ARGAN INC
Form 10-K
April 15, 2009

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
FORM 10-K

þ **ANNUAL REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934.**

For the Fiscal Year Ended January 31, 2009

or

o **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 001-31756

ARGAN, INC.

(Exact Name of Registrant as Specified in its Charter)

Delaware	13-1947195
(State or Other Jurisdiction of Incorporation or Organization)	(IRS Employer Identification No.)
One Church Street, Suite 201, Rockville, Maryland	20850
(Address of Principal Executive Offices)	(Zip Code)

301-315-0027

(Issuer s Telephone Number, Including Area Code)

Securities registered under Section 12(b) of the Exchange Act:

Title of Each Class	Name of Each Exchange on Which Registered
Common Stock, $0.15 par value	NYSE Amex

Securities registered under Section 12(g) of the Exchange Act: None

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

Indicate by check mark if the Registrant is not required to file reports pursuant to Section 13 or 15(d) of the Exchange Act. o

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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of Registrant s knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendments to this Form 10-K. o

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 definition of large accelerated filer, accelerated filer, and smaller reporting company in Rule 12b-2 of the Exchange Act (check one):

Large accelerated filer o Accelerated filer þ Non-accelerated filer o Smaller reporting company o

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

The aggregate market value of the common stock held by non-affiliates of the Registrant was approximately $86,564,000 on July 31, 2008 (the last business day of the Registrant s second fiscal quarter), based upon the closing price on the NYSE Amex stock exchange (formerly the American Stock Exchange) reported on that date. Shares of common stock held by each officer and director and by each person who owns 5% or more of the outstanding common shares have been excluded because such persons may be deemed to be affiliates. The determination of affiliate status is not necessarily a conclusive determination for other purposes.

Number of shares of common stock outstanding as of April 8, 2009: 13,444,618 shares

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the Registrant s Proxy Statement for the 2009 Annual Meeting of Stockholders to be held on June 23, 2009 are incorporated by reference in Part III.

ARGAN, INC. AND SUBSIDIARIES
2009 FORM 10-K ANNUAL REPORT
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PART I

ITEM 1. BUSINESS.

Argan, Inc. (Argan) conducts operations through its wholly-owned subsidiaries, Gemma Power Systems, LLC and affiliates (GPS) that were acquired in December 2006, Vitarich Laboratories, Inc. (VLI) that was acquired in August 2004, and Southern Maryland Cable, Inc. (SMC) that was acquired in July 2003 (together referred to as the Company, we, us, or our). Through GPS, we provide a full range of development, consulting, engineeri procurement, construction, commissioning, operations and maintenance services to the power generation and renewable energy markets for a wide range of customers including public utilities, independent power project owners, municipalities, public institutions and private industry. Through VLI, we develop, manufacture and distribute premium nutritional products. Through SMC, we provide telecommunications infrastructure services including project management, construction and maintenance to the Federal Government, telecommunications and broadband service providers as well as electric utilities. Each of the wholly-owned subsidiaries represents a separate reportable segment power industry services, nutritional products and telecommunications infrastructure services, respectively. The net revenues of GPS, VLI and SMC represented approximately 91.6%, 4.5% and 3.9% of our consolidated net revenues for the fiscal year ended January 31, 2009.

Holding Company Structure

We intend to make additional acquisitions and/or investments. We intend to have more than one industrial focus and to identify those companies that are in industries with significant potential to grow profitably both internally and through acquisitions. We expect that companies acquired in each of these industrial groups will be held in separate subsidiaries that will be operated in a manner that best provides cash flows for the Company and value for our stockholders. Argan is a holding company with no operations other than its investments in GPS, SMC and VLI. At January 31, 2009, there were no restrictions with respect to inter-company payments from GPS, SMC and VLI to Argan.

Argan was organized as a Delaware corporation in May 1961. On October 23, 2003, the stockholders approved a plan providing for an internal restructuring whereby Argan became a holding company, and the operating assets and liabilities relating to its Puroflow Incorporated (Puroflow) business were transferred to a newly-formed, wholly owned subsidiary. The subsidiary then changed its name to Puroflow Incorporated and the parent company changed its name from Puroflow Incorporated to Argan, Inc.

In 2003, Argan completed the sale of Puroflow to Western Filter Corporation (WFC). Proceeds in the amount of $300,000 were placed in escrow, and were included in the consolidated balance sheet at January 31, 2008, in order to indemnify WFC from any damages resulting from any breach of representations and warranties under the stock purchase agreement. This escrow fund was liquidated in December 2008 in connection with the settlement of the litigation with WFC (see additional discussion of the WFC litigation below).

Merger of Gemma Power Systems, LLC and its Affiliates

Pursuant to Agreements and Plans of Merger, Argan acquired GPS on December 8, 2006. The results of operations for GPS have been included in our consolidated financial statements since the date of the acquisition.

The acquisition purchase price was $33.1 million, consisting of $12.9 million in cash and $20.2 million from the issuance of 3,666,667 shares of common stock of Argan. The purchase price was funded, in part, by an $8.0 million, secured, 4-year term loan which carries an interest rate of LIBOR plus 3.25%. In addition, we raised $10.7 million through the private offering of 2,853,335 shares of common stock of Argan at a purchase price of $3.75 per share as discussed below. Pursuant to the acquisition agreement, $12.0 million was deposited into an escrow account. Of this amount, $10.0 million secures a letter of credit to support the issuance of bonding (as discussed below). The remaining amount of $2.0 million was deposited at the closing of the acquisition with payment to the former owners of GPS dependent on the financial performance of GPS for the twelve months ended December 31, 2007. During the fiscal year ended January 31, 2009, payment of the remaining $2.0 million was made to the former owners as the earnings before interest, taxes, depreciation and amortization (EBITDA) of GPS for the twelve months ended December 31, 2007, as defined in the acquisition agreement, was more than the required amount of $12.0 million.

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Private Sales of Common Stock

In July 2008, we completed a private placement sale of 2.2 million shares of our common stock to investors at a price of $12.00 per share that provided net proceeds of approximately $25 million. We expect that the proceeds will provide resources to support GPS s cash requirements relating to the new wind-power energy subsidiary described below and will make available additional collateral to support the bonding requirements associated with future energy plant construction projects. On December 8, 2006, we completed a private offering of 2,853,335 shares of common stock at a price of $3.75 per share for aggregate proceeds of $10.7 million. The proceeds were used towards the purchase of GPS. On May 4, 2006, we completed a private offering of 760,000 shares of common stock at a price of $2.50 per share for aggregate proceeds of $1.9 million. We used $1.8 million of the proceeds to pay down an equal amount of the subordinated note due Kevin Thomas, the former owner of VLI. The remainder of the proceeds was used for general corporate purposes.

Amendment of Financing Arrangements

On December 11, 2006, Argan amended its financing arrangements with the Bank of America (the Bank). The amended financing arrangements provided a 4-year term loan used in the acquisition of GPS in the amount of $8.0 million ($2.0 million of this loan was deposited into an escrow account at the Bank as discussed above), with interest at LIBOR plus 3.25%, and a revolving loan with a maximum borrowing amount of $4.25 million that is available until May 31, 2010, with interest at LIBOR plus 3.25%. The amended financing arrangement also reduced the interest rate on the then-existing 3-year term loan for VLI to LIBOR plus 3.25%. The principal balance of this loan on the amendment date was approximately $1.4 million. The original term loan was in the amount of $1.5 million with interest at LIBOR plus 3.45%. On August 31, 2006, we used the $1.5 million in borrowed funds to pay the remaining principal and interest due on the subordinated note with Mr. Thomas.

We may obtain standby letters of credit from the Bank in the ordinary course of business not to exceed $10.0 million for surety bonding. On December 11, 2006, the Company pledged $10.0 million to the Bank to secure a standby letter of credit issued by the Bank on behalf of Argan for the benefit of Travelers Casualty and Surety Company of America in connection with the bonding facility provided to GPS.

The financing arrangements require that the Company comply with certain financial covenants at its fiscal year-end and at each of its fiscal quarter-ends (using a rolling 12-month period) including covenants that (1) the ratio of total funded debt to EBITDA not exceed 2 to 1, (2) the fixed charge coverage ratio be not less than 1.25 to 1, and (3) the ratio of senior funded debt to EBITDA not exceed 1.50 to 1. The Bank s consent is required for acquisitions and divestitures. The Company has pledged the majority of the Company s assets to secure the financing arrangements.

The amended financing arrangements contain an acceleration clause which allows the Bank to declare outstanding borrowed amounts due and payable if it determines in good faith that a material adverse change has occurred in the financial condition of the Company or any of its subsidiaries. We believe that the Company will continue to comply with its financial covenants under the financing arrangements. If the Company s performance does not result in compliance with any of its financial covenants, or if the Bank seeks to exercise its rights under the acceleration clause referred to above, we would seek to modify the financing arrangements. However, there can be no assurance that the Bank would not exercise their rights and remedies under the financing arrangements including accelerating the payment of all outstanding senior debt. At January 31, 2009, the Company was in compliance with the financial covenants of its amended financing arrangements.

Power Industry Services

The extensive design, construction, start-up and operating experience of our power industry services business has grown with the completion of projects for more than 70 facilities representing over 9,000 megawatts (MW) of power-generating capacity. Power projects have included combined-cycle cogeneration facilities, emergency peaking plants, boiler plant construction and renovation efforts, and utility system maintenance. We have broadened our experience into the rapidly growing alternative fuels industry by providing engineering, procurement and construction services to the owners of wind plants and other alternative power energy facilities. During the past two years, we substantially completed construction of three biodiesel production plants in Texas with a fourth production facility scheduled for completion in fiscal year 2010. In the year ended January 31, 2008, we completed the construction of a natural gas-fired power plant in California and an electricity peaking facility in Connecticut. The net revenues of GPS, which represent our power industry services business segment, were $202.3 million for the fiscal year ended January 31, 2009, or 91.6% of our consolidated net revenues for the year.

In May 2008, we announced that GPS signed an engineering, procurement and construction agreement with Pacific Gas & Electric Company (PG&E) in the amount of $340 million for the design and construction of a natural gas-fired power plant in Colusa, California. This energy plant is designed to be a 640 megawatt combined cycle facility and construction is expected to be completed in 2010. We announced the receipt from PG&E of a full notice to proceed on this project in October 2008. GPS commenced activity on this project in the fourth quarter ended January 31, 2008 under an interim notice to proceed that it received from PG&E in December 2007.

In October 2008, we announced that GPS signed an engineering, procurement and construction agreement and received a limited notice to proceed from Competitive Power Ventures Inc. (CPV) to design and build the Sentinel Power Project. This project, valued at $211 million, consists of eight simple cycle gas-fired peaking plants with a total power rating of 800 megawatts to be located in southern California. The project is currently expected to be completed in 2012. CPV has a power supply agreement with Southern California Edison.

We anticipate sustained demand for engineering and construction services related to the development of new gas-fired power plants because these facilities are more efficient and produce fewer emissions than coal-fired power plants. In addition, climate change and foreign oil dependency concerns are driving an increase in renewable energy legislation, government incentives and commercialization. Certain states in the U.S. are requiring that upwards of 20% of future energy be produced from renewable energy sources in efforts to reduce carbon dioxide emissions that are blamed, in part, for global warming. The annual amount of investment capital flowing into renewable energy projects has climbed over recent years. Very large corporations as well as venture capital and other investment firms have directed funds to the renewable energy sector.

In June 2008, the Company announced that GPS had entered into a business partnership with Invenergy Wind Management, LLC for the design and construction of wind-energy farms located in the United States and Canada. The business partners each own 50% of a new company, Gemma Renewable Power, LLC (GRP). GRP provides engineering, procurement and construction services for new wind farms generating electrical power including the design and construction of roads, foundations, and electrical collection systems, as well as the erection of towers, turbines and blades. GRP received an initial limited notice to proceed on a project to design and build the expansion of a wind farm in LaSalle County, Illinois; the estimated contract value of this project is $50 million.

Materials

In connection with the engineering and construction of traditional power energy systems, biodiesel plants, ethanol production facilities and other power energy systems, we procure materials on behalf of our customers. We are not dependent upon any one source for materials that we use to complete a particular project, and we are not currently experiencing difficulties in procuring the necessary materials for our contracted projects. However, we cannot guarantee that in the future there will not be unscheduled delays in the delivery of ordered materials and equipment.

Competition

GPS competes with numerous, well capitalized private and public firms in the construction and engineering services industry. Competitors include SNC-Lavalin Group, Inc., a diversified Canadian construction and engineering firm with over 12,000 employees generating over $5.0 billion in annual revenues; CH2M HILL Companies, Ltd., a worldwide professional engineering services firm with approximately 24,000 employees and with annual revenues exceeding $5.5 billion; Foster Wheeler AG., an international provider of engineering and construction services and steam generation products with over 14,000 employees and with annual revenues exceeding $6.8 billion; Shaw Group Inc., a diversified firm with approximately 26,000 employees providing consulting, engineering, construction and facilities management services and with annual revenues of approximately $7.0 billion; and Fluor Corporation, an international engineering, procurement, construction and maintenance company with over 42,000 employees and over $22.3 billion in annual revenues. Other large competitors in this industry include Granite Construction Incorporated and business units of URS Corporation and EMCOR Group, Inc.

In order to compete with these firms, we intend to emphasize our expertise in the alternative fuel industry as well as our proven track record developing facilities and services for traditional power energy systems. We believe that we are uniquely positioned to assist in the development and delivery of innovative renewable energy solutions as world energy needs grow and efforts to combat global warming increase.

Customers

There were two significant customers of GPS for the fiscal year ended January 31, 2009. In total, GPS recognized approximately 98.2% of its net revenues for the fiscal year ended January 31, 2009 under contracts with these two customers. The annual net revenues for these two customers represented approximately 49.7% and 40.2% of our consolidated net revenues for the fiscal year ended January 31, 2009, respectively.

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Contract Backlog

Contract backlog represents the total accumulated value of projects awarded less the amount of net revenue recognized to date on contracts at a specific point in time. We believe contract backlog is an indicator of future net revenues and earnings potential. Although contract backlog reflects business that we consider to be firm, cancellations or reductions may occur and may reduce contract backlog and the future revenues of GPS. At January 31, 2009, the Company had active power industry service contracts for the construction of three facilities, representing a total contract backlog of $456 million compared to a total contract backlog of $122 million at January 31, 2008. The contract backlog of GRP, our 50%-owned unconsolidated wind-energy construction company, was $30.8 million at January 31, 2009.

Regulation

Our power industry service operations are subject to various federal, state and local laws and regulations including: licensing for contractors; building codes; permitting and inspection requirements applicable to construction projects; regulations relating to worker safety and environmental protection; and special bidding, procurement and security clearance requirements on government projects. Many state and local regulations governing construction require permits and licenses to be held by individuals who have passed an examination or met other requirements. We believe that we have all the licenses required to conduct our operations and that we are in substantial compliance with applicable regulatory requirements. Our failure to comply with applicable regulations could result in substantial fines or revocation of our operating licenses.

Telecommunications Infrastructure Services

Through SMC, we provide telecommunications infrastructure services to our regional customers. The services include the structuring, cabling, terminations and connectivity that provide the physical transport for high speed data, voice, video and security networks. We provide both inside plant and outside plant cabling services. The net revenues of SMC, which represent our telecommunications infrastructure services business segment, were $8.6 million for the fiscal year ended January 31, 2009, or 3.9% of our consolidated net revenues for the year.

The wide range of inside plant and premises wiring services that we provide to our customers include AutoCAD design; cable installation; equipment room and telecom closet design and build-out; data rack and cabinet installation; raceway design and installation; and cable identification, testing, labeling and documentation. These services are provided primarily to federal government facilities on a direct and subcontract basis. Such facilities typically require regular upgrades to their wiring systems in order to accommodate improvements in security, telecommunications and network capabilities.

Services provided to our outside premises customers include trenchless directional boring and other underground services, aerial cabling services, and the installation of buried cable and wire communication and electric lines. Our sophisticated directional boring system is electronically guided and can place underground networks of various sizes with little or no restoration required. We use our equipment and experienced personnel to perform trenching, plowing and back-hoeing for underground communication and power networks, to install a variety of network structures, and to restore work sites. We utilize aerial bucket trucks, digger derrick trucks and experienced personnel to complete a variety of aerial projects. These services are primarily provided to regional communications service providers, electric utilities and other commercial customers.

SMC may have seasonally weaker results in the first and fourth quarters of the fiscal year, and may produce stronger results in the second and third fiscal quarters. This seasonality is due to the effect of winter weather on construction and outside plant activities as well as reduced daylight hours and customer budgetary constraints. Certain customers tend to complete budgeted capital expenditures before the end of the calendar year, and postpone additional expenditures until the subsequent fiscal period.

Raw Materials

Generally, our telecommunications infrastructure services customers supply most or all of the materials required for a particular job and we provide the personnel, tools and equipment to perform the installation services. However, with respect to a portion of our contracts, we may supply part or all of the materials required. In these instances, we are not dependent upon any one source for the materials that we customarily utilize to complete the project. We are not presently experiencing, nor do we anticipate experiencing, any difficulties in procuring an adequate supply of materials.

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Competition

SMC operates in the fragmented and competitive telecommunication and infrastructure services industry. We compete with service providers ranging from small regional companies, which service a single market, to larger firms servicing multiple regions, as well as large national and multi-national contractors. We believe that we compete favorably with the other companies in the telecommunication and utility infrastructure services industry.

We intend to emphasize our high quality reputation, outstanding customer base and highly motivated work force in competing for larger and more diverse contracts. We believe that our high quality and well maintained fleet of vehicles and construction machinery and equipment is essential to meet customers needs for high quality and on-time service. We are committed to invest in our repair and maintenance capabilities to maintain the quality and life of our equipment. Additionally, we invest annually in new vehicles and equipment.

Customers

The most significant customers of SMC for the fiscal year ended January 31, 2009 were Electronic Data Systems Corporation (EDS), Southern Maryland Electrical Cooperative (SMECO) and Verizon Communications, Inc. (Verizon). In total, SMC recognized approximately 80.1% of its net revenues for the fiscal year ended January 31, 2009 under contracts with these customers. However, none of SMC s customers accounted for net revenues in excess of 10% of our consolidated net revenues for the fiscal year ended January 31, 2009.

Contract Backlog

A major share of SMC s revenue-producing activity is performed pursuant to work orders authorized by customers under master agreements. For example, a substantial number of the projects completed for EDS, SMECO and Verizon are completed under the terms of master agreements that include pre-negotiated labor rates or line item prices. At January, 31, 2009 and 2008, the value of unfulfilled work orders and other customer orders that we believe to be firm was approximately $5.0 million and $3.6 million, respectively.

Regulation

Our telecommunications infrastructure services operations are also subject to various federal, state and local laws and regulations including: licensing for contractors; building codes; permitting and inspection requirements applicable to construction projects; regulations relating to worker safety and environmental protection; and special bidding, procurement and security clearance requirements on government projects. Many state and local regulations governing construction require permits and licenses to be held by individuals who have passed an examination or met other requirements. We believe that SMC has all the licenses required to conduct its operations and that we are in substantial compliance with applicable regulatory requirements. Our failure to comply with applicable regulations could result in substantial fines or revocation of our operating licenses.

<u>Nutritional Products</u>

Through VLI, we provide research, development and contract manufacturing services focused on producing premium nutritional supplements, vitamins, and whole-food dietary supplements. These products, included in a separate category of foodstuffs called nutraceuticals, provide health benefits beyond standard nutrition such as positive physiological effects or the prevention or amelioration of chronic disease.

Net revenues of the nutritional products business segment were approximately $10.1 million for the year ended January 31, 2009, representing 4.5% of consolidated net revenues. Net revenues from the sale of nutritional products were approximately $16.7 million for the year ended January 31, 2008. The decrease in net revenues for nutritional products between years was approximately $6.6 million, or 39.6%. Sales to two of VLI s five largest current year customers have decreased by approximately $3.4 million between years, and VLI lost three of its largest accounts that represented approximately $5.5 million of VLI s net revenues for the year ended January 31, 2008.

VLI has received an A rating from the Natural Products Association (NPA) for its compliance with Good Manufacturing Practices (GMP), a certification that has been awarded to less than 1% of the 7,500 members of NPA.

Our manufacturing capabilities include high speed encapsulation and tableting, full liquid production, powder production and blending, and softgel and bilingual supplement production. We believe that we are also one of the few vitamin manufacturers to offer homeopathic manufacturing and pasteurization. Our quality assurance program extends to all of our manufacturing processes including raw material selection, testing, FDA label compliance, and the maintenance of clinical lab conditions and advanced climate control. Quality control practices include a variety of techniques including in-process sampling, finished product inspections, stability studies and certified ingredient analyses.

Despite the difficult business environment, VLI strives to respond quickly and ably to new or changing customer product requirements. It is dedicated to the timely delivery of superior, high quality nutraceutical products.

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Competition

Our direct competition consists primarily of publicly and privately owned companies which tend to be highly fragmented in terms of both geographical market coverage and product categories. These companies compete with us on different levels in the development, manufacture, and marketing of nutritional supplements. Many of these companies have broader product lines and larger sales volume, are significantly larger than we are, have greater name recognition, financial, personnel, distribution, and other resources than we do, and may be better able to withstand volatile market conditions. There can be no assurance that our customers and potential customers will regard our products and services as sufficiently distinguishable from those of competitors. Our inability to compete successfully would have a material adverse effect on our business.

We believe our competitive advantages include our highly rated manufacturing processes, our capability to produce products in a variety of forms, our record of delivering quality products with minimum lead times, and our ability to assist the customer with product research, development and design; the evaluation of packaging options; and marketing. We also believe that we are an efficient manufacturer of the products that are ordered. However, the market for nutritional products is highly competitive. As a result, we often encounter customers making buy decisions that are based, in large part, on price thus creating strong adverse pressure on VLI s gross margin percentages.

Customers

VLI is primarily a contract manufacturer of nutritional products. The ability to quickly replace lost customers or to increase the product offerings sold to existing customers is hampered by the long sales cycle inherent in our type of business. The length of time between the beginning of contract negotiation and the first sale to a new customer could exceed six months including extended periods of product testing and acceptance.

Customers include brand merchandisers; network marketers; and catalog, internet, and infomercial distributors. These customers market VLI s products under various brand names directly to consumers, distributor networks or through vitamin/health food stores, pharmacies, mass merchandisers, and major retailers. Sales of products to the five largest customers of VLI represented approximately 70.4% of VLI s product revenues for the current year. The loss of any one of these customers could have a material adverse effect on this business. However, none of VLI s customers accounted for net revenues in excess of 10% of our consolidated net revenues for the fiscal year ended January 31, 2009.

Raw Materials

Raw materials used in VLI s products consist of adaptogen extracts, herbal botanicals, minerals, nutrients, and flavorings in dry powder and/or liquid form, capsules, finished pills and tablets and packaging components necessary for distribution of finished products. We purchase the raw materials and components from manufacturers in the United States and foreign countries. Although we purchase materials from reputable suppliers, we continuously evaluate and test samples, obtain certificates of analysis, material safety data sheets, and supporting research and documentation of active and inactive ingredients. We have not experienced difficulty in obtaining adequate sources of supply, and generally a number of suppliers are available for most raw materials. However, we do obtain most of our adaptogen ingredient from a single overseas supplier. Due to the long lead-time associated with this ingredient, VLI typically issues large purchase orders that schedule product deliveries 3 to 6 months from the order date. In addition, VLI is required to make purchase deposits with the supplier that cover 25% to 50% of the initial purchase order amount. Although we cannot assure that adequate sources will continue to be available, we believe we should be able to secure sufficient raw materials in the future.

Order Backlog

Customers submit purchase orders to VLI that schedule the delivery of certain quantities of specified products at pre-negotiated prices. Typically, the product deliveries are scheduled for dates that are within 3 to 4 months from the date of the order. At January, 31, 2009 and 2008, the value of unfulfilled purchase orders that we believe to be firm was approximately $1.5 million and $2.0 million, respectively.

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Regulation

The formulation, manufacturing, packaging, labeling, advertising, distribution and sale of our nutraceutical products are subject to regulation by one or more federal agencies, including the Food and Drug Administration (FDA), the Federal Trade Commission (FTC), the Consumer Product Safety Commission, the U.S. Department of Agriculture, the Environmental Protection Agency, and also by various agencies of the states, localities and foreign countries in which our products are sold. In particular, the FDA, pursuant to the Federal Food, Drug and Cosmetic Act (FDCA), regulates the formulation, manufacturing, packaging, labeling, distribution and sale of dietary supplements, including vitamins, minerals and herbs, and of over-the-counter (OTC) drugs, while the FTC has jurisdiction to regulate advertising of these products, and the Postal Service regulates advertising claims with respect to such products sold by mail order. The FDCA has been amended several times with respect to dietary supplements, most recently by the Nutrition Labeling and Education Act of 1990 and the Dietary Supplement Health and Education Act of 1994. Our inability to comply with these federal regulations may result in, among other things, injunctions, product withdrawals, recalls, product seizures, fines, and criminal prosecutions.

In addition, our nutraceutical products are also subject to regulations under various state and local laws that include provisions governing, among other things, the formulation, manufacturing, packaging, labeling, advertising, and distribution of dietary supplements and OTC drugs.

Safety, Risk Management, Insurance and Performance Bonds

We are committed to ensuring that the employees of each of our businesses perform their work in a safe environment. We regularly communicate with our employees to promote safety and to instill safe work habits. GPS and SMC each have an experienced full time safety director committed to ensuring a safe work place, compliance with applicable contracts, insurance and local and environmental laws.

Contracts in the power and telecommunication infrastructure services industries may require performance bonds or other means of financial assurance to secure contractual performance. If we are unable to obtain surety bonds or letters of credit in sufficient amounts or at acceptable rates, we might be precluded from entering into additional contracts with certain of our customers. We have a $10.0 million irrevocable letter of credit in place as collateral to support a bonding commitment.

Employees

The total number of personnel employed by us is subject to seasonal fluctuations, the volume of construction in progress and the relative amount of work performed by subcontractors. In addition, for the completion of specific construction projects, we may employ union craftsmen. At January 31, 2009, we had approximately 524 employees, all of whom were full-time including approximately 155 union members. We believe that our employee relations are good.

Materials Filed with the Securities and Exchange Commission

The public may read any materials that we file with the Securities and Exchange Commission (the SEC) at the SEC s public reference room at 100 F Street, N.E., Washington, D.C. 20549. The public may obtain information on the operation of the public reference room by calling the SEC at 1-800-SEC-0330. The SEC maintains an Internet site that contains reports, proxy and information statements and other information regarding issuers that file electronically with the SEC at http://www.sec.gov. We maintain a website on the Internet at www.arganinc.com. Information on our website is not incorporated by reference into this Annual Report on Form 10-K.

Copies of the Annual Report on Form 10-K as filed with the Securities and Exchange Commission are available without charge upon written request to:

Argan, Inc.
Attention: Corporate Secretary
One Church Street, Suite 201
Rockville, Maryland 20850
(301) 315-0027

ITEM 1A. RISK FACTORS.

Investing in our securities involves a high degree of risk. Our business, financial position and future results of operations may be impacted in a materially adverse manner by risks associated with the execution of our strategic plan and the creation of a profitable and cash-flow positive business in a tumultuous economic environment, our ability to obtain capital or to obtain capital on terms acceptable to us, the successful integration of acquired companies into our consolidated operations, our ability to successfully manage diverse operations remotely located, our ability to successfully compete in highly competitive industries, the successful resolution of ongoing litigation, our dependence upon key managers and employees and our ability to retain them, and potential fluctuations in quarterly operating results, among other risks. Before investing in our securities, please consider the risks summarized in this paragraph and those risks discussed below. Our future results may also be impacted by other risk-factors listed from time to time in our future filings with the SEC, including, but not limited to, our Annual Reports on Form 10-K and our Quarterly Reports on Form 10-Q.

General Risks Relating to Our Company

A deepening economic recession may lead to less demand for our products and services, and may cause our financial position to weaken.

Our customers may be impacted by the deepening economic recession in the U.S. caused by the decline in the housing market, constraints in the credit market and increasing unemployment. As a result, they may delay, curtail or cancel proposed and existing projects; thus decreasing the overall demand for our products and services and adversely impacting our liquidity. In addition, project owners may find it more difficult to raise capital in the future in order to finance the construction of power-generation plants and renewable fuel production facilities due to substantial limitations on the availability of credit and other uncertainties in the credit markets. Customers may be reluctant to establish new supply relationships as the condition of the economy causes demand for their products to decline. In general, if overall economic conditions do not improve, the demand for our products and services may be adversely affected. In addition, certain customers may find it increasingly difficult to pay invoices for our products and services on a timely basis, which could lead to an increase in our accounts receivable and/or to increased write-offs of uncollectible invoices. Any inability to collect our invoices when due could have adverse impacts on our future results of operations and liquidity.

We have incurred losses in the past; we may experience additional losses in the future.

The Company has historically incurred losses. The Company s accumulated deficit at January 31, 2009 was approximately $8.3 million resulting primarily from operating losses in prior years. Although we reported consolidated net income of approximately $10.0 million for our fiscal year ended January 31, 2009, we incurred a net loss of approximately $3.2 million for the fiscal year ended January 31, 2008. Future losses may occur in one or more segments of our business. If net losses were to recur, we could experience cash flow and liquidity shortfalls having adverse affects on our ability to successfully execute our business plans.

Our dependence on one or a few customers could adversely affect us.

The size of the energy plant construction projects of our power industry services segment frequently results in one or a few project owners contributing a substantial portion of our consolidated net revenues as described in Note 18 to our consolidated financial statements. In addition, our telecommunications infrastructure business is based to a significant degree on our relationships with three primary customers and the net sales of our nutritional products business are derived from orders placed by a few key customers. Similarly, our backlog of business at any time frequently reflects contracts and unfilled purchase orders received from only a few major customers. Should we fail to replace projects that are completed by GPS with new projects or should we lose any one of the few key customers of SMC or VLI, future net revenues and profits may be adversely affected.

Our dependence on large construction contracts may result in uneven quarterly financial results.

Our power industry service activities in any one fiscal quarter are typically concentrated on a few large construction projects for which we use the percentage-of-completion accounting method to determine contract revenues. To a substantial extent, construction contract revenues are recognized as services are provided as measured by the amount of costs incurred. As the timing of equipment purchases, subcontractor services and other contract events may not be evenly distributed over the lives of our contracts, the amount of total contract costs may vary from quarter to quarter, creating uneven amounts of quarterly contract net revenues. In addition, the timing of contract commencements and completions may exacerbate the uneven pattern. As a result of the foregoing, future amounts of consolidated net revenues, cash flow from operations, net income and earnings per share reported on a quarterly basis may vary in an uneven pattern and may not be indicative of the operating results expected for any other quarter or for an entire fiscal year, thus rendering consecutive quarter comparisons of our consolidated operating results a less meaningful way to assess the growth of our business.

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We may be unsuccessful at generating internal growth which could result in an overall decline in our business.
Our ability to expand by achieving profitable organic growth of the Company will be affected by, among other factors, our success in:

- expanding the range of services and products we offer to customers in order to address their evolving needs;
- attracting new customers;
- hiring and retaining employees; and
- controlling operating and overhead expenses.

Many of the factors affecting our ability to generate internal growth may be beyond our control. Our strategies may not be successful and we may not be able to generate cash flow sufficient to fund our operations and to support internal growth. Our inability to achieve internal growth could materially and adversely affect our business, financial condition and results of operations.

Future acquisitions and/or investments may not occur which could limit the growth of our business.
We are a holding company with no operations other than our investments in GPS, SMC, and VLI. The successful execution of our overall business plan could be based, in part, on our making additional acquisitions and/or investments that would provide positive cash flow to us and value to our stockholders. Additional companies meeting these criterion, and that provide products and/or services to growth industries and are available for purchase at attractive prices may be difficult to find.

It is likely that any potential future acquisition or strategic investment transaction would require the use of cash as a component of the purchase price. Using cash for acquisitions limits our financial flexibility and makes us more likely to seek additional capital through future debt or equity financings. We cannot readily predict the timing, size and success of our acquisition efforts and therefore the capital we will need for these efforts. If adequate funds are not available on terms acceptable to us, our ability to finance future business acquisitions and/or investments and to otherwise pursue our business plan would be significantly limited.

We have pledged the majority of our assets to secure the financing arrangements with our Bank. The Bank s consent is required for acquisitions, divestitures, the participation in joint ventures and certain other investments. There can be no assurance that our Bank will consent to future transactions. If we are unable to obtain such consents, our ability to consummate acquisitions, to make investments or to enter into other arrangements for the purpose of growing our business may be limited.

We may not be able to comply with certain of our debt covenants which may interfere with our ability to successfully execute our business plan.
Our Bank financing arrangements require that we maintain compliance with certain financial covenants at each fiscal quarter-end and include an acceleration clause which allows the Bank to declare amounts outstanding under the debt arrangements due and payable if it determines in good faith that a material adverse change has occurred in our financial condition or any of our subsidiaries.

We are currently in compliance with our debt covenants, but there can be no assurance that we will continue to be in compliance. If our performance does not result in compliance with any of our financial covenants, or if the Bank seeks to exercise its rights under the acceleration clause referred to above, we would seek to modify the financing arrangements, but there can be no assurance that the Bank would not exercise its rights and remedies under the debt arrangements, including accelerating payments of all outstanding senior debt. These payments would have a significantly adverse impact on our liquidity and our ability to obtain additional capital thereby jeopardizing our ability to successfully execute our business plan.

The integration of acquired companies may not be successful.
Even if we do complete acquisitions in the future, we may not be able to successfully integrate such acquired companies with our other operations without substantial costs, delays or other operational or financial problems. Integrating acquired companies involves a number of special risks which could materially and adversely affect our business, financial condition and results of operations, including:

- failure of acquired companies to achieve the results we expect;
- diversion of management s attention from operational matters;
- difficulties integrating the operations and personnel of acquired companies;

- inability to retain key personnel of acquired companies;
- risks associated with unanticipated events or liabilities;
- the potential disruption of our business; and
- the difficulties of maintaining uniform standards, controls, procedures and policies.

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If one of our acquired companies suffers customer dissatisfaction or performance problems, the reputation of our entire company could be materially and adversely affected. In addition, future acquisitions could result in issuances of equity securities that would reduce our stockholders ownership interest, the incurrence of debt, contingent liabilities, deferred stock-based compensation or expenses related to the valuation of goodwill or other intangible assets and the incurrence of large, immediate write-offs.

Our results of operations could be adversely affected as a result of additional impairment losses related to goodwill and other purchased intangible assets.

When we acquire a business, we record goodwill equal to the excess amount paid for the business, including liabilities assumed, over the fair value of the tangible and intangible assets of the business acquired. Generally accepted accounting principles require that all business combinations be accounted for using the purchase method of accounting and that certain intangible assets acquired in a business combination be recognized as assets apart from goodwill. The balances of goodwill and other intangible assets that have indefinite useful lives are not amortized, but instead must be tested at least annually for impairment. The amounts of intangible assets that do have finite lives are amortized over their useful lives. However, should poor performance or other conditions indicate that the carrying value of a business or long-lived asset may have suffered an impairment, a determination of fair value is required to be performed in the period that such conditions are noted. If the carrying value of a business or of an individual purchased intangible asset is found to exceed the fair values, impairment losses are recorded.

The aggregate carrying amount of goodwill, other purchased intangible assets with indefinite lives and long lived purchased intangible assets included in our consolidated balance sheet as of January 31, 2009 was approximately $22.1 million, or approximately 16.4% of total consolidated assets.

We perform impairment tests annually each November 1, or more often if we identify indications of impairment. We conducted a series of impairment assessments over the last two years and recorded impairment losses reflecting the declining financial performance of VLI and SMC and relating to goodwill, other purchased intangible assets and the fixed assets of these businesses in the total amounts of $3.1 million and $6.8 million in the fiscal years ended January 31, 2009 and 2008, respectively. These losses were reflected in the reported consolidated operating results for the corresponding fiscal years and essentially eliminated the carrying values of the corresponding assets. Should the operating results of GPS or any future acquired company experience unexpected deterioration, we could be required to record additional significant impairment losses related to purchased intangible assets. Impairment adjustments, if any, would be recognized as operating expenses and would adversely affect future profitability.

Our business growth could outpace the capabilities of our senior management which could adversely affect our ability to complete the execution of our business plan.

We cannot be certain that our current management team will be adequate to support our operations as they expand. Future growth could impose significant additional responsibilities on members of our senior management, including the need to recruit and integrate new senior level managers and executives. We cannot be certain that we can recruit and retain such additional managers and executives. To the extent that we are unable to attract and retain additional qualified management members in order to manage our growth effectively, we may not be able to expand our operations or execute our business plan. Our financial condition and results of operations could be materially and adversely affected as a result.

Loss of key personnel could prevent us from effectively managing our business.

Our future success is substantially dependent on the continued service and performance of our current executive team and the senior management members of our businesses. We cannot be certain that any such individual will continue in such capacity or continue to perform at a high level for any particular period of time. Our ability to operate productively and profitably, particularly in the power services industry, may also be limited by our ability to attract, employ, retain and train skilled personnel necessary to meet our future requirements. We cannot be certain that we will be able to maintain management teams and an adequate skilled labor force necessary to operate efficiently and to support our growth strategy or that our labor expenses will not increase as a result of a shortage in the supply of these skilled personnel. Labor shortages or increased labor costs could impair our ability or maintain our business or grow our net revenues. The loss of key personnel, or the inability to hire and retain qualified employees in the future, could negatively impact our ability to manage our business.

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Lawsuits could adversely affect our business.

From time to time, we, our directors and/or certain of our current officers are named as a party to lawsuits. A discussion of our material lawsuits appears in Item 3 of this Annual Report on Form 10-K and Note 12 to our consolidated financial statements. It is not possible at this time to predict the likely outcome of these actions with certainty, and an adverse result in any of these lawsuits could have a material adverse effect on us. Litigation can involve complex factual and legal questions and its outcome is uncertain. Any claim that is successfully asserted against us could result in significant damage claims and other losses. Even if we were to prevail, any litigation could be costly and time-consuming and would divert the attention of our management and key personnel from our business operations, which could adversely affect our financial condition, results of operations or cash flows.

Our actual business and financial results could differ from the estimates and assumptions that we use to prepare our consolidated financial statements, which may reduce our profits.

To prepare consolidated financial statements in conformity with generally accepted accounting principles, we are required to make estimates and assumptions as of the date of the financial statements, which affect the reported values of assets and liabilities, revenues and expenses, and disclosures of contingent assets and liabilities. For example, we may recognize revenue over the life of a contract based on the proportion of costs incurred to date compared to the total costs estimated to be incurred for the entire project. Areas requiring significant estimates by our management include:

- the application of the percentage-of-completion method of accounting and revenue recognition on contracts, change orders and contract claims;
- the valuation of assets acquired and liabilities assumed in connection with business combinations;
- the value of goodwill and recoverability of other purchased intangible assets;
- provisions for income taxes and related valuation allowances;
- accruals for estimated liabilities, including litigation reserves;
- provisions for uncollectible receivables, obsolete and overstocked inventories, and recoveries of costs from subcontractors, vendors and others; and
- the valuation of stock-based compensation expense.

Our actual business and financial results could differ from those estimates, which may reduce our profits.

If we fail to maintain an effective system of internal controls, we may not be able to accurately report our financial results or prevent fraud. As a result, investors could lose confidence in our financial reporting, which would harm our business and the trading price of our common stock.

Effective internal controls are necessary for us to provide reliable financial reports and prevent fraud. If we cannot provide reliable financial reports or prevent fraud, our operating results could be harmed. We devote significant attention to establishing and maintaining effective internal controls. Implementing changes to our internal controls required compliance training of our officers and employees. Over the last two years, substantial costs have been incurred and significant efforts have been expended in order to evaluate, test and remediate our internal controls over financial reporting. We cannot be certain that these measures and future measures will ensure that we will successfully implement and maintain adequate controls over our financial reporting processes and related reporting requirements. Any failure to implement required new or improved controls or difficulties encountered in their implementation could affect our operating results or cause us to fail to meet our reporting obligations and could result in a breach of a covenant in our Bank financing arrangements in future periods. Ineffective internal controls could also cause investors to lose confidence in our reported financial information, which could have a negative effect on the market price of our common stock.

We rely on information systems to conduct our business, and failure to protect these systems against security breaches could adversely affect our business and results of operations. Additionally, if these systems fail or become unavailable for any significant period of time, our business could be harmed.

The efficient operation of our business is dependent on computer hardware and software systems. Information systems are vulnerable to operational malfunctions and security breaches by computer hackers and cyber terrorists. We rely on industry accepted security measures and technology to securely maintain confidential and proprietary information maintained on our information systems. However, these measures and technology may not adequately prevent unanticipated downtime or security breaches. The unavailability of the information systems or the failure of these systems to perform as anticipated for any reason could disrupt our business and could result in decreased performance and increased overhead costs, causing our business and results of operations to suffer. Any significant interruption or failure of our information systems or any significant breach of security could adversely affect our business and results of operations.

Specific Risks Relating to Our Power Industry Services

Failure to successfully operate our power industry services business will adversely affect us.

The operations of our power industry services business conducted by GPS represent a significant portion of our net revenues and profits. The net revenues of this business segment were $202.3 million for the fiscal year ended January 31, 2009, representing 91.6% of consolidated net revenues. Income from these operations for the current fiscal year was $27.7 million. Consolidated income from operations for the current year was $14.9 million, reflecting the operating losses incurred by our other two businesses and corporate expenses. Our inability to successfully manage and grow our power industry services business will adversely affect our consolidated operating results and financial condition.

Interruption of power plant construction projects could adversely affect future results of operations.

At any time, GPS has a limited number of construction contracts. For example, two customers represented approximately 98.2% of the net revenues of the power industry services business for the fiscal year ended January 31, 2009. Should any unexpected suspension, termination or delay of the work under such contracts occur, our results of operations may be materially and adversely affected.

If financing for new energy plants is unavailable, construction of such plants may not occur.

Traditional gas-fired power plants have been constructed typically by large utility companies. However, to a large extent, the construction of new energy plants, including alternative and renewable energy facilities, is being conducted by private investment groups. For example, investors in the owner of two of the biodiesel plants completed by GPS last year, include The Carlyle Group and Goldman Sachs. The owner of the Sentinel project described above is Competitive Power Ventures, Inc. which is owned by Warburg Pincus, certain individual investors and members of its management team. The challenge for these types of project owners to secure and maintain financing in the midst of the current credit crisis is significant. Should debt financing for the construction of new energy facilities, including alternative or renewable energy plants, not be available, investors may not be able to invest in such projects, thereby adversely affecting the likelihood that GPS or GRP will obtain contracts to construct such plants.

The inability of our customers to receive or to avoid delay in receiving the applicable regulatory and environmental approvals relating to projects may result in lost of postponed net revenues for us.

The commencement and/or execution of many of the construction projects performed by our power industry services segment are subject to numerous regulatory permitting processes. Applications for permits may be opposed by individuals or environmental groups, resulting in delays and possible non-issuance of the permits. There are no assurances that our customers will obtain the necessary permits for these projects, or that the necessary permits will be obtained in order to allow construction work to proceed as scheduled. Failure to commence or complete construction work as anticipated could have material adverse impacts on our future net revenues, profits and cash flows from operations.

Intense competition in the engineering and construction industry could reduce our market share and profits.

We serve markets that are highly competitive and in which a large number of multinational companies compete such as Fluor Corporation, The Shaw Group Inc., URS Corporation (the Washington Division), SNC Lavalin Group, Inc., Foster Wheeler AG, CH2M HILL Companies, Ltd., and EMCOR Group, Inc. In particular, the engineering and construction markets are highly competitive and require substantial resources and capital investment in equipment, technology and skilled personnel. Competition also places downward pressure on our contract prices and profit margins. Intense competition is expected to continue in these markets, presenting us with significant challenges in our ability to maintain strong growth rates and acceptable profit margins. If we are unable to meet these competitive challenges and replace completed projects with new customers or projects, we could lose market share to our competitors and our business could be materially adversely affected.

Our backlog is subject to unexpected adjustments, delays and cancellations, and may be an uncertain indicator of future net revenues.

As of January 31, 2009, our construction contract backlog was approximately $456 million, not including $30.8 million representing the contract backlog of Gemma Renewable Power, LLC (GRP). We expect that our performance of the work contemplated by the contract backlog of GPS and GRP will earn a substantial portion of this potential source of net revenues in the fiscal year ending January 31, 2010. However, a project may remain included in our backlog for an extended period of time. In addition, project cancellations or scope adjustments may occur, from time to time, with respect to contracts reflected in our backlog that could reduce the dollar amount of our backlog and the net revenues and profits that we actually earn. For example, the current year termination of a contract for the construction of an ethanol production facility resulted in the elimination of contract backlog of approximately $47 million; this amount was included in our total construction contract backlog of $122 million at January 31, 2008. We cannot guarantee that the net revenues projected based on our backlog at January 31, 2009 will be realized or profitable.

Future bonding requirements may adversely affect our ability to compete for new energy plant construction projects.

Our construction contracts frequently require that we obtain payment and performance bonds from surety companies on behalf of our customers as a condition to the award of such contracts. Surety market conditions have in the last few years become more difficult as a result of significant losses incurred by many surety companies, both in the construction industry as well as in certain large corporate bankruptcies. Consequently, less overall bonding capacity is available in the market than in the past, and surety bonds have become more expensive and restrictive. Historically, we have had a strong bonding capacity but, under standard terms in the surety market, surety companies issue bonds on a project-by-project basis and can decline to issue bonds at any time or require the posting of additional collateral as a condition to issuing any bonds.

Current or future market conditions, as well as changes in our surety s assessment of its own operating and financial risk, could cause our surety company to decline to issue, or substantially reduce the amount of, bonds for our work and could increase our bonding costs. These actions can be taken on short notice. If our surety company were to limit or eliminate our access to bonding, our alternatives would include seeking bonding capacity from other surety companies, increasing business with clients that do not require bonds and posting other forms of collateral for project performance, such as letters of credit, or cash. We may be unable to secure these alternatives in a timely manner, on acceptable terms, or at all. Accordingly, if we were to experience an interruption or reduction in the availability of bonding capacity, we may be unable to compete for or work on certain projects.

Investment in the wind energy design and construction business partnership may occur without expected returns.

In June 2008, we announced that GPS has entered into a business partnership with lnvenergy Wind Management, LLC for the design and construction of wind energy farms located in the United States and Canada. The partners each own 50% of the company, GRP. A goal for GRP is that it will annually provide engineering, procurement and construction services for new wind energy farms generating more than an estimated 300 megawatts of electrical power including the design and construction of roads, foundations and electrical collection systems as well as the erection of towers, turbines and blades. Should the future construction and other related services of GRP be at lower revenue levels than anticipated, or should GRP fail to profitably execute the projects that it may obtain, GPS may fail to receive returns from GRP as planned which may adversely affect our future results of our operations.

Success on this joint project also depends in large part on whether our joint venture partner satisfies its contractual obligations. If our joint venture partner fails to perform or is financially unable to bear its portion of required capital contributions or other obligations, we could be required to make additional investments, provide additional services or pay more than our proportionate share of a liability to make up for our partner s shortfall. Further, if we are unable to adequately address our partner s performance issues, the customer may terminate the project, which could result in legal liability to us, harm our reputation, and reduce our profit on a project.

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As we bear the risk of cost overruns in the completion our construction contracts, we may experience reduced profits or, in some cases, losses under these contracts if actual costs exceed our estimates.

We conduct our business under various types of contractual arrangements including fixed price contracts. We bear a significant portion of the risk for cost overruns on these types of contracts where contract prices are established in part on cost and scheduling estimates. Our estimates may be based on a number of assumptions about future economic conditions and the future prices and availability of labor, equipment and materials, and other exigencies. From time to time, we may also assume a project s technical risk, which means that we may have to satisfy certain technical requirements of a project despite the fact that at the time of project award, we may not have previously produced the system or product in question. Unexpected or increased costs on our contracts may occur due the following factors among others:

- shortages of skilled labor, materials and energy plant equipment including power turbines;
- unscheduled delays in the delivery of ordered materials and equipment;
- engineering problems, including those relating to the commissioning of newly designed equipment;
- work stoppages;
- weather interference;
- inability to develop or non-acceptance of new technologies to produce alternative fuel sources; and
- the difficulty in obtaining necessary permits or approvals.

If our estimates prove inaccurate, or circumstances change, cost overruns may occur and we could experience reduced profits, or in some cases, incur a loss on a particular project.

If we guarantee the timely completion or performance standards of a project, we could incur additional costs to cover our guarantee obligations.

In some instances and in many of our fixed price contracts, we guarantee a customer that we will complete a project by a scheduled date. We sometimes provide that the project, when completed, will also achieve certain performance standards. If we subsequently fail to complete the project as scheduled, or if the project subsequently fails to meet guaranteed performance standards, we may be held responsible for cost impacts to the customer resulting from any delay or modifications to the plant in order to achieve the performance standards, generally in the form of contractually agreed-upon liquidated damages. If these events would occur, the total costs of the project would exceed our original estimate, and we could experience reduced profits or a loss for that project.

If we are unable to collect amounts billed to project owners as scheduled, our cash flows may be materially and adversely affected.

Many of our contracts require us to satisfy specified design, engineering, procurement or construction milestones in order to receive payment for work completed or equipment or supplies procured prior to achievement of the applicable contract milestone. As a result, under these types of arrangements, we may incur significant costs or perform significant amounts of services prior to receipt of payment. If the customer determines not to proceed with the completion of the project, delays in making payment of billed amounts or defaults on its payment obligations, we may face delays or other difficulties in collecting payment of amounts due to us for the costs previously incurred or for the amounts previously expended to purchase equipment or supplies. Such problems may impact the planned cash flows of affected projects and result in unanticipated reductions in the amounts of future cash flows from operations.

Our dependence upon third parties to complete many of our contracts may adversely affect our performance under future energy plant construction contracts.

Much of the work performed under our energy plant construction contracts is actually performed by third-party subcontractors we hire. We also rely on third-party equipment manufacturers or suppliers to provide much of the equipment used for our energy projects. If we are unable to hire qualified subcontractors or find qualified equipment manufacturers or suppliers, our ability to successfully complete a project could be impaired. If the amount we are required to pay for subcontractors or equipment and supplies exceeds what we have estimated, especially when we are operating under a lump sum or a fixed-price type construction contract, we may suffer losses on these contracts. If a supplier, manufacturer or subcontractor fails to provide supplies, equipment or services as required under a negotiated contract for any reason, we may be required to source these supplies, equipment or services on a delayed basis or at a higher price than anticipated which could impact contract profitability in an adverse manner.

Our use of the percentage-of-completion method of accounting could result in a reduction or reversal of previously recorded net revenues or profits.

Under our accounting procedures, we measure and recognize a large portion of our net revenues under the percentage-of-completion accounting methodology. This methodology allows us to recognize revenues and contract profits ratably over the life of a contract by comparing the amount of the costs incurred to date against the total amount of costs expected to be incurred. The effects of revisions to revenues and estimated costs are recorded when the amounts are known and can be reasonably estimated, and these revisions can occur at any time and could be material. Given the uncertainties associated with these types of contracts, it is possible for actual costs to vary from estimates previously made, which may result in reductions or reversals of previously recorded net revenues and profits.

The nature of our engineering and construction business exposes us to potential liability claims and contract disputes which may reduce our profits.

We engage in engineering and construction activities for large energy plant facilities where design, construction or systems failures can result in substantial injury or damage to third parties. In addition, the nature of our business results in clients, subcontractors and vendors occasionally presenting claims against us for recovery of cost they incurred in excess of what they expected to incur, or for which they believe they are not contractually liable. We have been and may in the future be named as a defendant in legal proceedings where parties may make a claim for damages or other remedies with respect to our projects or other matters. These claims generally arise in the normal course of our business.

In accordance with customary industry practices, we maintain insurance coverage against some, but not all, potential losses in order to protect against the risks we face. When it is determined that we have liability, we may not be covered by insurance or, if covered, the dollar amount of any liability may exceed our policy limits. Further, we may elect not to carry insurance if our management believes that the cost of available insurance is excessive relative to the risks presented. In addition, we cannot insure fully against pollution and environmental risks. Our professional liability coverage is on a claims-made basis covering only claims actually made during the policy period currently in effect. In addition, even where insurance is maintained for such exposures, the policies have deductibles resulting in our assuming exposure for a layer of coverage with respect to any such claims. Any liability not covered by our insurance, in excess of our insurance limits or, if covered by insurance but subject to a high deductible, could result in a significant loss for us, which claims may reduce our future profits and cash available for operations.

In the future, we may bring claims against project owners for additional costs exceeding the contract price or for amounts not included in the original contract price. These types of claims occur due to matters such as owner-caused delays or changes from the initial project scope, both of which may result in additional cost. Often, these claims can be the subject of lengthy arbitration or litigation proceedings, and it is difficult to accurately predict when these claims will be fully resolved. When these types of events occur and unresolved claims are pending, we have used working capital in projects to cover cost overruns pending the resolution of the relevant claims. A failure to promptly recover on these types of claims could have a negative impact on our liquidity and profitability.

If the development of renewable energy sources does not occur, the demand for our construction services could decline.

There are many provisions included in the American Recovery and Reinvestment Act of 2009 intended to benefit renewable energy. In addition, over half of the states in the U.S. have passed legislation requiring that utilities include a percentage of renewable energy in the mix of power they generate and buy. These future percentages may be as high as 20%, and the requirements are contributing to the increased momentum of efforts to develop sources of alternative renewable energy, including wind, solar, water, geothermal and biofuels. Should these government requirements fail to be extended or should they be repealed, the pace of the development of alternative renewable energy sources may slow, thereby reducing the future opportunities for GPS to construct such plants.

We could be subject to compliance with environmental, health and safety laws and regulations that would add costs to our business.

Our operations are subject to compliance with federal, state and local environmental, health and safety laws and regulations, including those relating to discharges to air, water and land, the handling and disposal of solid and hazardous waste, and the cleanup of properties affected by hazardous substances. Certain environmental laws impose substantial penalties for non-compliance and others, such as the federal Comprehensive Environmental Response, Compensation and Liability Act, impose strict, retroactive, joint and several liability upon persons responsible for releases of hazardous substances. We continually evaluate whether we must take additional steps to ensure compliance with environmental laws, however, there can be no assurance that these requirements will not change and that compliance will not adversely affect our operations in the future.

Specific Risks Relating to Our Telecommunications Infrastructure Services Business

Loss of a significant customer could adversely affect our SMC business.

Our largest customers assign work to us on a project-by-project basis under master service agreements. Under these agreements, the customers often have no obligation to assign work to us. Furthermore, a customer typically may cancel their contract on short notice, usually 30 to 90 days, even if we are not in default under the contract. The failure to replace any unexpected reduction in work performed for our largest customers or the loss of any one of them as a significant customer could have a material adverse effect on our business, unless the loss is offset by the addition of a new customer or an increase in the amount of services provided to other customers.

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