying value by \$3.6 million as of December 31, 2009. The fair value of secured borrowing was calculated using interest rates that were indirectly observable in markets for similar liabilities.

## NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

**6. Fair Value (Continued)**

The following table summarizes financial assets and financial liabilities measured and recorded at fair value on a recurring basis in the accompanying financial statements as of December 31, 2009, segregated by the level of the valuation inputs within the fair value hierarchy utilized to measure fair value (in thousands):

Description	December 31, 2009	Fair Value Measurement at Reporting Date Using		
		Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs Level (3)
Assets:				
Cash equivalents	\$ 77,000	77,000	—	—

Certain non-financial assets and non-financial liabilities measured at fair value on a recurring basis include reporting units measured at fair value in the first step of a goodwill impairment test. Certain non-financial assets measured at fair value on a non-recurring basis include non-financial assets and non-financial liabilities measured at fair value in the second step of a goodwill impairment test, as well as intangible assets and other non-financial long-lived assets measured at fair value for impairment assessment. The adoption of ASC 820 for non-financial assets and non-financial liabilities had no material impact on the financial statements as of and for the three and six months ended December 31, 2009.

**7. Supplementary Balance Sheet Information**

Accrued expenses in the accompanying unaudited condensed consolidated balance sheets consist of the following (in thousands):

	December 31, 2009	June 30, 2009
Royalties and outside commissions	\$ 6,285	\$ 8,627
Payroll and payroll-related	12,819	13,793
Restructuring accruals	4,496	4,974
Amounts due to receivable sale facilities for collections	1,942	2,724
Other	14,277	17,764
Total accrued expenses	\$ 39,819	\$ 47,882

Other non-current liabilities in the accompanying unaudited condensed consolidated balance sheets consist of the following (in thousands):

	December 31, 2009	June 30, 2009
Restructuring accruals	\$ 5,502	\$ 7,244
Deferred rent	2,249	2,333
Royalties and outside commissions	4,863	5,852
Other	20,451	20,430
Total other non-current liabilities	\$ 33,065	\$ 35,859

## NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

**8. Stock-Based Compensation***General Award Terms*

We issue stock options and restricted stock units (RSUs) to our employees and outside directors, pursuant to stockholder approved stock option plans. Option awards are generally granted with an exercise price equal to the market price of our stock at the date of grant; those options generally vest over four years and have 7 or 10-year contractual terms. Restricted stock units generally vest over four years. Historically, our practice has been to settle stock option exercises and restricted stock vesting through newly-issued shares.

*Stock-Based Compensation Accounting*

During the period from mid-September 2007 until November 9, 2009, we did not maintain our status as a timely filer with the SEC and we were unable to issue stock-based compensation to our directors and employees. On October 29, 2009 the Board of Directors approved the grant as of November 9, 2009 of 2,727,033 RSUs and 264,640 stock options under the 2005 Stock Incentive Plan and the 2001 Stock Option Plan, respectively. Since we were not able to grant awards during the period described above, a portion of the awards were vested immediately upon grant. The RSUs were valued at the stock price on the date of grant. We utilize the Black-Scholes valuation model for estimating the fair value of the stock compensation. The stock-based compensation expense and its classification (in thousands) in the statement of operations for the three and six months ended December 31, 2009 were as follows:

	Three Months Ended December 31,		Six Months Ended December 31,	
	2009	2008	2009	2008
Recorded as expense:				
Cost of service and other	\$ 734	\$ 110	\$ 957	\$ 167
Selling and marketing	3,559	416	4,329	297
Research and development	1,250	129	1,391	215
General and administrative	4,082	852	4,855	1,700
	9,625	1,507	11,532	2,379
Capitalized computer software development costs	—	25	—	25
Total stock-based compensation	\$ 9,625	\$ 1,532	\$ 11,532	\$ 2,404

The weighted-average fair values of the options granted under the 2001 Stock Option Plan during the six months ended December 31, 2009 were as follows:

Weighted-average fair value of options granted	\$ 3.96
Average risk-free interest rate	1.4%
Expected dividend yield	0.0%
Expected life	3.4
Expected volatility	57.3%

The dividend yield of zero is based on the fact that we have never paid cash dividends on common stock and have no present intention to pay cash dividends. Expected volatility is based on the historical volatility of our common stock over the period commensurate with the expected life of the options. The risk-free interest rate is the U.S. Treasury zero-coupon bond with a maturity commensurate with the

**NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)**
**8. Stock-Based Compensation (Continued)**

expected life of the options on the date of grant. In fiscal 2010, we calculated the estimated life considering historical exercise behavior, as well as anticipated future events that may affect volatility.

A summary of stock option and RSU activity under all stock option plans in the first half of fiscal 2010 is as follows:

	Stock Options				Restricted Stock Units	
	Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term	Aggregate Intrinsic Value (in 000's)	Shares	Weighted Average Grant Date Fair Value
Outstanding at June 30, 2009	7,569,215	\$ 7.61	4.3		150,613	\$ 10.42
Granted	—	—			—	—
Vested (RSUs)	—	—			(29,887)	10.42
Exercised	—	—			—	—
Cancelled / Forfeited	(2,940)	9.48			(2,126)	10.42
Outstanding at September 30, 2009	7,566,275	7.76			118,600	10.42
Granted	264,640	9.55			2,727,033	9.55
Vested (RSUs)	—	—			(919,119)	9.58
Exercised	(747,514)	4.89			—	—
Cancelled / Forfeited	(33,865)	23.40			(6,786)	\$ 9.83
Outstanding at December 31, 2009	7,049,536	\$ 7.90	4.7		1,919,728	\$ 9.59
Exercisable at December 31, 2009	6,776,392	\$ 7.80	4.5	\$ 21,446	—	—
Vested and expected to vest at December 31, 2009	6,979,061	\$ 7.87	4.6	\$ 21,465	1,821,189	\$ 9.59

In fiscal 2010, the total fair value of shares vested from RSU grants was \$ 9.1 million. At December 31, 2009, the total compensation cost related to all unvested stock options and RSUs not yet recognized was \$1.9 million and \$17.6 million, respectively and is expected to vest over the next two and one-half years.

The total intrinsic value of options exercised during the first half of fiscal 2010 was \$3.6 million. We received \$3.7 million in cash proceeds from option exercises during the first half of fiscal 2010.

**9. Net (Loss) Income per Common Share**

Basic (loss) income per share was determined by dividing net (loss) income by the weighted average common shares outstanding during the period. Diluted earnings per share was determined by dividing net (loss) income by diluted weighted average shares outstanding during the period. Diluted weighted average shares reflects the dilutive effect, if any, of potential common shares. To the extent their effect is dilutive, potential common shares include employee equity awards and warrants, based on the treasury stock method, and other commitments to be settled in common stock. For the three and six months ended December 31, 2009, all potential common shares were anti-dilutive due to the net



## NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

**9. Net (Loss) Income per Common Share (Continued)**

loss. The calculations of basic and diluted net (loss) income per share and basic and diluted weighted average shares outstanding are as follows (in thousands, except per share data):

	Three Months Ended December 31,						Six Months Ended December 31,					
	2009			2008			2009			2008		
	Loss	Shares	Per Share Amount	Income	Shares	Per Share Amount	Loss	Shares	Per Share Amount	Income	Shares	Per Share Amount
<b>Basic (loss) income per share:</b>												
Net (loss) income	\$ (30,657)	91,002	\$ (0.34)	\$ 22,961	90,043	\$ 0.26	\$ (51,719)	90,538	\$ (0.57)	\$ 34,614	90,031	\$ 0.38
<b>Diluted earnings per share:</b>												
Employee equity awards		—			1,642			—			2,596	
Warrants		—			345			—			428	
Net (loss) income giving effect to dilutive adjustments	\$ (30,657)	91,002	\$ (0.34)	\$ 22,961	92,030	\$ 0.25	\$ (51,719)	90,538	\$ (0.57)	\$ 34,614	93,055	\$ 0.37

The following potential common shares were excluded from the calculation of diluted weighted average shares outstanding because the exercise price of the employee equity awards and warrants exceeded the average market price for our common stock and/or their effect would be anti-dilutive at the balance sheet date (in thousands):

	Three Months Ended December 31,		Six Months Ended December 31,	
	2009	2008	2009	2008
	Employee equity awards and warrants	—	2,313	—

**10. Comprehensive (Loss) Income**

Comprehensive (loss) income is defined as the change in equity of a business enterprise during a period from transactions and other events and circumstances from non-owner sources. The components of comprehensive (loss) income for the three and six months ended December 31, 2009 and 2008 were as follows (in thousands):

	Three Months Ended December 31,		Six Months Ended December 31,	
	2009	2008	2009	2008
Net (Loss) Income	\$ (30,657)	\$ 22,961	\$ (51,719)	\$ 34,614
Foreign currency translation adjustments	(118)	(2,604)	1,476	(1,984)
Total comprehensive (loss) income	\$ (30,775)	\$ 20,357	\$ (50,243)	\$ 32,630

**NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)****11. Commitments and Contingencies****(a) FTC and Honeywell Settlement**

In December 2004, we entered into a consent decree with the Federal Trade Commission (FTC) with respect to a civil administrative complaint filed by the FTC in August 2003 alleging that our acquisition of Hyprotech Ltd. and related subsidiaries of AEA Technology plc (Hyprotech) in May 2002 was anticompetitive in violation of Section 5 of the Federal Trade Commission Act and Section 7 of the Clayton Act. In connection with the consent decree, we entered into an agreement with Honeywell International, Inc. (Honeywell) on October 6, 2004, pursuant to which we transferred our operator training business and certain rights to the intellectual property of various legacy Hyprotech products.

We are subject to ongoing compliance obligations under the FTC consent decree. On July 6, 2009, we announced that the FTC closed an investigation relating to the alleged violations of the decree, and issued an order modifying the consent decree. The modified order became final on August 20, 2009. The modification to the 2004 consent decree requires that we continue to provide the ability for users to save input variable case data for Aspen HYSYS and Aspen HYSYS Dynamics software in a standard "portable" format, which will make it easier for users to transfer case data from later versions of the products to earlier versions. We will also provide documentation to Honeywell of the Aspen HYSYS and Aspen HYSYS Dynamics input variables, as well as documentation of the covered heat exchange products. These requirements will apply to all existing and future versions of the covered products through up to 2014. In addition, in connection with the settlement of the related litigation with Honeywell, we have provided to Honeywell a license to modify and distribute (in object code form) certain versions of our flare system analyzer software.

**(b) Class action and opt-out claims**

In March 2006, we settled class action litigation, including related derivative claims, arising out of our originally filed consolidated financial statements for fiscal 2000 through 2004, the accounting for which we restated in March 2005. Certain members of the class representing 1,457,969 shares of common stock (or less than 1% of the shares putatively purchased during the class action period) opted out of the settlement and had the right to bring their own state or federal law claims against us, referred to as "opt-out" claims.

Opt-out claims were filed on behalf of the holders of approximately 1.1 million of such shares. One of these actions was settled and two were dismissed. The claims in the remaining action (described below) include claims against us and one or more of our former officers alleging securities and common law fraud, breach of contract, deceptive practices and/or rescissory damages liability, based on the restated results of one or more fiscal periods included in our restated consolidated financial statements referenced in the class action.

- *Herbert G. and Eunice E. Blecker v. Aspen Technology, Inc., et al.*, filed on June 5, 2006 in the Business Litigation Session of the Massachusetts Superior Court for Suffolk County and docketed as Civ. A. No. 06-2357-BLS1 in that court, was an opt-out claim asserted by persons who received 248,411 shares of our common stock in an acquisition. Fact discovery in this action closed on July 18, 2008, and a non-jury trial began on November 3, 2009 and concluded on November 24, 2009. On January 19, 2010 the court issued its order granting judgment in our favor and dismissing the case. On October 17, 2008, the plaintiffs had filed a new complaint in the Superior Court of the Commonwealth of Massachusetts, captioned *Herbert G. and Eunice E. Blecker v. Aspen Technology, Inc. et al.*, Civ. A. No. 08-4625-BLS1 (Blecker II). The sole claim in Blecker II is based on the Massachusetts Uniform Securities Act. We served a motion to dismiss

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

11. Commitments and Contingencies (Continued)

on December 3, 2008 which was granted on December 11, 2009. On January 5, 2010, the plaintiffs filed a notice of appeal with respect to that dismissal.

- *380544 Canada, Inc. et al. v. Aspen Technology, Inc.*, filed on February 15, 2007 in the federal district court for the Southern District of New York and docketed as Civ. A. No. 1:07-cv-01204-JFK in that court, is a claim asserted by persons who purchased 566,665 shares of our common stock in a private placement. Certain motions to dismiss filed by other defendants were resolved on May 5, 2009, and discovery is scheduled to conclude in May 2010.

The claims in the *380544 Canada* action referenced above are for damages totaling at least \$4.0 million, not including claims for attorneys' fees. We plan to defend the *380544 Canada* action vigorously. We can provide no assurance as to the outcome of this case or the likelihood of the filing of additional opt-out claims, and these claims may result in judgments against us for significant damages. Regardless of the outcome, such litigation has resulted in the past, and may continue to result in the future, in significant legal expenses and may require significant attention and resources of management, all of which could result in losses and damages that have a material adverse effect on our business.

**(c) ATME Arbitration**

Prior to October 6, 2009, we had an exclusive reseller relationship covering certain countries in the Middle East with a reseller known as AspenTech Middle East W.L.L., a Kuwait corporation ("ATME" or the reseller). Effective October 6, 2009, we terminated the reseller relationship for material breach by the reseller based on certain actions of the reseller.

On November 2, 2009, ATME commenced an action in the Queen's Bench Division (Commercial Court) of the High Court of Justice (England & Wales) captioned *In The Matter Of An Intended Arbitration Between AspenTech Middle East W.L.L. And Aspen Technology, Inc.*, 2009 Folio 1436, seeking preliminary injunctive relief restraining us from taking any steps to impede ATME from serving as our exclusive reseller in the countries included in our agreement with ATME. We filed evidence in opposition to that request for relief on November 12, 2009. At a hearing on November 13, 2009, the court dismissed ATME's application for preliminary injunctive relief. The court sealed an Order to this effect on November 23, 2009, and further ordered that ATME pay our costs of claim, specifically by making a payment on account in the amount of ninety thousand pounds (£90,000) with the balance to go to detailed assessment on an indemnity basis.

Relatedly, on November 11, 2009, we commenced an arbitration against ATME in the International Court of Arbitration of the International Chamber of Commerce, captioned *Aspen Technology, Inc. v. AspenTech Middle East W.L.L.*, Case No. 16732/VRO, by filing a request for arbitration in that court. Our request for arbitration asserted claims against ATME seeking a declaration that ATME committed a material breach of our agreement and that our termination of our agreement was lawful, and seeking damages for ATME's willful misconduct in connection with the reseller relationship. On November 18, 2009, ATME filed its answer to that request for arbitration and asserted counterclaims against us seeking a declaratory judgment that we unlawfully terminated our agreement with ATME, and seeking damages for breach of contract by reason of our purported unlawful termination of our agreement. Our reply to those counterclaims was filed on or about December 18, 2009.

While we believe that ATME's claims are without merit and that we were entitled to terminate the reseller relationship, we can provide no assurance as to the outcome of the dispute. Regardless of the

**NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)****11. Commitments and Contingencies (Continued)**

outcome, such claims may result in significant legal expenses and may require significant attention and resources of management, all of which could result in losses and damages that have a material adverse effect on our business. The reseller agreement document relating to the terminated relationship contained a provision whereby we could be liable for a termination fee if the agreement were terminated other than for material breach. This fee would be calculated based on a formula contained in the reseller agreement that we believe was originally developed based on certain assumptions about the future financial performance of the reseller, as well as the reseller's actual financial performance. Based on the formula and the financial information provided to us by the reseller, which we have not had the opportunity to verify independently, a recent calculation associated with termination other than for material breach based on the formula would result in a termination fee of between \$60 million and \$77 million. Under the terminated reseller agreement document, no termination fee is owed on termination for material breach.

**(d) Other**

We are currently defending a customer claim of approximately \$5 million that certain of our software products and implementation services failed to meet customer expectations. Although we are defending the claim vigorously, the results of litigation and claims cannot be predicted with certainty, and unfavorable resolutions are possible and could materially affect our results of operations, cash flows or financial position. In addition, regardless of the outcome, litigation could have an adverse impact on us because of defense costs, diversion of management resources and other factors.

**12. Segment Information**

Operating segments are defined as components of an enterprise about which separate financial information is available that is evaluated regularly by the chief operating decision-maker, or decision-making group, in deciding how to allocate resources and in assessing performance. Our chief operating decision-maker is our Chief Executive Officer.

We have three operating segments: a) license; b) maintenance, training and other; and c) professional services. The chief operating decision-maker assesses financial performance and allocates resources based upon these three lines of business.

The license line of business is engaged in the development and licensing of software. The maintenance, training and other line of business provides customers with a wide range of support services that include on-site support, telephone support, software updates and various forms of training on how to use our products. The professional services line of business offers implementation, advanced process control, real-time optimization and other professional services in order to provide customers with complete solutions.

The accounting policies of the operating segments are the same as those described in the summary of significant accounting policies. We do not track assets or capital expenditures by operating segments. Consequently, it is not practical to show assets, capital expenditures, depreciation or amortization by operating segments.

## NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## 12. Segment Information (Continued)

The following table presents a summary of operating segments for the three and six months ended December 31, 2009 and 2008 (in thousands):

	License	Maintenance, Training, and Other	Professional Services	Total
<b>Three Months Ended December 31, 2009—</b>				
Segment revenue	\$ 10,190	\$ 19,663	\$ 12,833	\$ 42,686
Segment expenses	15,880	3,839	7,956	27,675
Segment operating (loss) profit(1)	<u>\$ (5,690)</u>	<u>\$ 15,824</u>	<u>\$ 4,877</u>	<u>\$ 15,011</u>
<b>Three Months Ended December 31, 2008—</b>				
Segment revenue	\$ 47,272	\$ 22,477	\$ 12,878	\$ 82,627
Segment expenses	14,687	3,448	9,437	27,572
Segment operating profit(1)	<u>\$ 32,585</u>	<u>\$ 19,029</u>	<u>\$ 3,441</u>	<u>\$ 55,055</u>
<b>Six Months Ended December 31, 2009—</b>				
Segment revenue	\$ 21,297	\$ 38,653	\$ 22,532	\$ 82,482
Segment expenses	30,399	7,524	17,789	55,712
Segment operating (loss) profit(1)	<u>\$ (9,102)</u>	<u>\$ 31,129</u>	<u>\$ 4,743</u>	<u>\$ 26,770</u>
<b>Six Months Ended December 31, 2008—</b>				
Segment revenue	\$ 96,909	\$ 43,820	\$ 28,304	\$ 169,033
Segment expenses	31,083	7,033	20,086	58,202
Segment operating profit(1)	<u>\$ 65,826</u>	<u>\$ 36,787</u>	<u>\$ 8,218</u>	<u>\$ 110,831</u>

- (1) The segment operating profits reported reflect only the expenses of the operating segment and do not contain an allocation for selling and marketing, general and administrative, research and development, restructuring and other corporate expenses incurred in support of the segments.

## NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

## 12. Segment Information (Continued)

## Reconciliation to (Loss) Income Before Provision for Taxes

The following table presents a reconciliation of total segment operating profit to (loss) income before provision for income taxes for the three and six months ended December 31, 2009 and 2008 (in thousands):

	Three Months Ended December 31,		Six Months Ended December 31,	
	2009	2008	2009	2008
Total segment operating profit for reportable segments	\$ 15,011	\$ 55,055	\$ 26,770	\$ 110,831
Cost of license	(1,677)	(2,877)	(3,450)	(5,524)
Selling and marketing	(2,053)	(2,691)	(5,374)	(6,378)
Research and development	(8,876)	(8,036)	(17,895)	(18,090)
General and administrative and overhead	(19,871)	(19,315)	(40,074)	(38,623)
Stock compensation and employee tax reimbursements	(9,625)	(1,507)	(11,532)	(2,379)
Corporate and executive bonuses	(2,190)	(944)	(2,259)	(1,804)
Restructuring charges	(32)	(231)	(303)	(265)
Gain (loss) on sales and disposals of assets	(2)	1	(2)	(3)
Impairment of goodwill and intangible assets	—	(623)	—	(623)
Other income (expense)	(222)	2,920	2,047	(661)
Interest income (net)	2,603	3,212	5,641	6,273
(Loss) income before provision for income taxes	\$ (26,934)	\$ 24,964	\$ (46,431)	\$ 42,754

## 13. Subsequent Events

For purposes of this interim financial information, February 9, 2010 is the date through which subsequent events have been evaluated and represents the date the financial statements were issued.

## **Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.**

We begin Management's Discussion and Analysis of Financial Condition and Results of Operations with an overview of our key operating business segments and significant trends. This overview is followed by a summary of our critical accounting policies and estimates that we believe are important to understanding the assumptions and judgments incorporated in our reported financial results. We then provide a more detailed analysis of our financial condition and results of operations.

In addition to historical information, this Quarterly Report contains forward-looking statements that involve risks and uncertainties that could cause our actual results to differ materially. When used in this Quarterly Report, the words "expects," "anticipates," "intends," "plans," "believes," "seeks," "estimates" and similar expressions are generally intended to identify forward-looking statements. You should not place undue reliance on these forward-looking statements, which reflect our opinions only as of the date of this Quarterly Report. You should carefully review the risk factors described in "Item 1A. Risk Factors" of Part II below. We undertake no obligation to publicly release any revisions to the forward-looking statements after the date of this document.

Our fiscal year ends on June 30, and references in this Quarterly Report to a specific fiscal year are the twelve months ended June 30 of such year (for example, "fiscal 2010" refers to the year ending June 30, 2010).

### **Business Overview**

We are a leading supplier of integrated software and services to the process industries, for which the principal markets consist of energy, chemicals, pharmaceuticals, and engineering and construction. Additionally, we also serve other industries such as power and utilities, consumer products, metals and mining, pulp and paper and biofuels, which manufacture and produce products from a chemical process. We provide a comprehensive, integrated suite of software applications that utilize proprietary empirical models of chemical manufacturing processes to improve plant and process design, economic evaluation, production, production planning and scheduling, supply chain optimization, and operational performance, and an array of services designed to optimize the utilization of these products by our customers. We are organized into three operating segments: software licenses; maintenance, training and other; and professional services. Each of these operating segments has unique characteristics and faces different opportunities and challenges. Although we report our actual results in U.S. dollars, we conduct a significant number of transactions in currencies other than U.S. dollars.

Adverse changes in the economy and global economic and political uncertainty have previously caused delays and reductions in information technology (IT) spending by our customers and a consequent deterioration of the markets for our products and services, particularly our manufacturing/supply chain product suites. As a result of the decline in economic conditions during fiscal 2009 which continued into the second quarter of fiscal 2010, we experienced some reductions, delays and postponements of customer purchases that negatively impacted our bookings, revenue and operating results.

#### *New Licensing Model*

In July 2009, we announced that for the fiscal year commencing July 1, 2009, we would offer a new term licensing model for our software. The new aspenONE licensing model provides customers with access to all engineering or manufacturing/supply chain software products within the aspenONE software suite. As part of the new offering, customers receive SMS for the term of the license and the right to unspecified future software products that may be introduced during the term of the arrangement for no additional fee. The new aspenONE licensing model provides customers the ability to utilize any product within the aspenONE suite through the use of tokens (exchangeable units of measurement) which they license in quantities sufficient for their business needs. We expect that the

increased flexibility of this licensing model, which facilitates ease of access to the products in the aspenONE suite, will lead to increased usage over time, and should contribute to increased revenue.

Prior to fiscal 2010, we offered term licenses to our customers with extended payment terms for specifically defined sets of products (referred to as "point products") within the aspenONE solution suites based upon the customer's particular needs. We typically recognized revenue for these term license agreements upon shipment of the software, at the net present value of the aggregate license fees, provided all other revenue recognition criteria were met. We refer to this revenue recognition approach as the "upfront revenue model." We also sold perpetual licenses, which were also recognized on an upfront basis. Increasingly, the majority of our software licenses have been term-based. Licenses that did not qualify for upfront recognition were either deferred until such time as all revenue recognition criteria had been met, or recognized over the license term.

Under the upfront revenue model we offered annually renewable post contract support (referred to as SMS) as a component of our arrangements. Generally, SMS was provided for the first year of the license agreement and renewed annually at the customer's discretion. Revenue from SMS was recognized ratably over the term of the SMS agreement. For the majority of our existing software arrangements under the upfront licensing model, customers renew their support contracts when eligible to do so.

Under the new aspenONE licensing model, the license, SMS, and the right to future unspecified products are included in the arrangement fee. These arrangements do not qualify for upfront revenue recognition because customers have the right to future unspecified products. Revenue under this new licensing model will be recognized over the term of the agreement on a subscription basis, beginning when the first payment is due, typically 30 days after signing the agreement.

In addition to our new aspenONE licensing model, we continue to offer term licenses for specifically defined sets of point products. Beginning in the first quarter of fiscal 2010, we began licensing point products with SMS included for the full license term. Revenue for these arrangements will be recognized over the term of the contract as payments become due. The related SMS is recognized over the term of the SMS agreement beginning with the due date of the annual payment and reported in services and other on the consolidated statements of operations. Occasionally, we expect certain customers to elect upfront payment terms. For these arrangements with upfront payment, all of the license revenue will be recognized upfront by applying the residual method of accounting.

As a result of the changes to our business model, the majority of our license revenue will no longer be recognized on an upfront basis, but will instead be recognized over the contract term, either on a subscription basis or as payments become due. Since we previously recognized much of the revenue associated with the term license agreements executed prior to fiscal 2010, we will report significantly lower revenue for several years. Until such time as existing contracts expire and are renewed under the new aspenONE licensing model, we will not realize a significant increase in our subscription revenue. Additionally, if a professional service arrangement is contracted in close proximity to a related license agreement which qualifies for recognition under the new aspenONE licensing model, the professional services revenue will be recognized over the contract term. There will not be a corresponding reduction in operating expenses; therefore, we anticipate reporting significant operating and net losses for at least several years.

It is not our intention to enter into new or renewal term contracts that will qualify for revenue recognition under the upfront revenue model. However, we may elect to do so on a limited basis. The incremental revenue associated with amendments to existing term contracts that were recognized under the upfront revenue model will continue to be accounted for on an upfront basis provided all other revenue recognition requirements have been met. Additionally, we will continue to offer perpetual license arrangements. We do not anticipate that either of these types of arrangements will represent a significant portion of our future license revenue.



The predominant method of customer billing and cash collections is consistent between the new aspenONE and upfront licensing models: we will continue to invoice the customer over the contract term (generally on an annual basis), provided the customer does not elect to make payment in full at the outset of the arrangement. Consequently, we do not expect any material change to net cash provided by operating activities as a result of the changes to the way we license our products, assuming the introduction of the new aspenONE licensing model does not negatively impact customer retention.

Under the upfront revenue model, we record the net present value of the un-invoiced payments remaining on our license contracts as installments receivable. Under the new aspenONE licensing model, the arrangement fees are not deemed to be fixed or determinable. Therefore, the un-invoiced payments remaining on our license contracts will not be recorded on the balance sheet. We expect that the conversion to the new licensing model will cause the installments receivable balance to decline over time. Additionally, we expect deferred revenue will increase over time since the annual installments for license transactions executed under the new aspenONE licensing model will be deferred and recognized on a subscription basis. Although we expect to see growth in deferred revenue during the balance of fiscal 2010, until such time as a significant portion of existing term contracts which were recognized under the upfront revenue model expire and are renewed under the new aspenONE licensing model, we will not realize a significant increase in our deferred revenue.

Historically, to assess our financial results and condition, we used a number of quantitative and qualitative performance indicators. These indicators included: software license bookings; the value of our installed customer base; revenue and expense trends; gross margins; operating and net income; cash and cash equivalents; cash flow; and liquidity metrics. As a result of the movement to the new aspenONE licensing model and the anticipated reduction in reported revenue and income, a number of these indicators will not be meaningful for the next several years. Accordingly, we will focus on: the change in the value of our installed customer base; software license bookings; expense trends; cash and cash equivalents; cash flow; and collateralized receivables and secured borrowings balances.

An overview of our three operating segments is described below.

#### *Software Licenses*

Our solutions are focused on three primary business areas of our customers: engineering, manufacturing, and supply chain management, and are delivered both as stand-alone solutions and as part of the integrated aspenONE product suite. The aspenONE framework enables our products to be integrated in modular fashion so that data can be shared among such products, and additional modules can be added as the customer's requirements evolve. The result is enterprise-wide access to real-time, model-based information designed to enable manufacturers to forecast or simulate the economic impact of potential actions and make better, faster and more profitable operating decisions. The first version of the aspenONE suite was delivered in 2004. Since that time, each major software release was designed to increase the level of integration and functionality across our product portfolio.

- **Engineering** Process manufacturers must be able to address a variety of challenging questions relating to strategic planning, collaborative engineering, debottlenecking and process improvement—from where they should locate their facilities, to how they can make their products at the lowest cost, to what is the best way to operate for maximum efficiency. To address these issues, they must improve asset optimization to enable faster, better execution of complex projects. Our engineering solutions help companies maximize their return on plant assets and enable collaboration with engineers on common models and projects.

Our engineering solutions are used on the process engineer's desktop to design and improve plants and processes. Customers use our engineering software and services during both the design and ongoing operation of their facilities to model and improve the way they develop and deploy manufacturing assets. Our products enable our customers to improve their return on

capital, improve physical plant operating performance and bring new products to market more quickly.

Our engineering tools are based on an open environment and are implemented on Microsoft Corporation's operating systems. Implementation of our engineering products does not typically require substantial professional services, although services may be provided for customized model designs, process synthesis and energy management analyses.

- **Manufacturing** Our manufacturing products focus on optimizing customers' day-to-day process industry activities, enabling them to make better, more profitable decisions and improve plant performance. The typical production cycle offers many opportunities for optimizing profits. Process manufacturers must be able to address a wide range of issues driving execution efficiency and cost: from selecting the right feedstock and raw materials; to production scheduling; to identifying the right balance among customer satisfaction, costs and inventory. Our manufacturing products support the execution of the optimal operating plan in real time. These solutions include desktop and server applications and IT infrastructure that enable companies to model, manage and control their plants more efficiently, helping them to make better-informed, more profitable decisions. These solutions help companies make decisions that can reduce fixed and variable costs in the plant, improve product yields, procure the right raw materials and evaluate opportunities for cost savings and efficiencies in their operations.
- **Supply chain management** Our supply chain management products enable companies to reduce inventory and increase asset efficiency by giving them the tools to optimize their supply chain decisions, from choosing the right raw materials to delivering finished product in the most cost-effective manner. The ever-changing nature of the process industries means new profit opportunities can appear at any time. To identify and seize these opportunities, process manufacturers must be able to increase their access to data and information across the value chain, optimize planning and collaborate across the value chain, and detect and exploit supply chain opportunities. Our supply chain management solutions include desktop and server applications and IT infrastructure that enable manufacturers to operate their plants and supply chains more efficiently, from customer demand through manufacturing to delivery of the finished product. These solutions help companies to reduce inventory carrying costs, respond more quickly to changes in market conditions and improve customer service.

Because fees for our software products can be substantial and the decision to purchase our products often involves members of our customers' senior management, the sales process for our solutions is frequently lengthy and can exceed one year. Accordingly, the timing of our license bookings and revenue is difficult to predict. Additionally, we derive a majority of our total revenue from companies in or serving the energy, chemicals, pharmaceutical, and engineering and construction industries. Accordingly, our future success depends upon the continued demand for manufacturing optimization software and services by companies in these process manufacturing industries. The energy, chemicals, pharmaceutical, and engineering and construction industries are highly cyclical and highly reactive to the price of oil, as well as general economic conditions.

Our software license business represented 46.2% of our total revenue on a trailing four-quarter basis.

#### *Maintenance, Training and Other*

Our maintenance business consists primarily of providing customer technical support and access to software fixes and upgrades, when and if they become available. Our customer technical support services are provided throughout the world by our three global call centers as well as via email and through our support website. Our training business consists of a variety of training solutions ranging from standardized training, which can be delivered in a public forum or on-site at a customer's location, to customized training sessions which can be tailored to fit customer needs.

Revenue generated by our maintenance, training and other business represented 34.9% of our total revenue on a trailing four-quarter basis and is closely correlated to changes in our installed base of software licenses. This percentage has increased as a result of the implementation of the new aspenONE licensing model which recognizes revenue over time, as opposed to our historical practice of generally recognizing revenue upfront upon shipment. For the majority of our existing software arrangements under the upfront model, customers renew their support contracts when eligible to do so. The majority of new software license contracts sold include maintenance for the entire term of the arrangement.

### *Professional Services*

We offer professional services that include designing, analyzing, debottlenecking and improving plant performance through continuous process improvements, coupled with activities aimed at operating the plant safely and reliably while minimizing energy costs and improving yields and throughput. Our implementation and configuration services are primarily associated with assisting customers in their deployment of our manufacturing and supply chain management solutions.

Customers who obtain professional services from us typically engage us to provide such services over periods of up to 24 months. We generally charge customers for professional services, ranging from supply chain to on-site advanced process control and optimization assistance services, on a fixed-price basis or time-and-materials basis. Professional services represented 18.9% of our total revenue on a trailing four-quarter basis, and has experienced lower margins than our other business segments.

### **Critical Accounting Estimates and Judgments**

Our condensed consolidated financial statements are prepared in accordance with GAAP. The preparation of our financial statements requires management to make estimates and judgments that affect the reported amounts of assets, liabilities, revenue, expenses and related disclosures. We base our estimates on historical experience and various other assumptions that we believe to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions. The significant accounting policies that we believe are the most critical to aid in fully understanding and evaluating our reported financial results include the following:

- revenue recognition for both software licenses and fixed-fee professional services;
- impairment of long-lived assets, goodwill and intangible assets;
- accounting for contingencies; and
- accounting for income taxes.

### **Revenue Recognition**

We generate revenue from the following sources: (1) licensing software products; (2) providing SMS; and (3) providing professional services including consulting and training. We sell our software products to end-users under fixed-term and perpetual licenses. As a standard business practice, we offer extended payment term options for our fixed-term license contracts, which are generally payable on an annual basis. Certain of our fixed-term license agreements include product mixing rights that allow customers the flexibility to change or alternate the use of multiple products included in the license arrangement after those products are delivered to the customer. We refer to these arrangements as token arrangements. Tokens are fixed units of measure. The amount of software usage is limited by the value of the tokens purchased by the customer.

Historically, we executed software license arrangements that included contractual provisions that resulted in the "upfront" recognition of license revenue upon delivery of the software products

provided all other revenue recognition requirements were met. We refer to these traditional licensing arrangements as our "upfront revenue model."

In the first quarter of fiscal 2010, we began offering a new term licensing model for our software. This new licensing model includes contractual provisions that provide customers with greater flexibility, in that customers receive SMS for the term of the arrangement and the right to unspecified future software products that may be introduced during the term of the arrangement for no additional fee. We refer to this licensing model as the new aspenONE licensing model. Under this licensing model, we recognize revenue over the term of the agreement on a subscription basis, beginning when the first payment is due, typically 30 days after signing the agreement, provided all other revenue recognition requirements are met.

Additionally, in the first quarter of fiscal 2010, we also began licensing fixed-term point product arrangements in which customers receive SMS for the term of the arrangement. With the inclusion of SMS for the full term of the license, revenue can no longer be recognized under the upfront revenue model as the aggregate fees are not considered fixed or determinable. Revenue for these arrangements will be recognized as payments become due over the term of the contract, provided all other revenue recognition requirements are met. The related SMS is recognized over the term of the SMS agreement beginning with the due date of the annual payment and reported in services and other on the consolidated statements of operations. Occasionally, we expect certain customers to elect upfront payment terms. For these arrangements with upfront payment, all of the license revenue will be recognized upfront by applying the residual method of accounting when the four revenue recognition requirements below have been met.

Over the next several years, we expect to transition substantially all of our customers to our new aspenONE licensing model or to point product arrangements with SMS bundled for the contract term. However, during this transition period we expect to execute some license contracts under the upfront revenue model, including perpetual licenses, which will continue to be recognized on an upfront basis.

Four basic criteria must be satisfied before software license revenue can be recognized: persuasive evidence of an arrangement between us and an end user; delivery of our product has occurred; the fee for the product is fixed or determinable; and collection of the fee is probable.

*Persuasive evidence of an arrangement*—We use a contract signed by the customer as evidence of an arrangement for software licenses and SMS. For professional services we use a signed contract and a statement of work to evidence an arrangement. In cases where both a signed contract and a purchase order are required by the customer, we consider both taken together as evidence of the arrangement.

*Delivery of our product*—Software and the corresponding access keys are generally delivered to customers via disk media with standard shipping terms of Free Carrier, our warehouse. Our software license agreements do not contain conditions for acceptance.

*Fee is fixed or determinable*—We assess whether a fee is fixed or determinable at the outset of the arrangement. Significant judgment is involved in making this assessment.

Under our upfront revenue model, we are able to demonstrate that the fees are fixed or determinable for all arrangements, including those for our term licenses that contain extended payment terms. We have an established history of collecting under the terms of these contracts without providing concessions to customers. In addition, we also assess whether contract modifications to an existing term arrangement constitute a concession. In making this assessment, significant analysis is performed to ensure that no concessions are given. Our software license agreements do not include right of return or exchange. For license arrangements executed under the upfront revenue model, we recognize license revenue upon delivery of the software products, provided all other revenue recognition requirements are met.

With the introduction of the new aspenONE licensing model, and the changes to the licensing terms of our historical point product agreements sold on a fixed-term basis, we cannot assert that the fees in these arrangements are fixed or determinable because the rights provided to customers and the economics of the arrangements are not comparable to our historical transactions with other customers under the upfront revenue model. As a result, the amount of revenue recognized for these new arrangements will be limited by the amount of customer payments currently due, which generally results in the fees being recognized over the term of the contracts.

*Collection of fee is probable*—We assess the probability of collecting from each customer at the outset of the arrangement based on a number of factors, including the customer's payment history, its current creditworthiness, economic conditions in the customer's industry and geographic location, and general economic conditions. If in our judgment collection of a fee is not probable, revenue is recognized as cash is collected, provided all other conditions for revenue recognition have been met.

Our management uses its judgment concerning the satisfaction of these four basic criteria, particularly the criteria relating to the determination of whether the arrangement fees are fixed or determinable and the criteria relating to the collectability of the arrangement fees, during evaluation of each revenue transaction. Additionally, judgment is required concerning the satisfaction of these criteria for reseller transactions. We typically recognize the fees related to reseller transactions on a net basis using the sell-through method of accounting. To date, revenue related to our reseller arrangements has not been material.

We have established vendor-specific objective evidence (VSOE) of fair value for SMS and professional services, but not for our software products. Our VSOE determination is based upon the price charged to similarly situated customers when the elements are sold separately. We allocate the arrangement consideration among the elements included in our multi-element arrangements using the residual method. Under the residual method, the VSOE of the undelivered elements is deferred, and the remaining portion of the arrangement fee for perpetual and term licenses is recognized as revenue upon delivery of the software, assuming all other revenue recognition criteria are met. If VSOE does not exist for an undelivered element in an arrangement, revenue is deferred until such evidence does exist for the undelivered elements, or until all elements are delivered, whichever is earlier.

Under the upfront revenue model, the residual license fee is recognized upfront upon delivery of the software provided all other revenue recognition criteria were met. For arrangements entered into since July 2009, the arrangement fees are generally recognized over the term of the license agreement since these arrangements include contractual provisions such as rights to future unspecified software products for no additional fee or because we cannot assert that the fees are fixed or determinable.

### **Subscription Revenue**

When our fixed-term customers elect to license our products under the new aspenONE licensing model, SMS is included for the entire term of the arrangement and the customer receives the right to unspecified future software products that may be introduced during the term of the arrangement for no additional fee. These agreements combine the right to use all software products within a given product suite with SMS for the term of the arrangement. Due to our obligation to provide unspecified future software products, we are required to recognize the revenue ratably (i.e., on a subscription basis) over the term of the license, once the four revenue recognition criteria noted above are met. License and SMS revenue for arrangements sold under the new aspenONE licensing model are combined and presented together as subscription revenue in the consolidated statements of operations.

## **Software Revenue**

Software revenue consists of all license transactions that do not contain rights to future unspecified software products for no additional fee. Specifically, it includes license revenue recognized under the upfront revenue model upon the delivery of the license products (i.e., both perpetual and term license contracts); license revenue recognized over the term of the license agreements for fixed-term contracts including point product licenses with SMS bundled for the entire license term; and other license revenue derived from transactions that are being recognized over time as the result of not previously meeting one or more of the requirements for recognition under the upfront revenue model.

The license fees derived from the sale of fixed-term point product arrangements with SMS included for the contract term are recognized under the residual method, as payments come due. The related SMS is recognized over the term of the SMS agreement beginning with the due date of the annual payment and is reported in services and other on the consolidated statement of operations. Occasionally, we expect certain customers to elect upfront payment terms. For these arrangements with upfront revenue, all of the license revenue will be recognized upfront by applying the residual method of accounting when the above four revenue recognition requirements have been met.

Perpetual license arrangements do not include the same rights as those provided to customers under the new aspenONE licensing model. Accordingly, the license fees for perpetual license agreements will continue to be recognized upon delivery of the software products using the residual method, provided all other revenue recognition requirements are met. The revenue attributable to perpetual software licenses is recognized in software revenue in the consolidated statements of operations.

## **Services and Other**

### **SMS Revenue**

Under the upfront revenue model, SMS is typically bundled with license for the initial year of the license term. Under these arrangements, the fair value of SMS is deferred and subsequently amortized into service and other in the consolidated statements of operations over the contractual term of the SMS arrangement. SMS renewals are at the option of the customer.

For arrangements executed under the new aspenONE licensing model or where point product licenses are sold with SMS for the contract term, the customer commits to SMS for the entire term of the license arrangement. The revenue related to the SMS component of the new aspenONE licensing model is reported in subscription revenue in the consolidated statements of operations. The revenue related to the SMS component of point product licenses, for which we have VSOE, is reported in services and other in the consolidated statements of operations.

### **Professional Services**

Professional services are provided to customers on a time-and-materials (T&M) or fixed-price basis and are generally recognized as the services are performed, assuming all other revenue recognition criteria have been met. We recognize professional services fees for our T&M contracts based upon hours worked and contractually agreed-upon hourly rates. Revenue from fixed-price engagements is recognized using the proportional performance method based on the ratio of costs incurred, substantially all of which are labor-related, to the total estimated project costs. All revenue amounts are recognized within services and other in the statements of operations. Project costs are based on standard rates, which vary by the consultant's professional level, plus all direct expenses incurred to complete the engagement that are not reimbursed by the client. All project costs are expensed as incurred. The use of the proportional performance method is dependent upon our ability to reliably estimate the direct costs to complete a project. We use historical experience as a basis for future

estimates to complete current projects. Additionally, management believes that costs are the best available measure of performance. Reimbursables received from customers for out-of-pocket expenses are recorded as revenue. If the costs to complete a project are not estimable or the completion is uncertain, the revenue is recognized upon completion of the services. Revenue from committed professional services arrangements that are sold within close proximity or in contemplation of a new aspenONE license transaction is deferred and recognized on a ratable basis over the term of the related software arrangement.

Occasionally, we provide professional services considered essential to the functionality of the software. We recognize the combined revenue from the sale of the software and related services using the percentage-of-completion method. However, when these professional services are combined with, and essential to, the functionality of a new aspenONE license transaction, the amount of combined revenue recognized will be the lesser of the amount determined by either the subscription method or the percentage-of-completion method.

In the past, we have occasionally been required to commit unanticipated additional resources to complete projects, which have resulted in lower than anticipated income or losses on those contracts. We may experience similar situations in the future. Provisions for estimated losses on contracts are made during the period in which such losses become probable and can be reasonably estimated. To date, such losses have not been significant.

### **Installments Receivable**

Installments receivable resulting from product sales under the upfront revenue model are discounted to present value at prevailing market rates. Finance fees are recognized using the effective interest method over the relevant license term and are classified as interest income. The amount of the installments receivable is split between current and non-current in the consolidated balance sheets.

Under the new aspenONE licensing model and for point product arrangements sold with SMS bundled for the entire license term, receivables are recorded when the payments become due and payable. Payment amounts under extended payment term arrangements are not presented in the consolidated balance sheets as the related arrangement fees are not fixed or determinable. As a result, all contractual payments will be recorded as revenue on a gross basis in the consolidated statements of operations either as subscription or software revenue.

### **Deferred Revenue**

Under the upfront revenue model and point product arrangements, a portion of the arrangement fee is generally recorded as deferred revenue due to the inclusion of an undelivered element, typically SMS. The amount of revenue allocated to undelivered elements is based on the VSOE of fair value for those elements using the residual method and is earned and recognized as revenue as each element is delivered. Deferred revenue related to these transactions generally consists of SMS and represents payments received in advance of services rendered as of the balance sheet dates.

Under the new aspenONE licensing model, customers receive SMS for the full contract term, and receive rights to unspecified future products for no additional fee. As VSOE does not exist for both of these undelivered elements, we are required to recognize the revenue ratably (i.e., on a subscription basis) over the term of the license. Therefore, deferred revenue is recorded as each payment comes due and revenue is recognized ratably over the associated license period.

### **Other Licensing Matters**

Our standard licensing agreements include a product warranty provision for all products. Such warranties are accounted for in accordance with ASC 460, "Guarantees" (ASC 460). The likelihood

that we will be required to make refunds to customers under such provisions is considered remote. Historically, any such payments have been de minimis.

Under the terms of substantially all of our license agreements, we have agreed to indemnify customers for costs and damages arising from claims against such customers based on, among other things, allegations that our software products infringe the intellectual property rights of a third party. In most cases, in the event of an infringement claim, we retain the right to (i) procure for the customer the right to continue using the software product; (ii) replace or modify the software product to eliminate the infringement while providing substantially equivalent functionality; or (iii) if neither (i) nor (ii) can be reasonably achieved, we may terminate the license agreement and provide a refund to the customer up to the license fees paid by the customer. Such indemnification provisions are accounted for in accordance with ASC 460. The likelihood that we will be required to make refunds to customers under such provisions is considered remote. In most cases and where legally enforceable, the indemnification is limited to the amount paid by the customer.

Please refer to Management's Discussion and Analysis of Financial Condition and Results of Operations contained in Part II, Item 7 of our Annual Report on Form 10-K for our fiscal year ended June 30, 2009 for a more complete discussion of our critical accounting policies and estimates.



**Results of Operations**
**Comparison of the Three and Six Months Ended December 31, 2009 and 2008**

The following table sets forth our condensed consolidated statements of operations for the three and six months ended December 31, 2009 and 2008 (dollars in thousands):

	Three Months Ended December 31,				Six Months Ended December 31,			
	2009		2008		2009		2008	
<b>Revenue:</b>								
Subscription	\$ 1,214	2.8%	\$ —	0.0%	\$ 1,239	1.5%	\$ —	0.0%
Software	8,976	21.0	47,272	57.2	20,058	24.3	96,909	57.3
Total subscription and software	10,190	23.9	47,272	57.2	21,297	25.8	96,909	57.3
Services and other	32,496	76.1	35,355	42.8	61,185	74.2	72,124	42.7
Total revenue	42,686	100.0	82,627	100.0	82,482	100.0	169,033	100.0
<b>Cost of revenue:</b>								
Subscription and software	1,677		2,877		3,450		5,524	
Services and other	14,792		15,287		30,488		31,806	
Total cost of revenue	16,469	38.6	18,164	22.0	33,938	41.1	37,330	22.1
Gross profit	26,217	61.4	64,463	78.0	48,544	58.9	131,703	77.9
<b>Operating costs:</b>								
Selling and marketing	23,757	55.7	19,988	24.2	44,309	53.7	42,113	24.9
Research and development	12,515	29.3	10,514	12.7	23,409	28.4	23,166	13.7
General and administrative	19,226	45.0	14,276	17.3	34,640	42.0	28,391	16.8
Restructuring charges	32	0.1	231	0.3	303	0.4	265	0.2
Impairment of goodwill and intangible asset	—	0.0	623	0.8	—	0.0	623	0.4
Loss on sales and disposals of assets	2	0.0	(1)	(0.0)	2	0.0	3	0.0
Total operating costs	55,532		45,631		102,663		94,561	
(Loss) income from operations	(29,315)	(68.7)	18,832	22.8	(54,119)	(65.6)	37,142	22.0
Interest income	5,083	11.9	5,955	7.2	10,532	12.8	11,870	7.0
Interest expense	(2,480)	(5.8)	(2,743)	(3.3)	(4,891)	(5.9)	(5,597)	(3.3)
Other income (expense), net	(222)	(0.5)	2,920	3.5	2,047	2.5	(661)	(0.4)
(Loss) income before provision for income taxes	(26,934)	(63.1)	24,964	30.2	(46,431)	(56.3)	42,754	25.3
Provision for income taxes	(3,723)		(2,003)		(5,288)		(8,140)	
Net (loss) income	\$ (30,657)	(71.8)%	\$ 22,961	27.8%	\$ (51,719)	(62.7)%	\$ 34,614	20.5%

**Revenue**

Total revenue for the second quarter of fiscal 2010 decreased by \$39.9 million compared to the corresponding period of the prior year. This decrease is primarily attributable to the changes to our business model, as we transition to the new licensing model. The components of the decrease consisted primarily of a \$38.3 million reduction in software revenue and a \$2.9 million reduction in services and other.

Total revenue for the first half of fiscal 2010 decreased by \$86.6 million compared to the corresponding period of the prior year. This decrease is primarily attributable to the changes to our business model, as we transition to the new licensing model. The components of the decrease consisted primarily of a \$76.9 million reduction in software revenue and a \$10.9 million reduction in services and other.

#### *Subscription Revenue*

Subscription revenue represents the amount of revenue recognized ratably during the reporting period from subscription license agreements that were earned during the period, including SMS and software license fees. These agreements provide customers with the right to receive unspecified future products as well as SMS for the full term of the arrangement.

During the second quarter and first half of fiscal 2010 we had \$1.2 million of revenue from subscription agreements. There were no subscription agreements offered prior to fiscal 2010. The relatively small amount of subscription revenue recognized in the period is a reflection of the short time span that the new aspenONE licensing model has been available. We expect that subscription revenue will grow in the future as our new aspenONE licensing model gains greater market acceptance.

Although we expect to see growth in subscription revenue during the balance of fiscal 2010, until such time as a significant portion of existing term contracts which were recognized under the upfront revenue model expire and are renewed under the new aspenONE licensing model, we will not realize a significant increase in our subscription revenue.

#### *Software Revenue*

Software revenue consists of all license transactions that do not contain rights to future unspecified software products for no additional fee. Specifically, it includes license revenue recognized under the upfront revenue model upon the delivery of the license products (i.e., both perpetual and term license contracts); license revenue recognized over the term of the license agreements with SMS bundled for the entire license term; and other license revenue derived from transactions that are being recognized over time as the result of not previously meeting one or more of the requirements for recognition under the upfront revenue model.

Software revenue in the second quarter of fiscal 2010 was \$9.0 million as compared to \$47.3 million in the corresponding period of the prior fiscal year, a decrease of \$38.3 million, or 81.0%. The decrease is primarily attributable to the changes to our business model, described above. Prior to July 2009, the majority of our license revenue was recognized on an upfront basis. Going forward, we expect that most of our software revenue will be recognized over the contract term, either on a subscription basis or as payments become due. Of the \$9.0 million of software revenue in the quarter, approximately \$1.7 million was recognized from current period bookings, which included approximately \$.8 million from point product term license arrangements and \$.9 million from perpetual license arrangements. The remaining \$7.3 million of software revenue represents amounts that had been deferred in prior periods.

Software revenue in the first half of fiscal 2010 was \$20.1 million as compared to \$96.9 million in the corresponding period of the prior fiscal year, a decrease of \$76.8 million, or 79.3%. The decrease is primarily attributable to the changes to our business model, described above. Prior to July 2009, the majority of our license revenue was recognized on an upfront basis. Going forward, we expect that most of our software revenue will be recognized over the contract term, either on a subscription basis or as payments become due. Of the \$20.1 million of software revenue in the period, approximately \$5.3 million was recognized from current period bookings, which included approximately \$4.1 million from point product term license arrangements and \$1.2 million from perpetual license arrangements.

The remaining \$14.8 million of software revenue represents amounts that had been deferred in prior periods.

Looking ahead for the balance of fiscal 2010, we expect the majority of software revenue to consist of amounts related to contracts booked in prior periods, and to a lesser degree, revenue from new perpetual license arrangements and from point product license agreements booked in the balance of fiscal 2010.

#### *Services and Other Revenue*

Services and other primarily consists of professional services, SMS on software fees (excluding SMS bundled in the new aspenONE license offering), and training and are dependent upon a number of factors:

- the number, value and rate per hour of service transactions booked during the current and preceding periods;
- the number and availability of service resources actively engaged on billable projects;
- the timing of milestone acceptance for engagements contractually requiring customer sign-off;
- the timing of negotiating and signing maintenance renewals;
- the timing of collection of cash payments when collectability is uncertain; and
- the size of the installed base of license contracts.

Services and other in the second quarter of fiscal 2010 decreased by \$2.9 million compared to the corresponding period of the prior fiscal year.

Professional services revenue decreased by less than \$0.1 million during the second quarter of fiscal 2010 as compared to the corresponding period of the prior fiscal year. A portion of the decrease is due to the decline in the global economic environment, which impacted our customers' ability to commit to more discretionary spending initiatives. We began to experience the impact during our second quarter of fiscal 2009. In addition to the impact of the economic downturn, the timing of revenue recognition favorably impacted professional services revenue by approximately \$2.0 million for the second quarter of fiscal 2010, with no significant corresponding items occurring during the second quarter of fiscal 2009. Although professional services revenue was down period-over-period, normalized revenue in the second quarter of fiscal 2010 was slightly higher compared to the first quarter of fiscal 2010.

Revenue from SMS decreased \$2.2 million in the second quarter of fiscal 2010 compared to the corresponding period of the prior fiscal year. The decrease was due to the continued trend of customers electing to replace perpetual agreements with new term contracts. Moving customers to term-based contracts generally results in larger combined software license and SMS revenue for the business; however, it results in a reduction in SMS revenue. Another contributing factor to the decrease in SMS revenue was slightly lower renewal rates related to the overall decline in the global economic environment. We expect renewal rates to stabilize in the near term. Looking ahead we expect service and other to decrease, as we transition our business to a predominantly subscription-based model, because the revenue associated with SMS will be reported as subscription revenue within the consolidated statements of operations.

Training revenue decreased \$0.6 million in the second quarter of fiscal 2010 as compared to the corresponding period of the prior fiscal year due to the overall decline in the global economic environment.

Services and other in the first half of fiscal 2010 decreased by \$10.9 million compared to the corresponding period of the prior fiscal year.

Professional services revenue decreased by \$5.8 million during the first half of fiscal 2010 as compared to the corresponding period of the prior fiscal year. The most significant portion of the decrease is due to the decline in the global economic environment, which impacted our customers' ability to commit to more discretionary spending initiatives. We began to experience the impact during our second quarter of fiscal 2009. In addition to the impact of the economic downturn, the timing of revenue recognition and changes in reserves favorably impacted professional services revenue by approximately \$2.0 million for the first half of fiscal 2010, with no significant corresponding items occurring during the first half of fiscal 2009. Although professional services revenue was down period-over-period, revenue in the first half of fiscal 2010 was slightly higher compared to the second half of fiscal 2009. We expect our professional services revenue to remain fairly consistent in the near term.

Revenue from SMS decreased \$3.4 million in the first half of fiscal 2010 compared to the corresponding period of the prior fiscal year. The decrease was due to the continued trend of customers electing to replace perpetual agreements with new term contracts. Moving customers to term-based contracts generally results in larger combined software license and SMS revenue for the business; however, it results in a reduction in SMS revenue. Another contributing factor to the decrease in SMS revenue was slightly lower renewal rates related to the overall decline in the global economic environment. We expect renewal rates to stabilize in the near term.

Training revenue decreased \$1.7 million in the first half of fiscal 2010 as compared to the corresponding period of the prior fiscal year due to the overall decline in the global economic environment.

#### *Cost Overview*

	Three months ended		Six months ended	
	December 31,		December 31,	
	2009	2008	2009	2008
Total cost of revenue	16,469	18,164	33,938	37,330
Total operating costs	55,532	45,631	102,663	94,561
Total costs	72,001	63,795	136,601	131,891
Less stock-based compensation	9,625	1,507	11,532	2,379
Total costs, excluding stock-based compensation	62,376	62,288	125,069	129,512

During the period from mid-September 2007 until November 9, 2009, we did not maintain our status as a timely filer with the SEC and we were unable to issue stock-based compensation to our directors and employees. On November 9, 2009, we became a timely filer and we issued 2.7 million RSUs and 0.3 million stock options to our directors and employees. A portion of these awards were vested upon issuance to reflect the fact that we were unable to issue equity grants for the past two years. The stock-based compensation cost recognized during the second quarter of fiscal 2010 associated with the November grant represents \$9.2 million of the total \$9.6 million of expense. These expenses are included in the cost of revenue and each of the respective operating expense lines of our consolidated statements of operations and materially impact the comparative analysis of the quarter and year-to-date amounts.

Total costs, which include the cost of revenue and total operating costs, increased \$8.2 million and \$4.7 million during the second quarter and first half of fiscal 2010, respectively, as compared to the corresponding periods of the prior fiscal year. Excluding stock-based compensation, comparative

adjusted total costs increased only \$0.1 million in the second quarter and decreased \$4.4 million in the first half of fiscal 2010.

#### *Cost of Subscription and Software*

Cost of subscription and software consists of: royalties; amortization of capitalized software costs; the costs of providing SMS to customers on our new aspenONE license offering; and costs related to delivery of software.

Cost of subscription and software in the second quarter and first half of fiscal 2010 decreased \$1.2 million, or 41.7%, and \$2.1 million, or 37.5%, respectively, compared to the corresponding periods of the prior fiscal year. These period-over-period reductions were primarily due to decreases in royalty costs related to our license products and, to a lesser extent, lower capitalized software amortization charges. In connection with the adoption of the new licensing model during the first quarter of fiscal 2010, we renegotiated the majority of our royalty arrangements to a flat-fee basis. Previously our royalty expense was correlated to the mix of products sold and was recognized in the period in which revenue for those products was recorded. As a result of the change to flat-fee arrangements, costs are expected to be incurred evenly over the fiscal year.

#### *Cost of Services and Other*

Cost of services and other consists primarily of personnel-related and external consultant costs associated with providing professional services, SMS on arrangements not licensed on a subscription basis, and training to customers. The costs of providing SMS for the new aspenONE license offering are included in cost of subscription and software.

Cost of services and other for the second quarter of fiscal 2010 was \$14.8 million compared to \$15.3 million in the corresponding period of the prior fiscal year, a decrease of \$0.5 million, or 3.2%.

#### Professional Services

The largest component of the reduction in cost of services and other in the second quarter of fiscal 2010 pertained to our professional services business, which accounted for \$0.9 million of the decrease. We reduced our staffing levels over the course of fiscal 2009 to better align our cost structure with the decreased demand for professional services, which resulted from the general decline in the global economic environment. This led to a period-over-period reduction in our costs of approximately \$1.0 million. These cost reductions were partially offset by a \$0.6 million increase in stock-based compensation. Our gross profit margin increased slightly period-over-period. We expect the gross profit margin to continue to improve throughout the remainder of fiscal 2010 as the full benefit of the cost reduction actions are realized and business activity stabilizes.

#### SMS and Training

Cost associated with SMS and training increased \$0.4 million in the second quarter of fiscal 2010 as compared to the corresponding period of the prior fiscal year. This increase was primarily associated with increased staffing levels within our training organization. Gross profit margin on SMS and training remained strong despite a modest period-over-period decline in SMS revenue as described above.

Cost of services and other for the first half of fiscal 2010 was \$30.5 million compared to \$31.8 million in the corresponding period of the prior fiscal year, a decrease of \$1.3 million, or 4.1%.

#### Professional Services

The largest component of the reduction in cost of services and other in the first half of fiscal 2010 pertained to our professional services business and accounted for \$1.8 million of the year-over-year decrease. We reduced our staffing levels over the course of fiscal 2009 to better align our cost structure

with the decreased demand for professional services, which resulted from the general decline in the global economic environment. This led to a period-over-period reduction in our costs of approximately \$2.4 million. These cost reductions were partially offset by a \$0.8 million increase in stock-based compensation. Our gross profit margin deteriorated in the first half of fiscal 2010 as compared to the corresponding period of the prior fiscal year. The principal reason for the decreased margin was comparatively lower revenue in the first quarter of the fiscal year. As noted above, we experienced improvement in our gross profit margin during the second quarter of fiscal 2010. We expect the gross profit margin to continue to improve throughout the remainder of fiscal 2010 as the full impact of cost reduction actions is realized and business activity stabilizes.

### SMS and Training

Cost associated with SMS and training increased \$0.5 million in the first half of fiscal 2010 as compared to the corresponding period of the prior fiscal year. This increase was primarily associated with increased staffing levels within our training organization. Gross profit margin on SMS and training remained strong despite a modest year-over-year decline resulting from decreased SMS revenue as described above. We expect SMS renewal rates to stabilize and gradually improve, and anticipate gross profit margins on SMS and training to return to recent historical levels in the near term.

As the subscription business grows, we expect SMS revenue will migrate from services and other to subscription revenue because it will be included in a single bundled fee paid by the customer. Currently, it is not possible to predict the rate at which this migration will occur because it is a function of the rate of adoption of the new aspenONE licensing model and we do not have sufficient experience with the rate of adoption to provide a meaningful forecast of this change. Eventually, we expect the majority of our SMS revenue to be included as part of our term license contracts, and accordingly, the majority of maintenance revenue will be accounted for in the subscription revenue line. Since SMS has a high gross profit margin relative to the other streams included in services and other, the reported gross profit margin of services and other will likely decline over the next several years even though the underlying economics of the business are unchanged.

### *Selling and Marketing*

Selling costs are primarily the personnel and travel expenses related to the effort expended to license our products and services to current and potential customers, as well as for overall management of customer relationships. Marketing costs include expenses needed to promote our company and our products and to acquire market research and measure customer opinions to help us better understand our customers and their business needs.

Selling and marketing expenses in the second quarter of fiscal 2010 increased by \$3.8 million, or 18.9%, compared to the corresponding period of the prior fiscal year. The increase was predominantly due to higher stock-based compensation, and to a lesser degree, higher commissions, and the unfavorable impact of foreign currency exchange rate changes, partially offset by a decline in miscellaneous marketing expenses.

Selling and marketing expenses in the first half of fiscal 2010 increased by \$2.2 million, or 5.2%, compared to the corresponding period of the prior fiscal year. The increase was predominantly the result of higher stock-based compensation, partially offset by reductions in partner commissions and travel expenditures, as well as a decline in miscellaneous marketing expenses.

### *Research and Development*

Research and development (R&D) expenses primarily consist of personnel and external consultant costs related to the creation of new products, and enhancements and engineering changes to existing products.

R&D expenses in the second quarter of fiscal 2010 increased by \$2.0 million, or 19.0%, compared to the corresponding period of the prior year. R&D spending increased \$0.8 million primarily as a result of higher expenses for stock-based compensation and incentive bonuses, partially offset by decreases in salaries and wages and facilities costs. Additionally, during the second quarter of fiscal 2009 we capitalized \$1.2 million of software development costs. No such corresponding costs were capitalized during the second quarter of fiscal 2010.

R&D expenses in the first half of fiscal 2010 increased by \$0.2 million, or 1.0%, compared to the corresponding period of the prior year. R&D spending decreased \$1.0 million primarily as a result of: higher usage of development resources on specialized professional service engagements, and decreases in salaries and wages, which were offset by increases in stock-based compensation. Additionally, during the first half of fiscal 2009 we capitalized \$1.5 million of software development costs, as compared to \$0.3 million during the first half of fiscal 2010.

#### *General and Administrative*

General and administrative expenses include the costs of corporate and support functions, which include executive leadership and administration groups, finance, legal, human resources and corporate communications, and other costs such as outside professional and consultant fees and provisions for doubtful accounts.

General and administrative expenses in the second quarter of fiscal 2010 increased by \$5.0 million, or 34.7%, compared to the corresponding period of the prior fiscal year. The three primary drivers of this increase related to legal defense fees primarily associated with the Blecker litigation, stock-based compensation, and audit and accounting expenses related to the filing of our fiscal 2009 and first quarter of fiscal 2010 financial statements. The above costs were partially offset by our reduced reliance on and use of financial consultants and contractors, as well as a reduction in provisions for doubtful accounts.

General and administrative expenses in the first half of fiscal 2010 increased by \$6.2 million, or 22.0%, compared to the corresponding period of the prior fiscal year. The increase was primarily attributed to audit and accounting expenses related to the filing of our fiscal 2009 and first quarter of fiscal 2010 financial statements; stock-based compensation; legal defense fees; and salaries and wages; partially offset by our reduced reliance on and use of financial consultants and contractors, as well as a reduction in provisions for doubtful accounts.

#### *Restructuring Charges*

Restructuring charges typically result from the closure or consolidation of our facilities, or from a qualifying reduction in headcount.

Restructuring charges in the second quarter and first half of fiscal 2010 decreased by \$0.2 million, or 86.1%, and by less than \$0.1 million, or 14.3%, respectively, compared to the corresponding periods of the prior year. Expenses incurred during the periods in fiscal 2010 are the result of adjustments to existing plans.

#### *Interest Income*

Interest income is generated from the accretion of interest on the installment payments of our term software license contracts when revenue is recognized upfront at net present value, and to a lesser extent from the investment of cash balances in short-term instruments. Under the new aspenONE licensing model, receivables are recorded when the payments become due and payable, and we no longer record installment receivables. Therefore, we expect interest income to decline going forward.

Interest income in the second quarter and first half of fiscal 2010 decreased by \$0.9 million, or 14.6%, and \$1.3 million, or 11.3%, respectively, as compared to the corresponding periods of the prior fiscal year, principally due to declines in our installment and collateralized receivables.

#### *Interest Expense*

Interest expense is incurred primarily from our secured borrowings. The secured borrowings are derived from our borrowing arrangements with unrelated financial institutions.

Interest expense in the second quarter and first half of fiscal 2010 decreased by \$0.3 million, or 9.6%, and \$0.7 million, or 12.6%, respectively, as compared to the corresponding periods of the prior year. The decreases were attributable to lower average secured borrowing balances, resulting from the continued pay-down of our existing arrangements, while not borrowing additional funds.

#### *Other Income (Expense), Net*

Other income (expense), net is comprised primarily of foreign currency exchange gains (losses) generated from transactions denominated in foreign currencies.

Other income (expense), net changed from a gain of \$2.9 million in the second quarter of the prior fiscal year to a loss of \$0.2 million in the second quarter of fiscal 2010 principally due to the weakening of the U.S. dollar against the Euro, Pound Sterling and Canadian dollar. The majority of the change resulted from the revaluation of the portion of our accounts receivable portfolio denominated in a foreign currency.

Other income (expense), net changed from a loss of \$0.7 million in the first half of the prior fiscal year to a gain of \$2.0 million in the first half of fiscal 2010 primarily due to the strengthening of the U.S. dollar against the Pound Sterling, partially offset by the weakening of the U.S. dollar against the Euro. The majority of the change resulted from the revaluation of the portion of our accounts receivable portfolio denominated in a foreign currency.

#### *Provision for Income Taxes*

The provision for income taxes in the three months ended December 31, 2009 increased by \$1.7 million compared to the corresponding period in the prior year. The increase was primarily a result of higher profit before tax in our foreign subsidiaries.

The provision for income taxes in the six months ended December 31, 2009 decreased by \$2.9 million compared to the corresponding period in the prior year. This decrease was primarily due to the required recognition of additional reserves for uncertain tax positions in the amount of \$4.3 million in the first half of fiscal 2009 while no additional contingencies or exposures requiring reserves were identified in the first half of fiscal 2010, partially offset by increased foreign income tax.

We are projecting a consolidated loss before tax in fiscal 2010 as a result of the change to the new aspenONE licensing model. While we are expecting profitable results for certain of our foreign subsidiaries, the loss is primarily related to U.S. results and, therefore, cannot be used to offset foreign income or reduce foreign taxes. Our foreign subsidiaries are required to remit income tax payments to their respective taxing authorities and will provide for such taxes on a quarterly basis.



## Liquidity and Capital Resources

### Resources

Our primary source of cash is from the licensing of our products and associated services. Our primary use of cash is payment of our operating costs which consist primarily of employee-related expenses, such as compensation and benefits, as well as general operating expenses for marketing, facilities and overhead costs. We historically have financed our operations primarily through cash generated from operating activities, and borrowings secured by our installment receivable contracts. We have also accessed cash through public offerings of our convertible debentures and common stock, private offerings of our preferred stock and common stock, and borrowings under bank credit facilities. As of December 31, 2009, our principal sources of liquidity consisted of \$109.4 million in cash and cash equivalents and \$17.7 million of unused borrowings under our credit facility. The amount of unused borrowings actually available under the credit facility varies in accordance with the terms of the agreement. We believe that the amount of borrowing capacity currently available along with our current cash and cash equivalents balance and future cash flows from operations, will be sufficient to meet our anticipated cash needs for at least the next twelve months. We are not currently dependent upon short-term funding, and the limited availability of credit in the market has not affected our credit facility, our liquidity, or materially impacted our funding costs.

The following table summarizes our cash flow activities for the six months ended December 31, 2009 (in thousands):

Cash flows provided by (used in):	
Operating activities	\$ 4,646
Investing activities	(1,857)
Financing activities	(15,407)
Effect of exchange rates on cash balances	(158)
Decrease in cash and cash equivalents	<u>\$ (12,776)</u>

### Operating Activities

Cash generated by operating activities is our primary source of liquidity. Cash from operating activities provided \$4.6 million of cash for the first half of fiscal 2010. This amount resulted from a net loss of \$51.7 million, adjusted for non-cash charges of \$15.1 million, and a net \$41.2 million increase in cash due to lower working capital.

Non-cash items consisted primarily of \$11.5 million of stock-based compensation and \$3.7 million of depreciation and amortization.

The change in working capital consisted primarily of decreases in installment and collateralized receivables of \$38.0 million; accounts receivable of \$14.5 million; and prepaid expenses and other assets of \$3.0 million. These were partially offset by decreases in accounts payable and accrued expenses and other current liabilities of \$8.4 million; and deferred revenue of \$5.9 million.

The decrease in accounts, installments and collateralized receivables was attributable to the adoption of our new aspenONE licensing model, collections of collateralized receivables, and no additional financing of receivables to fund operations in the first half of fiscal 2010. Under the new aspenONE licensing model and for point product arrangements sold with SMS bundled for the entire license term, receivables are recorded when the payments become due and payable. As such, we expect the trend of lower installments receivable to continue as customers begin to subscribe to our new aspenONE licensing model.

Looking ahead, we expect to generate positive cash flows from operations in fiscal 2010. We do not expect the adoption of our new aspenONE licensing model, or the changes made to our fixed-term point product arrangements, to have a negative impact on our operating cash flows because most of our existing contracts are already invoiced over the license contract term. We anticipate that existing cash balances, together with funds generated from operations, will be sufficient to finance our operations and meet our cash requirements for the foreseeable future. However, should cash be insufficient to finance our future operations, we may decide to obtain funds through the financing of additional receivables or through other sources.

#### *Investing Activities*

During the first half of fiscal 2010, we used \$1.9 million of cash, primarily to upgrade our financial reporting and management information systems. We have ongoing efforts to enhance our information system and implement internal control enhancements, which have been designed in part to remediate our deficiencies in internal controls over financial reporting. A portion of the remediation costs are expected to be incurred to upgrade our existing financial applications. We do not expect these costs to be materially different from our IT investment costs in prior fiscal years.

We are not currently party to any material purchase contracts related to future capital expenditures.

#### *Financing Activities*

During the first half of fiscal 2010, we used \$15.4 million of cash for financing activities. We used \$16.4 million to reduce our secured borrowings balance and used \$2.7 million to pay withholding taxes on vested RSUs. Additionally, we received proceeds of \$3.7 million from the exercise of employee stock options during the second quarter of fiscal 2010.

Based on the current cash forecast, we do not foresee the need to sell additional receivables to fund operations. Further, we expect secured borrowing balances to continue to decline during the remainder of fiscal 2010 and during fiscal 2011 as collateralized receivables come due and are collected.

#### ***Borrowings Collateralized by Receivable Contracts***

We historically have maintained arrangements, which we refer to as our Traditional Programs, with financial institutions providing for borrowings that are secured by our installment and other receivable contracts, and for which limited recourse exists against us. Under our arrangements with General Electric Capital Corporation (GECC) and Silicon Valley Bank (SVB), both parties must agree to enter into each transaction and negotiate the amount borrowed and interest rate secured by each receivable.

The customers' payments of the underlying receivables fund the repayment of the related amounts borrowed. The terms of the customer receivables range from amounts that are due within 30 days to receivables that are due over five years. The collateralized receivables earn interest income, and the secured borrowings accrue borrowing costs at approximately the same interest rate. The weighted average interest rate on the secured borrowings was 8.1% at December 31, 2009.

In the ordinary course of acting as a servicing agent for receivables transferred to SVB we regularly receive funds from customers that are processed and remitted onward to SVB. When we receive cash from a customer, the collateralized receivables is reduced and the related secured borrowing is reclassified to an accrued liability for amounts we must remit to SVB. The accrued liability is reduced when payment is remitted to SVB. While in our possession, these cash receipts are contractually owned by SVB and are held by us on their behalf until remitted to the bank. There was less than \$0.1 million of cash receipts held for the benefit of SVB recorded in our cash balances and current liabilities as of December 31, 2009.

We have not sold any receivables for the purpose of raising cash since December 2007. We have sold some large dollar receivables in order to fund the repurchase of several other groups of smaller receivables previously sold to the financial institutions, for the purpose of simplifying the administration of the programs. As of December 31, 2009, we had outstanding secured borrowings of \$96.5 million that were secured by collateralized receivables totaling \$80.5 million under the Traditional Programs.

We estimate that there was in excess of \$44.8 million available under the SVB program at December 31, 2009. As the collection of the collateralized receivables and resulting payment of the related amounts borrowed will reduce the outstanding balance, the availability under the arrangements can be increased. We expect to maintain our access to cash under these arrangements, and to transfer installments receivable as business requirements dictate. Our ongoing ability to access the available capacity will depend upon a number of factors, including the generation of additional customer receivables and the financial institution's willingness to continue to enter into these transactions.

Under the terms of the Traditional Programs, we have transferred the receivables to the financial institutions with limited financial recourse to us. We can be required to repurchase the receivables under certain circumstances in case of specific defaults by us as set forth in the program terms. Potential recourse obligations are primarily related to the SVB arrangement that requires us to pay interest to SVB when the underlying customer has not paid by the receivable due date. This recourse is limited to a maximum period of 90 days after the due date. The amount of outstanding receivables that had this potential recourse obligation was \$35.0 million at December 31, 2009. This 90-day recourse obligation is recognized as interest expense as incurred and totaled less than \$0.1 million for the three months and six months ended December 31, 2009. Other than the specific items noted above, the financial institutions bear the credit risk of the customers associated with the receivables the institutions purchased.

The terms of the GECC asset purchase agreement require the timely reporting of financial information. As a result of our inability to file timely our fiscal 2009 and first quarter fiscal 2010 financial statements, we were not in compliance with this requirement. Previously, we had obtained a waiver from GECC to extend the reporting deadline for financial information. As a result of the uncertainty as to when we would meet this covenant, we were required to reclassify the obligation to a current liability. As we are now current in our filings, we are in compliance with the timely filing requirement of the agreement and we expect to maintain compliance with this requirement. Accordingly, we have classified the long-term portion of the related obligation as non-current in the accompanying consolidated balance sheet as of December 31, 2009.

### ***Credit Facility***

Originally in January 2003, and also through subsequent amendments, we have an executed loan arrangement with SVB. This arrangement provides a line of credit of up to the lesser of (i) \$25.0 million or (ii) 80% of eligible domestic receivables. The line of credit bears interest at the greater of the bank's prime rate (3.25% at December 31, 2009) plus 0.5%, or 4.75%. If we maintain a \$10.0 million compensating cash balance with the bank, our unused line of credit fee will be 0.1875% per annum; otherwise it will be 0.375% per annum. The line of credit is collateralized by substantially all of our assets and we are required to meet certain financial covenants, including minimum tangible net worth, minimum cash balances and an adjusted quick ratio. The terms of the loan arrangement restrict our ability to pay dividends, with the exception of dividends paid in common stock or preferred stock dividends paid in cash.

On November 3, 2009, we executed an amendment to the loan arrangement that adjusted certain terms of covenants, including modifying the date we must provide quarterly unaudited and annual audited financial statements to the bank and the maturity date of the credit loan, which was extended to May 15, 2010. As of December 31, 2009, there were \$7.4 million in letters of credit and no debt

outstanding under the lines of credit. There was \$17.7 million available for future borrowing as of December 31, 2009.

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

In the ordinary course of conducting business, we are exposed to certain risks associated with potential changes in market conditions. These market risks include changes in currency exchange rates and interest rates. In order to manage the volatility of our more significant market risks, we enter into derivative financial instruments such as forward currency exchange contracts.

#### **Foreign Currency Exposure**

Foreign currency risk arises primarily from the net difference between (a) non-U.S. dollar (non-USD) receipts from customers outside the U.S. and (b) non-USD operating costs for subsidiaries in foreign countries. Although it was our historical practice to hedge the majority of our non-USD receipts, beginning in late fiscal 2008 we revised this practice to evaluate the need for hedges based on only the net exposure to foreign currencies. We measure our net exposure to each currency for which we have either cash inflows or outflows.

During the second quarter and first half of fiscal 2010, our largest exposures to foreign exchange rates existed primarily with the Euro, Pound Sterling, Canadian Dollar, and Japanese Yen against the U.S. dollar. Based on the anticipated net exposures to these currencies, we believe that our foreign currency risk is not large enough to require hedging, and as such there were no foreign currency exchange contracts outstanding at December 31, 2009.

#### **Investment Portfolio**

We do not use derivative financial instruments in our investment portfolio. We place our investments in instruments that meet high credit quality standards, as specified in our investment policy guidelines. We do not expect any material loss with respect to our investment portfolio from changes in market interest rates or credit losses, as our investments consist primarily of money market accounts. At December 31, 2009, all of the instruments in our investment portfolio were included in cash and cash equivalents.

### **Item 4. Controls and Procedures.**

#### ***a) Disclosure Controls and Procedures***

Our management, with the participation of our chief executive officer and chief financial officer, evaluated the effectiveness of our disclosure controls and procedures as of December 31, 2009. The term "disclosure controls and procedures," as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act, means controls and other procedures of a company that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Securities Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Securities Exchange Act is accumulated and communicated to the company's management, including its principal executive and principal financial officers, as appropriate to allow timely decisions regarding required disclosure. Management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Based on the evaluation of our disclosure controls and procedures as of December 31, 2009, and due to the material weaknesses in our internal control over financial reporting described in our accompanying *Management's Report on*

*Internal Control over Financial Reporting*, our chief executive officer and chief financial officer concluded that, as of such date, our disclosure controls and procedures were not effective.

***b) Changes in Internal Control Over Financial Reporting***

During the quarter ended December 31, 2009, no changes other than those in conjunction with certain remediation efforts described below, were identified to our internal control over financial reporting that materially affected, or were reasonably likely to materially affect, our internal control over financial reporting.

***c) Remediation Efforts***

In the second quarter of fiscal 2010, we continued to implement the following measures that we initiated in fiscal 2009 to improve our internal controls over the financial reporting process. We plan to further enhance these measures in the remaining quarters in fiscal 2010.

- Integrated and automated our quote to invoicing revenue process within Oracle, to help management increase the level of quality and timely review and reconciliation of complex revenue transactions;
- Improved system configuration to automate some critical financial reports to provide management with reliable data to record revenue accurately and completely;
- Enhanced management review controls to help ensure that proper accounting for all complex, non-routine transactions is researched, detailed in memoranda and reviewed by senior management prior to recording;
- Implemented detailed period end closing and reporting schedule to help ensure that all closing activities were properly monitored and completed in a timely manner;
- Enhanced information technology general controls including configuration and user access review to help provide a reliable information infrastructure and reduce level of inefficient manual reviews and reconciliations;
- Enhanced procedures to include establishment, review and approval of customer creditworthiness; and
- Enhanced procedures and implemented system configuration controls to help ensure that cash flows used or provided from operating, investing and financing activities used to compile the cash flow statement are calculated accurately.

In addition to the above-mentioned remedial efforts that we began implementing in fiscal 2009, in the second quarter of fiscal 2010, we also started remedial actions including reviewing, updating, redesigning, defining ownerships and implementing our procedures and internal controls in the areas where material weaknesses were identified.

***d) Remediation Plans***

We have made no significant changes in our remediation plans during the quarter ended December 31, 2009 that could materially affect, or are reasonably likely to materially affect, our internal control over financial reporting. For further information with regard to our "Remediation Plans", please refer to Item 9A of our Annual Report on Form 10-K filed for the fiscal year ended June 30, 2009.

## PART II—OTHER INFORMATION

### Item 1. Legal Proceedings.

#### (a) *FTC and Honeywell Settlement*

In December 2004, we entered into a consent decree with the Federal Trade Commission (FTC) with respect to a civil administrative complaint filed by the FTC in August 2003 alleging that our acquisition of Hyprotech Ltd. and related subsidiaries of AEA Technology plc (Hyprotech) in May 2002 was anticompetitive in violation of Section 5 of the Federal Trade Commission Act and Section 7 of the Clayton Act. In connection with the consent decree, we entered into an agreement with Honeywell International, Inc. (Honeywell) on October 6, 2004, pursuant to which we transferred our operator training business and certain rights to the intellectual property of various legacy Hyprotech products.

We are subject to ongoing compliance obligations under the FTC consent decree. On July 6, 2009, we announced that the FTC closed an investigation relating to the alleged violations of the decree, and issued an order modifying the consent decree. The modified order became final on August 20, 2009. The modification to the 2004 consent decree requires that we continue to provide the ability for users to save input variable case data for Aspen HYSYS and Aspen HYSYS Dynamics software in a standard "portable" format, which will make it easier for users to transfer case data from later versions of the products to earlier versions. We will also provide documentation to Honeywell of the Aspen HYSYS and Aspen HYSYS Dynamics input variables, as well as documentation of the covered heat exchange products. These requirements will apply to all existing and future versions of the covered products through up to 2014. In addition, in connection with the settlement of the related litigation with Honeywell, we have provided to Honeywell a license to modify and distribute (in object code form) certain versions of our flare system analyzer software.

#### (b) *Class action and opt-out claims*

In March 2006, we settled class action litigation, including related derivative claims, arising out of our originally filed consolidated financial statements for fiscal 2000 through 2004, the accounting for which we restated in March 2005. Certain members of the class representing 1,457,969 shares of common stock (or less than 1% of the shares putatively purchased during the class action period) opted out of the settlement and had the right to bring their own state or federal law claims against us, referred to as "opt-out" claims.

Opt-out claims were filed on behalf of the holders of approximately 1.1 million of such shares. One of these actions was settled and two were dismissed. The claims in the remaining action (described below) include claims against us and one or more of our former officers alleging securities and common law fraud, breach of contract, deceptive practices and/or rescissory damages liability, based on the restated results of one or more fiscal periods included in our restated consolidated financial statements referenced in the class action.

- *Herbert G. and Eunice E. Blecker v. Aspen Technology, Inc., et al.*, filed on June 5, 2006 in the Business Litigation Session of the Massachusetts Superior Court for Suffolk County and docketed as Civ. A. No. 06-2357-BLS1 in that court, was an opt-out claim asserted by persons who received 248,411 shares of our common stock in an acquisition. Fact discovery in this action closed on July 18, 2008, and a non-jury trial began on November 3, 2009 and concluded on November 24, 2009. On January 19, 2010 the court issued its order granting judgment in our favor and dismissing the case. On October 17, 2008, the plaintiffs had filed a new complaint in the Superior Court of the Commonwealth of Massachusetts, captioned *Herbert G. and Eunice E. Blecker v. Aspen Technology, Inc. et al.*, Civ. A. No. 08-4625-BLS1 (Blecker II). The sole claim in Blecker II is based on the Massachusetts Uniform Securities Act. We served a motion to dismiss

on December 3, 2008 which was granted on December 11, 2009. On January 5, 2010, the plaintiffs filed a notice of appeal with respect to that dismissal.

- *380544 Canada, Inc. et al. v. Aspen Technology, Inc.*, filed on February 15, 2007 in the federal district court for the Southern District of New York and docketed as Civ. A. No. 1:07-cv-01204-JFK in that court, is a claim asserted by persons who purchased 566,665 shares of our common stock in a private placement. Certain motions to dismiss filed by other defendants were resolved on May 5, 2009, and discovery is scheduled to conclude in May 2010.

The claims in the *380544 Canada* action referenced above are for damages totaling at least \$4.0 million, not including claims for attorneys' fees. We plan to defend the *380544 Canada* action vigorously. We can provide no assurance as to the outcome of this case or the likelihood of the filing of additional opt-out claims, and these claims may result in judgments against us for significant damages. Regardless of the outcome, such litigation has resulted in the past, and may continue to result in the future, in significant legal expenses and may require significant attention and resources of management, all of which could result in losses and damages that have a material adverse effect on our business.

**(c) ATME Arbitration**

Prior to October 6, 2009, we had an exclusive reseller relationship covering certain countries in the Middle East with a reseller known as AspenTech Middle East W.L.L., a Kuwait corporation ("ATME" or the reseller). Effective October 6, 2009, we terminated the reseller relationship for material breach by the reseller based on certain actions of the reseller.

On November 2, 2009, ATME commenced an action in the Queen's Bench Division (Commercial Court) of the High Court of Justice (England & Wales) captioned *In The Matter Of An Intended Arbitration Between AspenTech Middle East W.L.L. And Aspen Technology, Inc.*, 2009 Folio 1436, seeking preliminary injunctive relief restraining us from taking any steps to impede ATME from serving as our exclusive reseller in the countries included in our agreement with ATME. We filed evidence in opposition to that request for relief on November 12, 2009. At a hearing on November 13, 2009, the court dismissed ATME's application for preliminary injunctive relief. The court sealed an Order to this effect on November 23, 2009, and further ordered that ATME pay our costs of claim, specifically by making a payment on account in the amount of ninety thousand pounds (£90,000) with the balance to go to detailed assessment on an indemnity basis.

Relatedly, on November 11, 2009, we commenced an arbitration against ATME in the International Court of Arbitration of the International Chamber of Commerce, captioned *Aspen Technology, Inc. v. AspenTech Middle East W.L.L.*, Case No. 16732/VRO, by filing a request for arbitration in that court. Our request for arbitration asserted claims against ATME seeking a declaration that ATME committed a material breach of our agreement and that our termination of our agreement was lawful, and seeking damages for ATME's willful misconduct in connection with the reseller relationship. On November 18, 2009, ATME filed its answer to that request for arbitration and asserted counterclaims against us seeking a declaratory judgment that we unlawfully terminated our agreement with ATME, and seeking damages for breach of contract by reason of our purported unlawful termination of our agreement. Our reply to those counterclaims was filed on or about December 18, 2009.

While we believe that ATME's claims are without merit and that we were entitled to terminate the reseller relationship, we can provide no assurance as to the outcome of the dispute. Regardless of the outcome, such claims may result in significant legal expenses and may require significant attention and resources of management, all of which could result in losses and damages that have a material adverse effect on our business. The reseller agreement document relating to the terminated relationship contained a provision whereby we could be liable for a termination fee if the agreement were terminated other than for material breach. This fee would be calculated based on a formula contained

in the reseller agreement that we believe was originally developed based on certain assumptions about the future financial performance of the reseller, as well as the reseller's actual financial performance. Based on the formula and the financial information provided to us by the reseller, which we have not had the opportunity to verify independently, a recent calculation associated with termination other than for material breach based on the formula would result in a termination fee of between \$60 million and \$77 million. Under the terminated reseller agreement document, no termination fee is owed on termination for material breach.

**(d) Other**

We are currently defending a customer claim of approximately \$5 million that certain of our software products and implementation services failed to meet customer expectations. Although we are defending the claim vigorously, the results of litigation and claims cannot be predicted with certainty, and unfavorable resolutions are possible and could materially affect our results of operations, cash flows or financial position. In addition, regardless of the outcome, litigation could have an adverse impact on us because of defense costs, diversion of management resources and other factors.

**Item 1A. Risk Factors.**

*Investing in our common stock involves a high degree of risk. You should carefully consider the risks and uncertainties described below before purchasing our common stock. The risks and uncertainties described below are not the only ones facing our company. Additional risks and uncertainties may also impair our business operations. If any of the following risks actually occur, our business, financial condition, results of operations or cash flows would likely suffer. In that case, the trading price of our common stock could fall, and you may lose all or part of the money you paid to buy our common stock.*

**Risks Related to Our Business**

***Our operating results and stock price will be adversely affected from our new subscription-based licensing offering and will be further adversely affected if customers do not react favorably to our new subscription-based licensing offering.***

In July 2009, we introduced a new license offering for our aspenONE software suite in which customers are granted access to specific sets of our software products. Access to the aspenONE suite is calculated and priced on the basis of exchangeable units of measurement, or "tokens." SMS and updates are included in the license, as well as access to any new software products added to the aspenONE suite during the license term.

Previously, we typically recognized the net present value of license fees over the license term as revenue in the period in which the license agreement was signed and the software was delivered to the customer. We expect our new aspenONE licensing offering to result in revenue being recognized on a subscription basis over the term of multi-year contracts. Although we expect the new licensing offering to result in increased customer usage and higher revenue over time, we are not able to predict the rate of adoption of the new license offering, and therefore cannot predict the timing or amount of future revenue or level of profitability. As referenced in our Current Report on Form 8-K filed with the SEC on July 9, 2009, we expect that this change from predominantly upfront revenue recognition will result in our continuing to report significantly lower revenue and large operating losses in the near term. The announcement of such losses as well as the lack of visibility into future operating results may have a significant adverse effect on our stock price.



***Our operating results depend on customers in or serving the energy, chemicals, pharmaceutical, and engineering and construction industries, which are highly cyclical, and our operating results may suffer if these industries continue to experience an economic downturn.***

Our operating results depend on companies in or serving the energy, chemicals, engineering and construction and pharmaceutical industries. Accordingly, our future success depends upon the continued demand for manufacturing optimization software and services by companies in these process manufacturing industries. These industries are highly cyclical and highly reactive to the price of oil, as well as general economic conditions. At least one of our customers has filed for bankruptcy protection, which may affect associated cash receipts and the extent to which revenue from this customer may be recognized. There is no assurance that other customers may not also seek bankruptcy or other similar relief from creditors, which could adversely affect our results of operations.

Adverse changes in the economy and global economic and political uncertainty could cause delays and reductions in IT spending by our customers and a consequent deterioration of the markets for our products and services, particularly our manufacturing/supply chain product suites. If adverse economic conditions persist, we would likely experience reductions, delays and postponements of customer purchases that will negatively impact our operating results.

In addition, in the past, worldwide economic downturns and pricing pressures experienced by energy, chemical, and other process industries have led to consolidations and reorganizations. These downturns, pricing pressures and reorganizations have caused delays and reductions in capital and operating expenditures by many of these companies. These delays and reductions have reduced demand for products and services like ours. A recurrence of these industry patterns, including any recurrence that may occur in connection with current global economic events, as well as general domestic and foreign economic conditions and other factors that reduce spending by companies in these industries, could harm our operating results in the future.

***The modification of the consent decree with the Federal Trade Commission and the related settlement with Honeywell International, Inc. could have a material adverse effect on our business and financial condition.***

In December 2004, we entered into a consent decree with the FTC, with respect to a civil administrative complaint filed by the FTC in August 2003 alleging that our acquisition of Hyprotech in May 2002 was anticompetitive in violation of Section 5 of the Federal Trade Commission Act and Section 7 of the Clayton Act. In connection with the consent decree, we entered into an agreement with Honeywell on October 6, 2004, pursuant to which we transferred our operator training business and certain rights to the intellectual property of various legacy Hyprotech products.

We are subject to ongoing compliance obligations under the FTC consent decree. On July 6, 2009, we announced that the FTC closed an investigation relating to the alleged violations of the decree, and issued an order modifying the consent decree. The modified order became final on August 20, 2009. The modification to the 2004 consent decree requires that we continue to provide the ability for users to save input variable case data for Aspen HYSYS and Aspen HYSYS Dynamics software in a standard "portable" format, which will make it easier for users to transfer case data from later versions of the products to earlier versions. We will also provide documentation to Honeywell of the Aspen HYSYS and Aspen HYSYS Dynamics input variables, as well as documentation of the covered heat exchange products. These requirements will apply to all existing and future versions of the covered products through up to 2014. In addition, in connection with the settlement of the related litigation with Honeywell, we have provided to Honeywell a license to modify and distribute (in object code form) certain versions of our flare system analyzer software. There is no assurance that the actions required by the FTC's modified order and related settlement with Honeywell will not provide Honeywell with additional competitive advantages that could materially adversely affect our results of operations.

**Securities litigation based on our restatement of our consolidated financial statements due to our prior software accounting practices may subject us to substantial damages and expenses, may require significant management time, and may damage our reputation.**

In March 2006, we settled class action litigation, including related derivative claims, arising out of our originally filed consolidated financial statements for fiscal 2000 through 2004, the accounting for which we restated in March 2005. Certain members of the class representing 1,457,969 shares of common stock (or less than 1% of the shares putatively purchased during the class action period) opted out of the settlement and had the right to bring their own state or federal law claims against us, referred to as "opt-out" claims.

Opt-out claims were filed on behalf of the holders of approximately 1.1 million of such shares. One of these actions was settled and two were dismissed. The claims in the remaining actions (described below) include claims against us and one or more of our former officers alleging securities and common law fraud, breach of contract, deceptive practices and/or rescissory damages liability, based on the restated results of one or more fiscal periods included in our restated consolidated financial statements referenced in the class action.

- *Herbert G. and Eunice E. Blecker v. Aspen Technology, Inc. et al.*, filed on June 5, 2006 in the Business Litigation Session of the Massachusetts Superior Court for Suffolk County and docketed as Civ. A. No. 06-2357-BLS1 in that court, was an opt-out claim asserted by persons who received 248,411 shares of our common stock in an acquisition. Fact discovery in this action closed on July 18, 2008, and a non-jury trial began on November 3, 2009 and concluded on November 24, 2009. On January 19, 2010 the court issued its order granting judgment in our favor and dismissing the case. On October 17, 2008, the plaintiffs had filed a new complaint in the Superior Court of the Commonwealth of Massachusetts, captioned *Herbert G. and Eunice E. Blecker v. Aspen Technology, Inc. et al.*, Civ. A. No. 08-4625-BLS1 (Blecker II). The sole claim in Blecker II is based on the Massachusetts Uniform Securities Act. We served a motion to dismiss on December 3, 2008 which was granted on December 11, 2009. On January 5, 2010, the plaintiffs filed a notice of appeal with respect to that dismissal.
- *380544 Canada, Inc. et al. v. Aspen Technology, Inc.*, filed on February 15, 2007 in the federal district court for the Southern District of New York and docketed as Civ. A. No. 1:07-cv-01204-JFK in that court, is a claim asserted by persons who purchased 566,665 shares of our common stock in a private placement. Certain motions to dismiss filed by other defendants were resolved on May 5, 2009, and discovery is scheduled to conclude in May 2010.

The claims in the *380544 Canada* action referenced above are for damages totaling at least \$4.0 million, not including claims for attorneys' fees. We plan to defend the *380544 Canada* action vigorously. We can provide no assurance as to the outcome of this case or the likelihood of the filing of additional opt-out claims, and these claims may result in judgments against us for significant damages. Regardless of the outcome, such litigation has resulted in the past, and may continue to result in the future, in significant legal expenses and may require significant attention and resources of management, all of which could result in losses and damages that have a material adverse effect on our business.

We are required to advance legal fees (subject to undertakings of repayment if required) and may be required to indemnify certain of our current or former directors and officers in connection with civil, criminal or regulatory proceedings or actions, and such indemnification commitments may be costly. Our executive and organization liability insurance policies provide only limited liability protection relating to such actions against us and certain of our officers and directors, and will likely not cover the costs of director and officer indemnification or other liabilities incurred by us; accordingly, if we are unable to achieve a favorable settlement thereof, our financial condition could be materially harmed. Also, increased premiums could materially harm our financial results in future periods. Our inability to obtain coverage due to prohibitively expensive premiums would make it more difficult to retain and

attract officers and directors and expose us to potentially self-funding any potential future liabilities ordinarily mitigated by such liability insurance.

***A dispute with a former reseller in the Middle East may materially and adversely affect our revenue growth, operating results, financial condition and cash flows.***

Prior to October 6, 2009, we had an exclusive reseller relationship covering certain countries in the Middle East with a reseller known as AspenTech Middle East W.L.L., a Kuwait corporation ("ATME" or the reseller). Effective October 6, 2009, we terminated the reseller relationship for material breach by the reseller based on certain actions of the reseller.

On November 2, 2009, ATME commenced an action in the Queen's Bench Division (Commercial Court) of the High Court of Justice (England & Wales) captioned *In The Matter Of An Intended Arbitration Between AspenTech Middle East W.L.L. And Aspen Technology, Inc.*, 2009 Folio 1436, seeking preliminary injunctive relief restraining us from taking any steps to impede ATME from serving as our exclusive reseller in the countries included in our agreement with ATME. We filed evidence in opposition to that request for relief on November 12, 2009. At a hearing on November 13, 2009, the court dismissed ATME's application for preliminary injunctive relief. The court sealed an Order to this effect on November 23, 2009, and further ordered that ATME pay our costs of claim, specifically by making a payment on account in the amount of ninety thousand pounds (£90,000) with the balance to go to detailed assessment on an indemnity basis.

Relatedly, on November 11, 2009, we commenced an arbitration against ATME in the International Court of Arbitration of the International Chamber of Commerce, captioned *Aspen Technology, Inc. v. AspenTech Middle East W.L.L.*, Case No. 16732/VRO, by filing a request for arbitration in that court. Our request for arbitration asserted claims against ATME seeking a declaration that ATME committed a material breach of the Agreement and that our termination of the Agreement was lawful, and seeking damages for ATME's willful misconduct in connection with the reseller relationship. On November 18, 2009, ATME filed its answer to that request for arbitration and asserted counterclaims against us seeking a declaratory judgment that we unlawfully terminated the Agreement with ATME, and seeking damages for breach of contract by reason of our purported unlawful termination of the Agreement. Our reply to those counterclaims was filed on or about December 18, 2009.

We can provide no assurance as to the outcome of the dispute. Regardless of the outcome, such claims may result in significant legal expenses and may require significant attention and resources of management, all of which could result in losses and damages that have a material adverse effect on our business. The reseller agreement document relating to the terminated relationship contained a provision whereby we could be liable for a termination fee if the agreement were terminated other than for material breach. This fee would be calculated based on a formula contained in the reseller agreement that we believe was originally developed based on certain assumptions about the future financial performance of the reseller, as well as the reseller's actual financial performance. Based on the formula and the financial information provided to us by the reseller, which we have not had the opportunity to verify independently, a recent calculation associated with termination other than for material breach based on the formula would result in a termination fee of between \$60 million and \$77 million. Under the terminated reseller agreement document, no termination fee is owed on termination for material breach.

***In preparing our consolidated financial statements, we identified material weaknesses in our internal control over financial reporting, and our failure to remedy the material weaknesses identified as of September 30, 2009 could result in material misstatements in our financial statements.***

Our management is responsible for establishing and maintaining adequate internal control over our financial reporting, as defined in Rule 13a-15(f) under the Exchange Act. Our management identified four material weaknesses in our internal control over financial reporting as of December 31, 2009. A material weakness is defined as a deficiency, or combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis.

The material weaknesses identified by management as of December 31, 2009 consisted of:

- Inadequate and ineffective monitoring controls;
- Inadequate and ineffective controls over the periodic financial close process;
- Inadequate and ineffective controls over income tax accounting and disclosure; and
- Inadequate and ineffective controls over the recognition of revenue.

As a result of these material weaknesses, our management concluded as of December 31, 2009 that our internal control over financial reporting was not effective based on criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission in *Internal Control—An Integrated Framework* (September 1992).

We have begun to implement and continue to implement remedial measures designed to address these material weaknesses. If these remedial measures are insufficient to address these material weaknesses, or if additional material weaknesses or significant deficiencies in our internal control are discovered or occur in the future, we may fail to meet our future reporting obligations on a timely basis, our consolidated financial statements may contain material misstatements, we could be required to restate our prior period financial results, our operating results may be harmed, we may be subject to class action litigation, and if we regain listing on a public exchange, our common stock could be delisted from that exchange. Any failure to address the identified material weaknesses or any additional material weaknesses in our internal control could also adversely affect the results of the periodic management evaluations regarding the effectiveness of our internal control over financial reporting that are required to be included in our annual reports on Form 10-K. Internal control deficiencies could also cause investors to lose confidence in our reported financial information. We can give no assurance that the measures we plan to take in the future will remediate the material weaknesses identified or that any additional material weaknesses or additional restatements of financial results will not arise in the future due to a failure to implement and maintain adequate internal control over financial reporting or circumvention of these controls. In addition, even if we are successful in strengthening our controls and procedures, in the future those controls and procedures may not be adequate to prevent or identify irregularities or errors or to facilitate the fair presentation of our consolidated financial statements.

***If in the future we are not current in our SEC filings, we will face several adverse consequences.***

If we are unable to remain current in our financial filings, investors in our securities will not have information regarding our business and financial condition with which to make decisions regarding investment in our securities. In addition, we would not be able to have a registration statement under the Securities Act, covering a public offering of securities declared effective by the SEC, and we would not be able to make offerings pursuant to existing registration statements or pursuant to certain "private placement" rules of the SEC under Regulation D to any purchasers not qualifying as "accredited investors." The lack of an effective registration statement would also result in our employees being unable to exercise vested options, which could affect our ability to attract and retain qualified personnel. We also would not be eligible to use a "short form" registration statement on Form S-3 for a period of twelve months after the time we became current in our filings. These restrictions may impair our ability to raise funds should we desire to do so and may adversely affect our financial condition. If we are unable to remain current in our filings, and we are not able to obtain waivers under our financing arrangements, it might become necessary to repay certain borrowings, which could have a material adverse effect on our results of operations.

***We expect to be relisted on an exchange effective February 10, 2010; however, if we do not relist our common stock on an exchange, or if we do not remain listed, the price of our common stock and the level of liquidity available to our stockholders may be limited.***

Our common stock has been quoted on the Pink OTC Markets Inc. electronic quotation service since February 19, 2008. We expect to be relisted on a national securities exchange effective February 10, 2010. If we become so listed but thereafter fail to keep current in our SEC filings or to comply with the applicable continued listing requirements, our common stock might be and subsequently would trade in the Pink Sheets electronic quotation service. The trading of our common stock in the Pink Sheets may reduce the levels of liquidity available to our stockholders and also the price of our common stock. In addition, the trading of our common stock in the Pink Sheets would materially adversely affect our access to the capital markets, and the limited liquidity and potentially reduced price of our common stock could materially adversely affect our ability to raise capital through alternative financing sources on terms acceptable to us or at all. Stocks that trade in the Pink Sheets are no longer eligible for margin loans, and a company trading in the Pink Sheets cannot avail itself of federal preemption of state securities or "blue sky" laws, which adds substantial compliance costs to securities issuances, including pursuant to employee option plans, stock purchase plans and private or public offerings of securities. If we regain listing and are delisted in the future and transferred to the Pink Sheets, there may also be other negative implications, including the potential loss of confidence by suppliers, customers and employees, and the loss of institutional investor interest in our company.

***Our international operations are complex and if we fail to manage those operations effectively, the growth of our business would be limited and our operating results would be adversely affected.***

As of February 2, 2010, we had 26 offices in 21 countries. We sell our products primarily through a direct sales force located throughout the world. In the event that we are unable to adequately staff and maintain our foreign operations, we could face difficulties managing our international operations.

We also rely, to a lesser extent, on distributors and resellers to sell our products and market our services internationally, and our inability to manage and maintain those relationships would limit our ability to generate revenue outside the U.S. Effective October 6, 2009, we terminated a reseller outside the U.S. See our risk factor above titled "A dispute with a former reseller in the Middle East may materially and adversely affect our revenue growth, operating results, financial condition and cash flows." The complexities of our operations also require us to make significant expenditures to ensure that our operations are compliant with regulatory requirements in numerous foreign jurisdictions. To the extent

we are unable to manage the various risks associated with our complex international operations effectively, the growth and profitability of our business may be adversely affected.

***Our business may suffer if we fail to address challenges associated with transacting business internationally.***

Customers outside the U.S. accounted for a material amount of our total revenue in fiscal 2008, 2009 and the six months ended December 31, 2009. We anticipate that revenue from customers outside the U.S. will continue to account for a material portion of our total revenue for the foreseeable future. Our operations outside the U.S. are subject to additional risks, including:

- unexpected changes in regulatory requirements, exchange rates, tariffs and other barriers;
- political and economic instability and possible nationalization of property by governments without compensation to the owners;
- less effective protection of intellectual property;
- difficulties and delays in translating products and product documentation into foreign languages;
- difficulties and delays in negotiating software licenses compliant with accounting revenue recognition requirements in the U.S.;
- difficulties in collecting trade accounts receivable in other countries; and
- adverse tax consequences.

In addition, the impact of future exchange rate fluctuations on our operating results cannot be accurately predicted. From time to time we have engaged in economic hedging of a significant portion of installment contracts denominated in foreign currencies. In fiscal 2009 we stopped engaging in economic hedging; however, we may resume this practice in the future. Any hedging policies we implement may not be successful, and the cost of these hedging techniques may have a significant negative impact on our operating results.

***Competition from software offered by current competitors and new market entrants, as well as from internally developed solutions, could adversely affect our ability to sell our software products and related services and could result in pressure to price our products in a manner that reduces our margins.***

Our markets in general are highly competitive and differ among our three principal product areas: engineering, manufacturing, and supply chain management. Our engineering software competes with products of businesses such as ABB Ltd, Chemstations, Inc., Honeywell International, Inc., Invensys plc, KBC Advanced Technologies plc, and Shell Global Solutions International BV. Our manufacturing software competes with products of companies such as ABB Ltd., Honeywell International, Inc., Invensys plc, OSIsoft, Inc., Rockwell Automation, Inc., Siemens AG and SAP. Our supply chain management software competes with products of companies such as i2 Technologies, Inc., Infor Global Solutions, Manugistics, Inc. (a subsidiary of JDA Software Group, Inc.), Oracle Corporation, and SAP. In addition, we face competition in all areas of our business from large companies in the process industries that have internally developed their own proprietary software solutions.

Many of our current and potential competitors have greater financial, technical, marketing, service and other resources than we have. As a result, these companies may be able to offer lower prices, additional products or services, or other incentives that we cannot match or offer. These competitors may be in a stronger position to respond more quickly to new technologies and may be able to undertake more extensive marketing campaigns. We believe they also have adopted and may continue to pursue more aggressive pricing policies and make more attractive offers to potential customers, employees and strategic partners. In addition, many of our competitors have established, and may in

the future continue to establish, cooperative relationships with third parties to improve their product offerings and to increase the availability of their products in the marketplace. Competitors with greater financial resources may make strategic acquisitions to increase their ability to gain market share or improve the quality or marketability of their products.

Competition could seriously impede our ability to sell additional software products and related services on terms favorable to us. Businesses may continue to enhance their internally developed solutions, rather than investing in commercial software such as ours. Our current and potential commercial competitors may develop and market new technologies that render our existing or future products obsolete, unmarketable or less competitive. In addition, if these competitors develop products with similar or superior functionality to our products, we may need to decrease the prices for our products in order to remain competitive. If we are unable to maintain our current pricing due to competitive pressures, our margins will be reduced and our operating results will be negatively affected. We cannot assure you that we will be able to compete successfully against current or future competitors or that competitive pressures will not materially adversely affect our business, financial condition and operating results.

***If we fail to develop new software products or enhance existing products and services, we will be unable to implement our product strategy successfully and our business could be seriously harmed.***

Enterprises are requiring their application software vendors to provide greater levels of functionality and broader product offerings. Moreover, competitors continue to make rapid technological advances in computer hardware and software technology and frequently introduce new products, services and enhancements. We must continue to enhance our current product line and develop and introduce new products and services that keep pace with increasingly sophisticated customer requirements and the technological developments of our competitors. Our business and operating results could suffer if we cannot successfully respond to the technological advances of competitors, or if our new products or product enhancements and services do not achieve market acceptance.

Under our business plan, we are implementing a product strategy that unifies our software solutions under the aspenONE brand with differentiated aspenONE vertical solutions targeted at specific process industry segments. We cannot assure you that our product strategy will result in products that will meet market needs and achieve significant market acceptance.

***Defects or errors in our software products could harm our reputation, impair our ability to sell our products and result in significant costs to us.***

Our software products are complex and may contain undetected defects or errors. We have not suffered significant harm from any defects or errors to date, but we have from time to time found defects in our products and we may discover additional defects in the future. We may not be able to detect and correct defects or errors before releasing products. Consequently, we or our customers may discover defects or errors after our products have been implemented. We have in the past issued, and may in the future need to issue, corrective releases of our products to remedy defects or errors. The occurrence of any defects or errors could result in:

- lost or delayed market acceptance and sales of our products;
- delays in payment to us by customers;
- product returns;
- injury to our reputation;
- diversion of our resources;

- legal claims, including product liability claims, against us;
- increased service and warranty expenses or financial concessions; and
- increased insurance costs.

Defects and errors in our software products could result in an increase in service and warranty costs or claims for substantial damages against us.

***We may be subject to significant expenses and damages because of liability claims related to our products and services.***

We may be subject to significant expenses and damages because of liability claims related to our products and services. The sale and implementation of certain of our software products and services, particularly in the areas of advanced process control, supply chain and optimization, entail the risk of product liability claims and associated damages. Our software products and services are often integrated with our customers' networks and software applications and are used in the design, operation and management of manufacturing and supply chain processes at large facilities, often for mission critical applications.

Any errors, defects, performance problems or other failure of our software could result in significant liability to us for damages or for violations of environmental, safety and other laws and regulations. We are currently defending a customer claim of approximately \$5 million that certain of our software products and implementation services failed to meet customer expectations. In addition, our software products and implementation services could continue to give rise to warranty and other claims. We are unable to determine whether resolution of any of these matters will have a material adverse impact on our financial position, cash flows or results of operations, or, in many cases, reasonably estimate the amount of the loss, if any, that may result from the resolution of these matters.

Our agreements with our customers generally contain provisions designed to limit our exposure to potential product liability claims. It is possible, however, that the limitation of liability provisions in our agreements may not be effective as a result of federal, foreign, state or local laws or ordinances or unfavorable judicial decisions. A substantial product liability judgment against us could materially and adversely harm our operating results and financial condition. Even if our software is not at fault, a product liability claim brought against us could be time-consuming, costly to defend and harmful to our operations.

***Implementation of some of our products can be difficult and time-consuming, and customers may be unable to implement those products successfully or otherwise achieve the benefits attributable to them.***

Some scheduling applications and integrated supply chain products must integrate with the existing computer systems and software programs of our customers. This can be complex, time-consuming and expensive. As a result, some customers may have difficulty in implementing those products or be unable to implement them successfully or otherwise achieve the benefits attributable to them. Delayed or ineffective implementation of those software products or related services may limit our ability to expand our revenue and may result in customer dissatisfaction, harm to our reputation and customer unwillingness to pay the fees associated with these products.

***We may suffer losses on fixed-price professional service engagements.***

We undertake a portion of our professional service engagements on a fixed-price basis. Under these types of engagements, we bear the risk of cost overruns and inflation, and in the past we have experienced cost overruns, which on occasion have been significant. Should the number of our fixed-price engagements increase in the future, we may experience additional cost overruns which could have a more pronounced impact on our operating results.



***We may not be able to protect our intellectual property rights, which could make us less competitive and cause us to lose market share.***

We regard our software as proprietary and rely on a combination of copyright, patent, trademark and trade secret laws, license and confidentiality agreements, and software security measures to protect our proprietary rights. We have registered or have applied to register several of our significant trademarks in the U.S. and in certain other countries. We generally enter into non-disclosure agreements with our employees and customers, and historically have restricted access to our software products' source codes, which we regard as proprietary information. In a few cases, we have provided copies of the source code for some of our products to customers solely for the purpose of special product customization and have deposited copies of the source code for some of our products in third party escrow accounts as security for ongoing service and license obligations. In these cases, we rely on non-disclosure and other contractual provisions to protect our proprietary rights.

The steps we have taken to protect our proprietary rights may not be adequate to deter misappropriation of our technology or independent development by others of technologies that are substantially equivalent or superior to our technology. Any misappropriation of our technology or development of competitive technologies could harm our business and could force us to incur substantial costs in protecting and enforcing our intellectual property rights. The laws of some countries in which our products are licensed do not protect our intellectual property rights to the same extent as the laws of the U.S.

***Third party claims that we infringe the intellectual property rights of others may be costly to defend or settle and could damage our business.***

We cannot be certain that our software and services do not infringe issued patents, copyrights, trademarks or other intellectual property rights of third parties. Litigation regarding intellectual property rights is common in the software industry, and we may be subject to legal proceedings and claims from time to time, including claims of alleged infringement of intellectual property rights of third parties by us or our licensees concerning their use of our software products and integration technologies and services. Although we believe that our intellectual property rights are sufficient to allow us to market our software without incurring liability to third parties, third parties may bring claims of infringement against us. Because our software is integrated with our customers' networks and business processes, as well as other software applications, third parties may bring claims of infringement against us, as well as our customers and other software suppliers, if the cause of the alleged infringement cannot easily be determined. Such claims may be with or without merit.

Claims of alleged infringement may have a material adverse effect on our business and may discourage potential customers from doing business with us on acceptable terms, if at all. Defending against claims of infringement may be time-consuming and may result in substantial costs and diversion of resources, including our management's attention to our business. Furthermore, a party making an infringement claim could secure a judgment that requires us to pay substantial damages. A judgment could also include an injunction or other court order that could prevent us from selling our software or require that we re-engineer some or all of our products. Claims of intellectual property infringement also might require us to enter costly royalty or license agreements. We may be unable, however, to obtain royalty or license agreements on terms acceptable to us or at all. Our business, operating results and financial condition could be harmed significantly if any of these events occurred, and the price of our common stock could be adversely affected. Furthermore, former employers of our current and future employees may assert that our employees have improperly disclosed confidential or proprietary information to us. In addition, we have agreed, and may agree in the future, to indemnify certain of our customers against claims that our software infringes upon the intellectual property rights of others. Although we carry general liability insurance, our current insurance coverage may not apply to, and

likely would not protect us from, liability that may be imposed under any of the types of claims described above.

***Because some of our software products incorporate or otherwise require technology licensed from, or provided by, third parties, the loss of our right to use that third party technology or defects in that technology could harm our business.***

Some of our software products incorporate or otherwise require technology that is licensed from, or otherwise provided by, third parties. There is no assurance that the suppliers of such software will continue to license to us or that they will renew or not terminate the license contracts. Any interruption in the supply or support of any such third party software could materially adversely affect our sales, unless and until we can replace the functionality provided by the third party software. In addition, we depend on these third parties to deliver and support reliable products, enhance our current software, develop new software on a timely and cost-effective basis and respond to emerging industry standards and other technological changes. The failure of these third parties to meet these criteria could materially harm our business.

***If we are not successful in attracting, integrating and retaining highly qualified personnel, we may not be able to successfully implement our business strategy.***

Our ability to establish and maintain a position of technology leadership in the highly competitive software market depends in large part upon our ability to attract, integrate and retain highly qualified managerial, sales, technical and accounting personnel. Competition for qualified personnel in the software industry is intense. We have from time to time in the past experienced, and we expect to continue to experience in the future, difficulty in hiring and retaining highly skilled employees with appropriate qualifications. Our future success will depend in large part on our ability to attract, integrate and retain a sufficient number of highly qualified personnel, and there can be no assurance that we will be able to do so.

#### **Risks Related to Our Common Stock**

***Sales of shares of common stock issued upon the conversion of our previously outstanding Series D-1 preferred stock may result in a decrease in the price of our common stock.***

Private equity funds managed by Advent International Corporation have the right under an investor rights agreement to require that we register for sale under the Securities Act the shares of common stock that were issued upon the conversion of our previously outstanding Series D-1 preferred stock and upon the exercise of certain previously outstanding warrants. In addition, these funds could sell certain of such shares without registration. In May 2006, we received a demand letter from such funds requesting the registration of all of the shares of common stock covered by the registration right, for sale in an underwritten public offering. Pursuant to this request, in April 2007 we filed a registration statement for a public offering of 18,000,000 shares of common stock held by such funds. The registration statement also covered 2,700,000 shares that would be subject to an option to be granted to the underwriters by such funds solely to cover overallotments. On July 30, 2008, we withdrew this registration statement as we were not current with our Exchange Act reports. However, as the May 2006 demand letter is still outstanding and we are now current in our Exchange Act reports, we are therefore required to respond to the demand letter as provided in the investor rights agreement by undertaking certain efforts to file a new registration statement as provided therein. As a result, a filing of a registration statement and any sale of common stock into the public market could cause a decline in the trading price of our common stock.

***Our common stock may experience substantial price and volume fluctuations.***

The equity markets have from time to time experienced extreme price and volume fluctuations, particularly in the high technology sector, and those fluctuations have often been unrelated to the operating performance of particular companies. In addition, factors such as changes to our business model, our financial performance, announcements of technological innovations or new products by us or our competitors, as well as market conditions in the computer software or hardware industries, may have a significant impact on the market price of our common stock.

In the past, following periods of volatility in the market price of a public company's securities, securities class action litigation has often been instituted against the company. This type of litigation against us could result in substantial liability and costs and divert management's attention and resources.

***Our ability to raise capital in the future may be limited, and our failure to raise capital when needed could prevent us from executing our business plan.***

We expect that our current cash balances, future cash flows from our operations, and continued ability to sell installment receivable contracts will be sufficient to meet our anticipated cash needs for at least the next twelve months. We may need to obtain additional financing thereafter or earlier, however, if our current plans and projections prove to be inaccurate or our expected cash flows prove to be insufficient to fund our operations because of lower-than-expected revenue, fewer sales of installment receivable contracts, unanticipated expenses or other unforeseen difficulties.

Our ability to obtain additional financing will depend on a number of factors, including market conditions, our operating performance, the quality of our installment receivable contracts, and the availability of capital in the credit markets. These factors may make the timing, amount, terms and conditions of any financing unattractive. If adequate funds are not available, or are not available on acceptable terms, we may have to forego strategic acquisitions or investments, reduce or defer our development activities or delay our introduction of new products and services.

Any additional capital raised through the sale of equity or convertible debt securities may dilute the existing shareholder percentage ownership of our common stock. Furthermore, any new securities we issue could have rights, preferences and privileges superior to our common stock. Capital raised through debt financings could require us to make periodic interest payments and could impose potentially restrictive covenants on the conduct of our business.

***Our corporate documents and provisions of Delaware law may prevent a change in control or management that stockholders may consider desirable.***

Section 203 of the Delaware General Corporation Law, our charter and our by-laws contain provisions that might enable our management to resist a takeover of our company. These provisions include:

- limitations on the removal of directors;
- a classified board of directors, so that not all members of our board are elected at one time;
- advance notice requirements for stockholder proposals and nominations;
- the inability of stockholders to act by written consent or to call special meetings;
- the ability of our board of directors to make, alter or repeal our by-laws; and
- the ability of our board of directors to designate the terms of and issue new series of preferred stock without stockholder approval.

These provisions could:

- have the effect of delaying, deferring or preventing a change in control of our company or a change in our management that stockholders may consider favorable or beneficial;
- discourage proxy contests and make it more difficult for stockholders to elect directors and take other corporate actions; and
- limit the price that investors might be willing to pay in the future for shares of our common stock.

***There may be an increase in the sales volume of our common stock when we lift the corporate blackout period imposed under our Insider Trading Policy when we became delinquent in our SEC filings in fiscal 2008, and any sales of shares into the public market may cause a decline in the trading price of our common stock.***

We imposed a corporate blackout period under our Insider Trading Policy after becoming delinquent in our SEC filings in fiscal 2008 because of certain accounting errors we had identified. There may be an increase in the sales volume of our common stock when we lift the corporate blackout period. When the blackout period is lifted and employees are able to sell shares of our stock, it may cause increased selling pressure in the market for our stock, which has generally traded at volume levels substantially less than those prior to the delisting of our common stock from the NASDAQ Global Market on February 19, 2008. Any sales of shares into the public market may cause a decline in the trading price of our common stock.

#### **Item 5. Other Information.**

As previously disclosed in our definitive proxy statement on Schedule 14A filed on October 30, 2006, we entered into executive retention agreements with certain executive officers on September 26, 2006. The form of that executive retention agreement was amended in July 2009, and the form, as amended, is included as Exhibit 10.1 of this Form 10-Q. As previously disclosed in a current report on Form 8-K filed on July 2, 2009, Mark P. Sullivan was appointed to the position of senior vice president and chief financial officer, effective July 1, 2009. Effective on July 31, 2009, we entered into an executive retention agreement with Mr. Sullivan in the form attached to this Form 10-Q as Exhibit 10.1.

As previously disclosed, pursuant to the terms of each executive's agreement, if the specified executive's employment is terminated prior to a change in control without cause, the specified executive will be entitled to the following:

- payment of an amount equal to the specified executive's annual base salary then in effect, payable over twelve months;
- payment of an amount equal to the specified executive's total target bonus for the fiscal year, pro-rated for the portion of the fiscal year elapsed prior to termination, payable in one lump sum;
- payment of an amount equal to the cost to the specified executive of providing life, disability and accident insurance benefits, payable in one lump sum, for a period of one year; and
- continuation of medical, dental and vision insurance coverage to which the specified executive was entitled prior to termination for a period of one year.

In the event the specified executive's employment is terminated without cause within twelve months following a change in control or by the specified executive for good reason (which includes constructive termination, relocation, a reduction in salary or benefits, or our breach of any employment

agreement with the specified executive or a failure to pay benefits when due), then the specified executive shall be entitled to the following:

- payment of an amount equal to the sum of the specified executive's annual base salary then in effect and the specified executive's target bonus for the then-current fiscal year, payable in a single installment;
- payment of an amount equal to the cost to the specified executive of providing life, disability and accident insurance benefits, payable in a single installment, for a period of one year;
- continuation of medical, dental and vision insurance coverage to which the specified executive was entitled prior to termination for a period of one year; and
- full vesting of (a) all of the specified executive's options to purchase shares of our stock, which options may be exercised by the specified executive for a period of twelve months following the date of termination and (b) all restricted stock and restricted stock units then held by the specified executive.

Each executive retention agreement provides that the total payments received by the specified executive relating to termination of his/her employment will be reduced to an amount equal to the highest amount that could be paid to the specified executive without subjecting such payment to excise tax as a parachute payment under IRC Section 409A, provided that no reduction shall be made if the amount by which these payments are reduced exceeds 110% of the value of any additional taxes that the specified executive would incur if the total payments were not reduced.

For the purposes of each agreement:

- "change in control" means (a) the acquisition of 50% or more of either the then-outstanding shares of our common stock or the combined voting power of our then-outstanding securities; (b) such time as the members of the board immediately prior to the change in control do not continue to constitute the majority of our directors following the change in control; (c) the consummation of a merger, consolidation, reorganization, recapitalization or share exchange involving our company, unless the transaction would not result in a change in ownership of 50% or more of both our then-outstanding common stock and the combined voting power of our then-outstanding securities; or (d) our liquidation or dissolution;
- "cause" means (a) the willful and continued failure by an executive to substantially perform his/her duties for us after delivery by the board of a written demand for performance (other than any such failure resulting from the executive's incapacity due to physical or mental illness, or any such failure after the executive gives us notice of termination for good reason), and a failure by the specified executive to cure the performance failure within 30 days; or (b) the willful engaging by the specified executive in gross misconduct that is demonstrably and materially injurious to us; and
- "good reason" means constructive termination of the specified executive, relocation, a reduction in the specified executive's salary or benefits, our breach of any employment agreement with the specified executive or our failure to pay benefits when due.

Each executive retention agreement terminates on the earliest to occur of (a) July 31, 2010, (b) the first anniversary of a change in control, and (c) our payment of all amounts due to the executive following a change in control. Each agreement is subject to automatic renewal on August 1 of each year, unless we give notice of termination at least seven days prior to the renewal date.

**Item 6. Exhibits.**

<u>Exhibit Number</u>	<u>Description</u>	<u>Filed with this Form 10-Q</u>	<u>Incorporated by Reference</u>		
			<u>Form</u>	<u>Filing Date with SEC</u>	<u>Exhibit Number</u>
10.1	Form of Executive Retention Agreement entered into by Aspen Technology, Inc. and each executive officer of Aspen Technology, Inc. (other than Mark E. Fusco)	X			
31.1	Certification of Principal Executive Officer pursuant to Exchange Act Rules 13a-14 and 15d-14, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	X			
31.2	Certification of Principal Financial Officer pursuant to Exchange Act Rules 13a-14 and 15d-14, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	X			
32.1	Certification of President and Chief Executive Officer and Senior Vice President and Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	X			



**EXHIBIT INDEX**

<u>Exhibit Number</u>	<u>Description</u>	<u>Filed with this Form 10-Q</u>	<u>Incorporated by Reference</u>		
			<u>Form</u>	<u>Filing Date with SEC</u>	<u>Exhibit Number</u>
10.1	Form of Executive Retention Agreement entered into by Aspen Technology, Inc. and each executive officer of Aspen Technology, Inc. (other than Mark E. Fusco)	X			
31.1	Certification of Principal Executive Officer pursuant to Exchange Act Rules 13a-14 and 15d-14, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	X			
31.2	Certification of Principal Financial Officer pursuant to Exchange Act Rules 13a-14 and 15d-14, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	X			
32.1	Certification of President and Chief Executive Officer and Senior Vice President and Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	X			

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CONFIDENTIAL

**ASPEN TECHNOLOGY, INC.**

Executive Retention Agreement

Aspen Technology, Inc., a Delaware corporation (the “Company”), and [Name of executive] (the “Executive”) enter into this Executive Retention Agreement (the “Agreement”) dated July 31, 2009 (the “Effective Date”).

WHEREAS, the Company considers the establishment and maintenance of a sound and vital management to be essential to protecting and enhancing the best interests of the Company and its stockholders;

WHEREAS, the Company recognizes that, as is the case with many publicly-held corporations, the possibility of a change in control of the Company exists and that such possibility, and the uncertainty and questions which it may raise among key personnel, may result in the departure or distraction of key personnel to the detriment of the Company and its stockholders, and

WHEREAS, the Board of Directors of the Company (the “Board”) has determined that it is in the best interests of the Company that appropriate steps should be taken to reinforce and encourage the continued employment and dedication of the Company’s key personnel without distraction, including distraction from the possibility of a change in control of the Company and related events and circumstances.

NOW, THEREFORE, as an inducement for and in consideration of the Executive remaining in its employ and for other good and valuable consideration, the parties agree that the Executive shall receive the severance benefits set forth set forth below in the event the Executive’s employment with the Company is terminated.

1. Key Definitions.

As used herein, the following terms shall have the following respective meanings:

1.1 “Change in Control” means an event or occurrence set forth in any one or more of subsections (a) through (d) below (including an event or occurrence that constitutes a Change in Control under one of such subsections but is specifically exempted from another such subsection) and that is (i) a change in the ownership of the Company (as defined in Treasury Regulation Section 1.409A-3(i)(5)(v)), (ii) a change in effective control of the Company (as defined in Treasury Regulation Section 1.409A-3(i)(5)(vi)), or (iii) a change in the ownership of a substantial portion of the assets of the Company (as defined in Treasury Regulation Section 1.409A-3(i)(5)(vii)):

(a) the acquisition by an individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Securities Exchange Act of 1934) (a “Person”) of beneficial ownership of any capital stock of the Company if, after such acquisition, such Person beneficially owns (within the meaning of Rule 13d-3 promulgated under the Securities Exchange Act of 1934) 50% or more of either (x) the then-outstanding shares of common stock of the

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Company (the “Outstanding Company Common Stock”) or (y) the combined voting power of the then-outstanding securities of the Company entitled to vote generally in the election of directors (the “Outstanding Company Voting Securities”); provided that for purposes of this subsection (1), the following acquisitions shall not constitute a Change in Control: (I) any acquisition directly from the Company (excluding an acquisition pursuant to the exercise, conversion or exchange of any security exercisable for, convertible into or exchangeable for common stock or voting securities of the Company, unless the Person exercising, converting or exchanging such security acquired such security directly from the Company or an underwriter or agent of the Company), (II) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Company or any corporation controlled by the Company or (III) any acquisition by any corporation pursuant to a Business Combination (as defined below) that complies with clauses (x) and (y) of Section 1.1(c); or

(b) such time as the Continuing Directors (as defined below) do not constitute a majority of the Board (or, if applicable, the Board of Directors of a successor corporation to the Company), where the term “Continuing Director” means at any date a member of the Board (x) who was a member of the Board on the date of the execution of this Agreement or (y) who was nominated or elected subsequent to such date by at least a majority of the directors who were Continuing Directors at the time of such nomination or election or whose election to the Board was recommended or endorsed by at least a majority of the directors who were Continuing Directors at the time of such nomination or election, provided that there shall be excluded from this clause (y) any individual whose initial assumption of office occurred as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents, by or on behalf of a person other than the Board; or

(c) the consummation of a merger, consolidation, reorganization, recapitalization or share exchange involving the Company or a sale or other disposition of all or substantially all of the assets of the Company (a “Business Combination”), unless, immediately following such Business Combination, each of the following two conditions is satisfied: (x) all or substantially all of the individuals and entities who were the beneficial owners of the Outstanding Company Common Stock and Outstanding Company Voting Securities immediately prior to such Business Combination beneficially own, directly or indirectly, more than 50% of the then-outstanding shares of common stock and the combined voting power of the then-outstanding securities entitled to vote generally in the election of directors, respectively, of the resulting or acquiring corporation in such Business Combination (which shall include a corporation that as a result of such transaction owns the Company or substantially all of the Company’s assets either directly or through one or more subsidiaries) (such resulting or acquiring corporation is referred to herein as the “Acquiring Corporation”) in substantially the same proportions as their ownership of the Outstanding Company Common Stock and Outstanding Company Voting Securities, respectively, immediately prior to such Business Combination, excluding for all purposes of this clause (x) any shares of common stock or other securities of the Acquiring Corporation attributable to any such individual’s or entity’s ownership of securities other than Outstanding Company Common Stock or Outstanding Company Voting Securities immediately prior to the Business Combination); and (y) no Person (excluding the Acquiring Corporation or any employee benefit plan (or related trust) maintained or sponsored by the Company or by the Acquiring Corporation) beneficially owns, directly or

indirectly, 50% or more of the then-outstanding shares of common stock of the Acquiring Corporation, or of the combined voting power of the then-outstanding securities of such corporation entitled to vote generally in the election of directors (except to the extent that such ownership existed prior to the Business Combination); or

(d) the liquidation or dissolution of the Company.

1.2 “Change in Control Date” means the first date during the Term (as defined in Section 2) on which a Change in Control occurs. Anything in this Agreement to the contrary notwithstanding, if (a) a Change in Control occurs, or shall have been announced or agreed to, (b) the Executive’s employment with the Company is subsequently terminated, and (c) if the date of termination is prior to the date of the actual or scheduled Change of Control and it is reasonably demonstrated by the Executive that such termination of employment (i) was at the request of a third party who has taken steps reasonably designed to effect a Change in Control or (ii) otherwise arose in connection with or in anticipation of a Change in Control, such as, for example, as a condition thereto or in connection with cost reduction or elimination of duplicate positions, then for all purposes of this Agreement the “Change in Control Date” shall mean the date immediately prior to the date of such termination of employment.

1.3 “Cause” means:

(a) the Executive’s willful and continued failure to substantially perform the Executive’s reasonable assigned duties (other than any such failure resulting from incapacity due to physical or mental illness or any failure after the Executive gives notice of termination for Good Reason), which failure is not cured within 30 days after a written notice and demand for substantial performance is received by the Executive from the Board of Directors of the Company which specifically identifies the manner in which the Board of Directors believes the Executive has not substantially performed the Executive’s duties; or

(b) the Executive’s willful engagement in illegal conduct or gross misconduct which is materially and demonstrably injurious to the Company.

For purposes of this Section 1.3, no act or failure to act by the Executive shall be considered “willful” unless it is done, or omitted to be done, in bad faith and without reasonable belief that the Executive’s action or omission was in the best interests of the Company.

1.4 “Good Reason” means the occurrence, without the Executive’s prior written consent, of any of the events or circumstances set forth in clauses (a) through (g) below. Notwithstanding the occurrence of any such event or circumstance, such occurrence shall not be deemed to constitute Good Reason if, prior to the Date of Termination specified in the Notice of Termination (each as defined in Section 3) given by the Executive in respect thereof, such event or circumstance has been fully corrected and the Executive has been reasonably compensated for any losses or damages resulting therefrom (provided that such right of correction by the Company shall apply only with respect to the first Notice of Termination for Good Reason given by the Executive).

(a) the assignment to the Executive of duties inconsistent in any material respect with the Executive’s position (including status, offices, titles and reporting

requirements), authority or responsibilities in effect immediately prior to the earliest to occur of (i) the Change in Control Date, (ii) the date of the execution by the Company of the initial written agreement or instrument providing for the Change in Control or (iii) the date of the adoption by the Board of Directors of a resolution providing for the Change in Control (with the earliest to occur of such dates referred to herein as the “Measurement Date”), or any other action or omission by the Company which results in a material diminution in such position, authority or responsibilities;

(b) a reduction in the Executive’s annual base salary as in effect on the Measurement Date or as the same was or may be increased thereafter from time to time;

(c) the failure by the Company to (i) continue in effect any material compensation or benefit plan or program (including without limitation any life insurance, medical, health and accident or disability plan and any vacation program or policy) (a “Benefit Plan”) in which the Executive participates or which is applicable to the Executive immediately prior to the Measurement Date, unless an equitable arrangement (embodied in an ongoing substitute or alternative plan) has been made with respect to such plan or program, (ii) continue the Executive’s participation therein (or in such substitute or alternative plan) on a basis not materially less favorable, both in terms of the amount of benefits provided and the level of the Executive’s participation relative to other participants, than the basis existing immediately prior to the Measurement Date or (iii) award cash bonuses to the Executive in amounts and in a manner substantially consistent with past practice in light of the Company’s financial performance;

(d) a change by the Company in the location at which the Executive performs the Executive’s principal duties for the Company to a new location that is both (i) outside a radius of 40 miles from the Executive’s principal residence immediately prior to the Measurement Date and (ii) more than 30 miles from the location at which the Executive performed the Executive’s principal duties for the Company immediately prior to the Measurement Date; or a requirement by the Company that the Executive travel on Company business to a substantially greater extent than required immediately prior to the Measurement Date;

(e) the failure of the Company to obtain the agreement from any successor to the Company to assume and agree to perform this Agreement, as required by Section 6.1;

(f) a purported termination of the Executive’s employment which is not effected pursuant to a Notice of Termination satisfying the requirements of Section 3; or

(g) any failure of the Company to pay or provide to the Executive any portion of the Executive’s compensation or benefits due under any Benefit Plan within seven days of the date such compensation or benefits are due, or any material breach by the Company of this Agreement or any employment agreement with the Executive.

evidence that Good Reason does not exist. The Executive’s right to terminate the Executive’s employment for Good Reason shall not be affected by the Executive’s incapacity due to physical or mental illness.

1.5 “Disability” means the Executive’s absence from the full-time performance of the Executive’s duties with the Company for 180 consecutive calendar days as a result of incapacity due to mental or physical illness which is determined to be total and permanent by a physician selected by the Company or its insurers and acceptable to the Executive or the Executive’s legal representative.

2. Term of Agreement. This Agreement shall take effect upon the Effective Date and shall expire upon the first to occur of (a) the expiration of the Term (as defined below) if a Change in Control has not occurred during the Term, (b) the date 12 months after the Change in Control Date, if the Executive is still employed by the Company as of such later date, or (c) the fulfillment by the Company of all of its obligations under Sections 4 and 5.2 and 5.3 if the Executive’s employment with the Company terminates during the Term or within 12 months following the Change in Control Date. “Term” shall mean the period commencing as of the Effective Date and continuing in effect through July 31, 2010; provided, however, that commencing on August 1, 2010 and each August 1 thereafter, the Term shall be automatically extended for one additional year unless, not later than seven days prior to the scheduled expiration of the Term (or any extension thereof), the Company shall have given the Executive written notice that the Term will not be extended.

3. Notice of Termination.

3.1 Any termination of the Executive’s employment by the Company or by the Executive (other than due to the death of the Executive) shall be communicated by a written notice to the other party hereto (the “Notice of Termination”), given in accordance with Section 7. Any Notice of Termination shall: (i) indicate the specific termination provision (if any) of this Agreement relied upon by the party giving such notice, (ii) to the extent applicable, set forth in reasonable detail the facts and circumstances claimed to provide a basis for termination of the Executive’s employment under the provision so indicated and (iii) specify the Date of Termination (as defined below). The effective date of an employment termination (the “Date of Termination”) shall be the close of business on the date specified in the Notice of Termination (which date may not be less than 30 days or more than 120 days after the date of delivery of such Notice of Termination), in the case of a termination other than one due to the Executive’s death, or the date of the Executive’s death, as the case may be. In the event the Company fails to satisfy the requirements of Section 3 regarding a Notice of Termination, the purported termination of the Executive’s employment pursuant to such Notice of Termination shall not be effective for purposes of this Agreement.

3.2 The failure by the Executive or the Company to set forth in the Notice of Termination any fact or circumstance which contributes to a showing of Good Reason or Cause shall not waive any right of the Executive or the Company, respectively, hereunder or preclude the Executive or the Company, respectively, from asserting any such fact or circumstance in enforcing the Executive’s or the Company’s rights hereunder.

3.3 Any Notice of Termination for Cause given by the Company must be given within 30 days of the occurrence of the event(s) or circumstance(s) which constitute(s) Cause. Prior to any Notice of Termination for Cause being given (and prior to any termination for Cause being effective), the Executive shall be entitled to a hearing before the Board of Directors of the Company at which he may, at the Executive’s election, be represented by counsel and at which he shall have a reasonable opportunity to be heard. Such hearing shall be held on not less than 15 days prior written notice to the Executive stating the Board of Directors’ intention to terminate the Executive for Cause and stating in detail the particular event(s) or circumstance(s) which the Board of Directors believes constitutes Cause for termination. Any such Notice of Termination for Cause must be approved by an affirmative vote of at least two-thirds of the members of the Board of Directors.

4. Termination; Benefits to Executive.

4.1 Termination Not Related to a Change in Control. Subject to Section 4.5, if the Executive’s employment with the Company is terminated by the Company without Cause and a Change in Control Date has not occurred, then, provided that the Executive has delivered to the Company (and the applicable revocation period has expired with respect to) a signed general release substantially in the form attached hereto as Exhibit A (the “Release”) during the 60 days following the Date of Termination, the Executive shall be entitled to payments and benefits set forth below. Unless delayed by Section 4.5, the payments will begin (or for lump sums will be made) in the first payroll period after the Release becomes irrevocable, provided that if the 60th day falls in the calendar year following the year of the Date of Termination, the payments will begin (or be made) no earlier than the first payroll period of such later calendar year. The first payroll payment will include a make-up payment for the period that elapsed between the Date of Termination and the payroll period in which payments begin.:

(a) For the 12 months following the Date of Termination (the “Severance Period”), the Company shall pay to the Executive an amount equal to Executive’s then current base salary, to be paid on the Company’s normal payroll cycle during the Severance Period; provided that if any payments would otherwise be due on or after March 15 of the calendar year next succeeding the year in which termination occurs, then all payments that would otherwise be due after March 15 shall be paid to the Executive in a lump sum in the payroll period on or immediately prior to March 15 of such next succeeding year.

(b) For the Severance Period or such longer period as may be provided by the terms of the appropriate plan, program, practice or policy, the Company shall continue to pay or provide benefits to the Executive and the Executive’s family at least equal to those which would have been provided to them if the Executive’s employment had not been terminated, in accordance with the applicable medical, dental and vision plans (the “Benefit Plans”) in effect on the Date of Termination or, if more favorable to the Executive and the Executive’s family, in effect generally at any time thereafter with respect to other peer executives of the Company and its affiliated companies (notwithstanding the foregoing, to the extent such payments are taxable and extend beyond the period of time during which the Executive would be entitled (or would, but for such arrangement, be entitled) to COBRA continuation coverage under a group health plan of the Company, such payments shall be made on a monthly basis).

(c) The Company shall pay to the Executive in a lump sum, in cash, the aggregate of the following amounts:

(i) a pro rata portion of the Executive's target bonus for the then-current fiscal year, and

(ii) in lieu of any further life, disability, and accident insurance benefits (not including medical, dental or vision insurance) (the "Other Plans"), an amount equal to the cost to the Executive of providing such benefits, to the extent that the Executive is eligible to receive such benefits immediately prior to the Notice of Termination, for the Severance Period.

(d) To the extent not previously paid or provided, the Company shall timely pay or provide to the Executive any other amounts or benefits required to be paid or provided or which the Executive is eligible to receive following the Executive's termination of employment under any plan, program, policy, practice, contract or agreement of the Company and its affiliated companies, including any compensation previously deferred by the Executive (together with any accrued interest or earnings thereon) and any accrued vacation pay.

(e) For purposes of determining eligibility (but not the time of commencement of benefits) of the Executive for defined benefit pension/retiree benefits, if any, to which the Executive is entitled, the Executive shall be considered to have remained employed by the Company through the Severance Period. For the avoidance of doubt, the foregoing shall not be deemed to include a 401(k) Plan or similar benefit.

(f) The Company shall provide outplacement services through one or more outside firms of the Executive's choosing and reasonably acceptable to the Company up to an aggregate of \$45,000, with such services to extend until the earlier of (i) 12 months following the termination of Executive's employment or (ii) the date the Executive secures full time employment.

4.2 Termination Related to a Change in Control. Subject to Section 4.5, if a Change in Control Date occurs and the Executive's employment with the Company terminates within 12 months following the Change in Control Date, the following provisions shall apply:

(a) Termination Without Cause or for Good Reason. If the Executive's employment with the Company is terminated by the Company (other than for Cause, Disability or death) or by the Executive for Good Reason within 12 months following the Change in Control Date, then, provided that Executive has delivered to the Company (and the applicable revocation period has expired with respect to) the Release within 60 days of the Date of Termination, the Executive shall be entitled to the following payments and benefits paid on the same timing described in Section 4.1:

(i) The Company shall pay to the Executive in a lump sum, in cash, the aggregate of the following amounts:

(A) the sum of (1) the Executive's base salary through the Date of Termination, and (2) the amount of any compensation previously deferred by the

Executive (together with any accrued interest or earnings thereon) and any accrued vacation pay, in each case to the extent not previously paid;

(B) the sum of (1) one multiplied by the Executive's annual base salary, and (2) the higher of the Executive's target bonus for the then-prior fiscal year or the Executive's target bonus for the then-current fiscal year; provided, however, that if the Date of Termination is prior to the closing of the Change in Control, then the amount set forth in this Section 4.2(a)(i)(B)(1) shall be paid on the same schedule as set forth in Section 4.1(a) and the amount set forth in Section 4.2(a)(i)(B)(2) shall be paid on the same schedule as the amount set forth in Section 4.1(c)(i); and

(C) in lieu of any further benefits under Other Plans, an amount equal to the cost to the Executive of providing such benefits, to the extent that the Executive is eligible to receive such benefits immediately prior to the Notice of Termination, for the Severance Period.

(ii) For the Severance Period, or such longer period as may be provided by the terms of the appropriate plan, program, practice or policy, the Company shall continue to pay or provide benefits to the Executive and the Executive's family at least equal to those which would have been provided to them if the Executive's employment had not been terminated, in accordance with the applicable Benefit Plans in effect on the Measurement Date or, if more favorable to the Executive and the Executive's family, in effect generally at any time thereafter with respect to other peer executives of the Company and its affiliated companies (notwithstanding the foregoing, to the extent such payments are taxable and extend beyond the period of time during which the Executive would be entitled (or would, but for such arrangement, be entitled) to COBRA continuation coverage under a group health plan of the Company, such payments shall be made on a monthly basis).

(iii) To the extent not previously paid or provided, the Company shall timely pay or provide to the Executive any other amounts or benefits required to be paid or provided or which the Executive is eligible to receive following the Executive's termination of employment under any plan, program, policy, practice, contract or agreement of the Company and its affiliated companies.

(iv) For purposes of determining eligibility (but not the time of commencement of benefits) of the Executive for defined benefit pension/retiree benefits, if any, to which the Executive is entitled, the Executive shall be considered to have remained employed by the Company through the Severance Period. For the avoidance of doubt, the foregoing shall not be deemed to include a 401(k) Plan or similar benefit.

(v) With respect to the Executive's equity-based awards, (1) all of the then-unvested options to purchase shares of stock of the Company held by the Executive shall become fully vested and immediately exercisable in full, and shares of the Company received upon exercise of any options will no longer be subject to a right of repurchase by the Company, (2) all of the restricted stock then otherwise subject to repurchase by the Company shall be deemed to be fully vested (i.e. no longer subject to a right of repurchase or restriction by the Company), (3) all of the shares underlying restricted stock units then otherwise subject to

future grant or award shall be fully granted, vested and distributed and no longer subject to a right of repurchase by the Company or to any other performance conditions, and (4) all then-vested and exercisable options (including for the avoidance of doubt the options becoming exercisable pursuant to this paragraph) shall continue to be exercisable by the Executive for the Severance Period (but not later than the original expiration date of such options).

(vi) The Company shall provide outplacement services through one or more outside firms of the Executive's choosing and reasonably acceptable to the Company up to an aggregate of \$45,000, with such services to extend until the earlier of (i) 12 months following the termination of Executive's employment or (ii) the date the Executive secures full time employment.

(b) Resignation without Good Reason; Termination for Death or Disability. If the Executive voluntarily terminates the Executive's employment with the Company within 12 months following the Change in Control Date, excluding a termination for Good Reason, or if the Executive's employment with the Company is terminated by reason of the Executive's death or Disability within 12 months following the Change in Control Date, then the Executive (or the Executive's estate, if applicable) shall be entitled to the following payments and benefits:

(i) The Company shall pay the Executive (or the Executive's estate, if applicable), in a lump sum, in cash, within 60 days after the Date of Termination, the sum of (A) the Executive's base salary through the Date of Termination, and (B) the amount of any compensation previously deferred by the Executive (together with any accrued interest or earnings thereon) and any accrued vacation pay, in each case to the extent not previously paid; and

(ii) To the extent not previously paid or provided, the Company shall timely pay or provide to the Executive (or the Executive's estate, if applicable) any other amounts or benefits required to be paid or provided or which the Executive is eligible to receive following the Executive's termination of employment under any plan, program, policy, practice, contract or agreement of the Company and its affiliated companies.

(c) Termination for Cause. If the Company terminates the Executive's employment with the Company for Cause within 12 months following the Change in Control Date, then the Executive shall be entitled to the following payments and benefits:

(i) The Company shall pay the Executive, in a lump sum, in cash, within 60 days after the Date of Termination, the sum of (A) the Executive's base salary through the Date of Termination and (B) the amount of any compensation previously deferred by the Executive, in each case to the extent not previously paid; and

(ii) To the extent not previously paid or provided, the Company shall timely pay or provide to the Executive any other amounts or benefits required to be paid or provided or which the Executive is eligible to receive following the Executive's termination of employment under any plan, program, policy, practice, contract or agreement of the Company and its affiliated companies.

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#### 4.3 Taxes.

(a) Notwithstanding any other provision of this Agreement, except as set forth in Section 4.3(b), in the event that the Company undergoes a "Change in Ownership or Control" (as defined below), the Company shall not be obligated to provide to the Executive a portion of any "Contingent Compensation Payments" (as defined below) that the Executive would otherwise be entitled to receive to the extent necessary to eliminate any "excess parachute payments" (as defined in Section 280G(b)(1) of the Internal Revenue Code of 1986, as amended (the "Code")) for the Executive. For purposes of this Section 4.3, the Contingent Compensation Payments so eliminated shall be referred to as the "Eliminated Payments" and the aggregate amount determined in accordance with Treasury Regulation Section 1.280G-1, Q/A-30 or any successor provision) of the Contingent Compensation Payments so eliminated shall be referred to as the "Eliminated Amount."

(b) Notwithstanding the provisions of Section 4.3(a), no such reduction in Contingent Compensation Payments shall be made if (i) the Eliminated Amount (computed without regard to this sentence) exceeds (ii) 110% of the aggregate present value (determined in accordance with Treasury Regulation Section 1.280G-1, Q/A-31 and Q/A-32 or any successor provisions) of the amount of any additional taxes that would be incurred by the Executive if the Eliminated Payments (determined without regard to this sentence) were paid to him (including, state and federal income taxes on the Eliminated Payments, the excise tax imposed by Section 4999 of the Code payable with respect to all of the Contingent Compensation Payments in excess of the Executive's "base amount" (as defined in Section 280G(b)(3) of the Code), and any withholding taxes). The override of such reduction in Contingent Compensation Payments pursuant to this Section 4.3(b) shall be referred to as a "Section 4.3(b) Override." For purpose of this paragraph, if any federal or state income taxes would be attributable to the receipt of any Eliminated Payment, the amount of such taxes shall be computed by multiplying the amount of the Eliminated Payment by the maximum combined federal and state income tax rate provided by law.

(c) For purposes of this Section 4.3 the following terms shall have the following respective meanings:

(i) "Change in Ownership or Control" shall mean a change in the ownership or effective control of the Company or in the ownership of a substantial portion of the assets of the Company determined in accordance with Section 280G(b)(2) of the Code.

(ii) "Contingent Compensation Payment" shall mean any payment (or benefit) in the nature of compensation that is made or made available (under this Agreement or otherwise) to a "disqualified individual" (as defined in Section 280G(c) of the Code) and that is contingent (within the meaning of Section 280G(b)(2)(A)(i) of the Code) on a Change in Ownership or Control of the Company.

(d) Any payments or other benefits otherwise due to the Executive following a Change in Ownership or Control that could reasonably be characterized (as determined by the Company) as Contingent Compensation Payments (the "Potential Payments") shall not be made until the dates provided for in this Section 4.3(d). Within 10 days after each

date on which the Executive first becomes entitled to receive (whether or not then due) a Contingent Compensation Payment relating to such Change in Ownership or Control, the Company shall determine and notify the Executive (with reasonable detail regarding the basis for its determinations) (i) which Potential Payments constitute Contingent Compensation Payments, (ii) the Eliminated Amount and (iii) whether the Section 4.3(b) Override is applicable. Within 30 days after delivery of such notice to the Executive, the Executive shall deliver a response to the Company (the "Executive Response") stating either (A) that he agrees with the Company's determination pursuant to the preceding sentence, or (B) that he disagrees with such determination, in which case he shall set forth (i) which Potential Payments should be characterized as Contingent Compensation Payments, (ii) the Eliminated Amount, and (iii) whether the Section 4.3(b) Override is applicable. To the extent any Contingent Compensation Payments are required to be treated as Eliminated Payments pursuant to this Section 4.3(d), then the Potential Payments shall be reduced or eliminated, as determined by the Company, in the following order: (A) any cash payments, (B) any taxable benefits, (C) any nontaxable benefits, and (D) any vesting of equity awards, in each case in reverse order beginning with payments or benefits that are to be paid the farthest in time from the date that triggers the applicability of the excise tax, to the extent necessary to maximize the Eliminated Payments. If the Executive states in the Executive Response that he agrees with the Company's determination, the Company shall make the Potential Payments to the Executive within three business days following delivery to the Company of the Executive Response (except for any Potential Payments which are not due to be made until after such date, which Potential Payments shall be made on the date on which they are due). If the Executive states in the Executive Response that he disagrees with the Company's determination, then, for a period of 10 days following delivery of the Executive Response, the Executive and the Company shall use good faith efforts to resolve such dispute. If such dispute is not resolved within such 10-day period, such dispute shall be settled exclusively by arbitration in Boston, Massachusetts, in accordance with the rules of the American Arbitration Association then in effect. Judgment may be entered on the arbitrator's award in any court having jurisdiction. The Company shall, within three business days following delivery to the Company of the Executive Response, make to the Executive those Potential Payments as to which there is no dispute between the Company and the Executive regarding whether they should be made (except for any such Potential Payments which are not due to be made until after such date, which Potential Payments shall be made on the date on which they are due). The balance of the Potential Payments shall be made within three business days following the resolution of such dispute. Subject to the limitations contained in Sections 4.3(a) and (b) hereof, the amount of any payments to be made to the Executive following the resolution of such dispute shall be increased by amount of the accrued interest thereon computed as set forth below.

(e) The provisions of this Section 4.3 are intended to apply to any and all payments or benefits available to the Executive under this Agreement or any other agreement or plan of the Company under which the Executive receives Contingent Compensation Payments.

4.4 Mitigation. For the avoidance of doubt, the Executive shall not be required to mitigate the amount of any payment or benefits provided for in this Section 4 by seeking other employment or otherwise. Further, the amount of any payment or benefits provided for in this Section 4 shall not be reduced by any compensation earned by the Executive

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as a result of employment by another employer, by retirement benefits, by offset against any amount claimed to be owed by the Executive to the Company or otherwise.

4.5 Distributions.

(a) Subject to this Section 4.5, payments or benefits under Section 4 of this Agreement shall begin only upon the date of Executive's "separation from service" (determined as set forth below) which occurs on or after the Date of Termination. The following rules shall apply with respect to distribution of the payments and benefits, if any, to be provided to Executive under Section 4 of the Agreement, as applicable:

(i) It is intended that each installment of the payments and benefits provided under Section 4 of the Agreement shall be treated as a separate "payment" for purposes of Section 409A of the Internal Revenue Code of 1986, as amended, and the final Treasury regulations and guidance issued thereunder ("Section 409A"). Neither the Company nor Executive shall have the right to accelerate or defer the delivery of any such payments or benefits except to the extent specifically permitted or required by Section 409A.

(ii) If, as of the date of Executive's "separation from service" from the Company, Executive is not a "specified employee" (each, for purposes of the Agreement, within the meaning of Section 409A), then each installment of the payments and benefits shall be made on the dates and terms set forth in Section 4 of the Agreement.

(iii) If, as of the date of Executive's separation from service from the Company, Executive is a specified employee, then:

(A) Each installment of the payments and benefits due under Section 4 of the Agreement that, in accordance with the dates and terms set forth herein, will in all circumstances, regardless of when Executive's separation from service occurs, be paid within the short-term deferral period (as defined under Section 409A) shall be treated as a short-term deferral within the meaning of Treasury Regulation Section 1.409A-1(b)(4) to the maximum extent permissible under Section 409A.; and

Each installment of the payments and benefits due under Section 4 of the Agreement that is not described in this Section 4.5(a)(iii)(A) and that would, absent this subsection, be paid within the six-month period following Executive's separation from service from the Company shall not be paid until the date that is six months and one day after such separation from service (or, if earlier, Executive's death), with any such installments that are required to be delayed being accumulated during the six-month period and paid in a lump sum on the date that is six months and one day following Executive's separation from service and any subsequent installments, if any, being paid in accordance with the dates and terms set forth herein; provided, however, that the preceding provisions of this sentence shall not apply to any installment of payments and benefits if and to the maximum extent that that such installment is deemed to be paid under a separation pay plan that does not provide for a deferral of compensation by reason of the application of Treasury Regulation Section 1.409A-1(b)(9)(iii) (relating to separation pay upon an involuntary separation from service). Any installments that qualify for the exception under Treasury

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Regulation Section 1.409A-1(b)(9)(iii) must be paid no later than the last day of Executive's second taxable year following the taxable year in which the separation from service occurs

(b) The determination of whether and when Executive's separation from service from the Company has occurred shall be made and in a manner consistent with, and based on the presumptions set forth in, Treasury Regulation Section 1.409A-1(h). Solely for purposes of this Section 4.5(b) "Company" shall include all persons with whom the Company would be considered a single employer under Section 414(b) and 414(c) of the Code.

(c) All reimbursements and in-kind benefits provided under the Agreement shall be made or provided in accordance with the requirements of Section 409A to the extent that such reimbursements or in-kind benefits are subject to Section 409A, including, where applicable, the requirements that (i) any reimbursement is for expenses incurred during the Executive's lifetime (or during a shorter period of time specified in the Agreement), (ii) the amount of expenses eligible for reimbursement during a calendar year may not affect the expenses eligible for reimbursement in any other calendar year, (iii) the reimbursement of an eligible expense will be made on or before the last day of the calendar year following the year in which the expense is incurred and (iv) the right to reimbursement is not subject to set off or liquidation or exchange for any other benefit.

## 5. Disputes; Expenses.

5.1 Disputes. All claims by the Executive for benefits under this Agreement shall be directed to and determined by the Board of Directors of the Company and shall be in writing. Any rejection by the Board of Directors of a claim for benefits under this Agreement shall be delivered to the Executive in writing and shall set forth the specific reasons for the rejection and the specific provisions of this Agreement relied upon.

5.2 Expenses. Subject to Section 4.5, the Company agrees to pay as incurred, the expenses of one law firm to review and negotiate this Agreement, and, to the fullest extent permitted by law, all legal, accounting and other fees and expenses which the Executive may reasonably incur as a result of any claim or contest (regardless of the outcome thereof) by the Company, the Executive or others regarding the validity or enforceability of, or liability under, any provision of this Agreement or any guarantee of performance thereof (including as a result of any contest by the Executive regarding the amount of any payment or benefits pursuant to this Agreement), plus in each case interest on any delayed payment at the applicable rate for prejudgment interest then in effect in the Commonwealth of Massachusetts.

5.3 Compensation During a Dispute. Subject to Section 4.5, if rights of the Executive to receive benefits under Section 4 (or the amount or nature of the benefits to which he is entitled to receive) are the subject of a dispute between the Company and the Executive, the Company shall continue (a) to pay to the Executive the Executive's base salary in effect as of the Measurement Date and (b) to provide benefits to the Executive and the Executive's family at least equal to those which would have been provided to them, if the Executive's employment had not been terminated, in accordance with the applicable Benefit Plans in effect on the Measurement Date, until such dispute is resolved. Following the resolution of such dispute, the sum of the payments made to the Executive under clause (a) of this Section 5.3 shall be deducted

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from any cash payment which the Executive is entitled to receive pursuant to Section 4; and if such sum exceeds the amount of the cash payment which the Executive is entitled to receive pursuant to Section 4, the excess of such sum over the amount of such payment shall be repaid (without interest) by the Executive to the Company within 120 days of the resolution of such dispute.

## 6. Successors.

6.1 Successor to Company. The Company shall require any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of the Company expressly to assume and agree to perform this Agreement to the same extent that the Company would be required to perform it if no such succession had taken place. Failure of the Company to obtain an assumption of this Agreement at or prior to the effectiveness of any succession shall be a breach of this Agreement and shall constitute Good Reason if the Executive elects to terminate employment, except that for purposes of implementing the foregoing, the date on which any such succession becomes effective shall be deemed the Date of Termination. As used in this Agreement, "Company" shall mean the Company as defined above and any successor to its business or assets as aforesaid which assumes and agrees to perform this Agreement, by operation of law or otherwise.

6.2 Successor to Executive. This Agreement shall inure to the benefit of and be enforceable by the Executive's personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees. If the Executive should die while any amount would still be payable to the Executive or the Executive's family hereunder if the Executive had continued to live, all such amounts, unless otherwise provided herein, shall be paid in accordance with the terms of this Agreement to the executors, personal representatives or administrators of the Executive's estate.

7. Notice. All notices, instructions and other communications given hereunder or in connection herewith shall be in writing. Any such notice, instruction or communication shall be sent either (i) by registered or certified mail, return receipt requested, postage prepaid, or (ii) prepaid via a reputable nationwide overnight courier service, in each case addressed to the Company, at Aspen Technology, Inc.; ATTN: General Counsel; 200 Wheeler Road; Burlington, MA 01803, and to the Executive at the Executive's address indicated on the signature page of this Agreement (or to such other address as either the Company or the Executive may have furnished to the other in writing in accordance herewith). Any such notice, instruction or communication shall be deemed to have been delivered five business days after it is sent by registered or certified mail, return receipt requested, postage prepaid, or one business day after it is sent via a reputable nationwide overnight courier service. Either party may give any notice, instruction or other communication hereunder using any other means, but no such notice, instruction or other communication shall be deemed to have been duly delivered unless and until it actually is received by the party for whom it is intended.

## 8. Miscellaneous.

8.1 Non-Disclosure and Non-Competition and Non-Solicitation. The Executive acknowledges and reaffirms the Executive's obligations with respect to non-

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disclosure, non-competition, and non-solicitation (and any other restrictions) reflected in the Proprietary and Confidential Information and Non-Competition and Non-Solicitation Agreement dated as of July 1, 2009 attached hereto.



8.2 Section 409A of the Code. This Agreement is intended to comply with the provisions of Section 409A and the Agreement shall, to the extent practicable, be construed in accordance therewith. Terms defined in the Agreement shall have the meanings given such terms under Section 409A if and to the extent required in order to comply with Section 409A.

8.3 Employment by Subsidiary. For purposes of this Agreement, the Executive's employment with the Company shall not be deemed to have terminated solely as a result of the Executive continuing to be employed by a wholly-owned subsidiary of the Company.

8.4 Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.

8.5 Injunctive Relief. The Company and the Executive agree that any breach of this Agreement by the Company is likely to cause the Executive substantial and irreparable damage and therefore, in the event of any such breach, in addition to such other remedies which may be available, the Executive shall have the right to specific performance and injunctive relief.

8.6 Governing Law. The validity, interpretation, construction and performance of this Agreement shall be governed by the internal laws of the Commonwealth of Massachusetts, without regard to conflicts of law principles.

8.7 Waivers. No waiver by the Executive at any time of any breach of, or compliance with, any provision of this Agreement to be performed by the Company shall be deemed a waiver of that or any other provision at any subsequent time.

8.8 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original but both of which together shall constitute one and the same instrument.

8.9 Tax Withholding. Any payments provided for hereunder shall be paid net of any applicable tax withholding required under federal, state or local law.

8.10 Entire Agreement. Except as set forth in this Section 8.10, this Agreement sets forth the entire agreement of the parties hereto in respect of the subject matter contained herein and supersedes all prior agreements, promises, covenants, arrangements, communications, representations or warranties, whether oral or written, by any officer, employee or representative of any party hereto in respect of the subject matter contained herein; and any prior agreement of the parties hereto in respect of the subject matter contained herein is hereby terminated and cancelled. Notwithstanding the preceding sentence, the agreement referenced in Section 8.1 remains in full force and effect.

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8.11 Amendments. This Agreement may be amended or modified only by a written instrument executed by both the Company and the Executive.

8.12 Executive's Acknowledgements. The Executive acknowledges that the Executive: (a) has read this Agreement; (b) has been represented in the preparation, negotiation, and execution of this Agreement by legal counsel of the Executive's own choice or has voluntarily declined to seek such counsel; (c) understands the terms and consequences of this Agreement; and (d) understands that the law firm of WilmerHale is acting as counsel to the Company in connection with the transactions contemplated by this Agreement, and is not acting as counsel for the Executive.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year set forth above.

**ASPEN TECHNOLOGY, INC.**

By:

\_\_\_\_\_  
Mark E. Fusco  
President & CEO

\_\_\_\_\_  
[Name of executive]

Address:

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**Exhibit A**

GENERAL RELEASE OF CLAIMS

This General Release of Claims (the "General Release") is being executed by \_\_\_\_\_ ("Employee"), for and in consideration of certain amounts payable under the \_\_\_\_\_ (the "Agreement") entered into between him and Aspen Technology, Inc. (the "Company"), dated as of \_\_\_\_\_. Employee agrees as follows:

Employee, on behalf of himself and his agents, heirs, executors, administrators, successors and assigns, hereby fully, forever, irrevocably and unconditionally releases, remises and discharges the Company, its officers, directors, stockholders, corporate affiliates, subsidiaries, parent companies, agents and employees (each in their individual and corporate capacities) (hereinafter, the "Released Parties") from any and all claims, charges, complaints, demands, actions, causes of action, suits, rights, debts, sums of money, costs, accounts, reckonings, covenants, contracts, agreements, promises, doings, omissions,

damages, executions, obligations, liabilities, and expenses (including attorneys' fees and costs), of every kind and nature that he ever had or now has against the Released Parties, including, but not limited to, any and all claims arising out of or relating to his employment with and/or separation from the Company, including, but not limited to, all claims under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq., the Americans With Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., the Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq., the Family and Medical Leave Act, 29 U.S.C. § 2601 et seq., the Worker Adjustment and Retraining Notification Act ("WARN"), 29 U.S.C. § 2101 et seq., Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, 18 U.S.C. 1514(A), the Rehabilitation Act of 1973, 29 U.S.C. § 701 et seq., the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1001 et seq., Employee Order 11246, and Employee Order 11141, all as amended; all claims arising out of the Massachusetts Fair Employment Practices Act, M.G.L. c. 151B, § 1 et seq., the Massachusetts Civil Rights Act, M.G.L. c. 12, §§ 11H and 11I, the Massachusetts Equal Rights Act, M.G.L. c. 93, § 102 and M.G.L. c. 214, § 1C, the Massachusetts Labor and Industries Act, M.G.L. c. 149, § 1 et seq., the Massachusetts Privacy Act, M.G.L. c. 214, § 1B, and the Massachusetts Maternity Leave Act, M.G.L. c. 149, § 105D, all as amended; all common law claims including, but not limited to, actions in defamation, intentional infliction of emotional distress, misrepresentation, fraud, wrongful discharge, and breach of contract, all claims to any non-vested ownership interest in the Company, contractual or otherwise, and any claim or damage arising out of his employment with and/or separation from the Company (including a claim for retaliation) under any common law theory or any federal, state or local statute or ordinance not expressly referenced above; provided, however, that (a) nothing in this General Release prevents Employee from filing a charge with, cooperating with, or participating in any proceeding before the Equal Employment Opportunity Commission or a state fair employment practices agency (except that Employee acknowledges that he may not be able to recover any monetary benefits in connection with any such claim, charge or proceeding); and (b) this General Release does not include (i) any right to vested benefits to which Employee may be entitled under any Company benefit plan; (ii) any rights Employee may have under the terms of this General Release; (iii) any right to indemnification arising out of Employee's employment with the Company pursuant to any policy

of insurance maintained by the Company; and (iv) any rights that the Employee has under the Agreement.

Employee acknowledges that he has been given at least twenty-one (21) days to consider this General Release, and that the Company advised him to consult with an attorney of his own choosing prior to signing this General Release. Employee understands that he may revoke this General Release for a period of seven (7) days after he signs this General Release by notifying the Company's General Counsel, in writing, and the General Release shall not be effective or enforceable until the expiration of this seven (7) day revocation period. Employee understands and agrees that by entering into this General Release, he is waiving any and all rights or claims he might have under the Age Discrimination in Employment Act, as amended by the Older Workers Benefits Protection Act, and that he has received consideration beyond that to which he was previously entitled.

IN WITNESS WHEREOF, the parties hereto have executed this General Release as of the day and year set forth below.

ASPEN TECHNOLOGY, INC.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Date: \_\_\_\_\_

**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER  
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Mark E. Fusco, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Aspen Technology, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(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 registrant and have:
  - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 9, 2010

/s/ MARK E. FUSCO

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Mark E. Fusco  
*President and Chief Executive Officer*  
*(Principal Executive Officer)*

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QuickLinks

[Exhibit 31.1](#)

[CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002](#)

**CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER  
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Mark P. Sullivan, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Aspen Technology, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(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 registrant and have:
  - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 9, 2010

/s/ MARK P. SULLIVAN

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Mark P. Sullivan  
Senior Vice President and Chief Financial Officer  
(Principal Financial Officer)

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QuickLinks

[Exhibit 31.2](#)

[CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002](#)

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

In connection with the Quarterly Report on Form 10-Q of Aspen Technology, Inc. (the "Company") for the quarter ended December 31, 2009, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned President and Chief Executive Officer and Senior Vice President and Chief Financial Officer, certify, to the best knowledge and belief of the signatory, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

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

Date: February 9, 2010

/s/ MARK E. FUSCO

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Mark E. Fusco  
*President and Chief Executive Officer*

Date: February 9, 2010

/s/ MARK P. SULLIVAN

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Mark P. Sullivan  
*Senior Vice President and Chief Financial Officer*

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QuickLinks

[EXHIBIT 32.1](#)

[CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002](#)