

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

FORM 10-K

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

For the fiscal year ended November 30, 2004

Commission file number 001-14920

McCORMICK & COMPANY, INCORPORATED

Maryland
(State of incorporation)

52-0408290
(IRS Employer Identification No.)

**18 Loveton Circle
Sparks, Maryland**
(Address of principal executive offices)

21152
(Zip Code)

Registrant's telephone number, including area code:

(410) 771-7301

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

<u>Title of Each Class</u>	<u>Name of each exchange on which registered</u>
Common Stock, No Par Value	New York Stock Exchange
Common Stock Non-Voting, No Par Value	New York Stock Exchange

Securities registered pursuant to Section 12(g) of the Act: **Not applicable.**

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

Indicate by check mark 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 amendment to this Form 10-K.

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Act). Yes No

State the aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was last sold, or the average bid and asked price of such common equity, as of the last business day of the registrant's most recently completed second fiscal quarter.

The aggregate market value of the voting common equity held by non-affiliates at May 31, 2004: **\$358,238,728.**

The aggregate market value of the non-voting common equity held by non-affiliates at May 31, 2004: **\$4,297,375,756.**

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

<u>Class</u>	<u>Number of Shares Outstanding</u>	<u>Date</u>
Common Stock	14,985,822	December 31, 2004
Common Stock Non-Voting	120,800,750	December 31, 2004

DOCUMENTS INCORPORATED BY REFERENCE

<u>Document</u>	<u>Part of 10-K into which incorporated</u>
Annual Report to Stockholders for Fiscal Year Ended November 30, 2004	Part I, Part II
Registrant's Proxy Statement dated February 16, 2005	Part III

PART I

As used herein, the "Registrant" means McCormick & Company, Incorporated and its subsidiaries, unless the context otherwise requires.

Item 1. Business

The Registrant, a diversified specialty food company, is a global leader in the manufacture, marketing and distribution of spices, herbs, seasonings and other flavors to the entire food industry. The Registrant was formed in 1915 under Maryland law as the successor to a business established in 1889.

The Registrant operates in two business segments: consumer and industrial. The Registrant sold its packaging segment during the third quarter of 2003. The consumer segment sells seasoning blends, spices, herbs, extracts, sauces, marinades and specialty foods to the consumer food market under a variety of brands, including “McCormick” and “Zatarain’s” in the US, “Ducros” and “Silvo” in continental Europe, “Club House” in Canada and “Schwartz” in the U.K. The industrial segment sells blended seasonings, spices and herbs, condiments, compound flavors and extracts, and coating systems to food processors, restaurants, distributors, warehouse clubs and institutional operations.

Please refer to pages 8 through 11, “Consumer Business,” pages 12 through 15 “Industrial Business,” and pages 16 and 17, “Q&A with Bob Lawless,” of the Registrant’s Annual Report to Stockholders for 2004 for a description of the business. Such pages of the Registrant’s Annual Report to Stockholders for 2004 are incorporated herein by reference.

For financial information about the Registrant’s business segments, please refer to pages 21 through 34, “Management’s Discussion and Analysis,” and Note 16, “Business Segments and

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Geographic Areas” of the Notes to Consolidated Financial Statements on pages 53 and 54 of the Annual Report to Stockholders for 2004, which pages are incorporated herein by reference.

Raw Materials

The most significant raw materials to the Registrant are vanilla, cheese, pepper, packaging supplies, garlic, onion and capsicums. Black pepper, vanilla beans and other spices and herbs are generally sourced from countries other than the United States. The Registrant is not aware of any government restrictions or other factors that would have a material adverse effect on the availability of these raw materials. Because the raw materials are agricultural products, they may be subject to price volatility caused by weather and other unpredictable factors. The Registrant responds to this volatility in a number of ways including strategic raw material purchases, purchases of raw material for future delivery and customer price adjustments.

Customers

The Registrant’s products are sold directly and through brokers, wholesalers and distributors. In the consumer segment, products are generally resold to consumers through grocery, drug, dollar and mass merchandise stores. These customers are serviced either through direct shipments, through the food wholesale channel, or by direct store delivery. In the industrial segment, products are used by food and beverage manufacturers as ingredients for their finished goods and by food service customers to enhance the flavor of their foods. Customers for the industrial segment include food processors and the restaurant industry, supplied both directly and through distributors and warehouse clubs.

The Registrant has a large number of customers for its products. No single customer accounted for as much as 10% of consolidated net sales in 2004. Sales to the Registrant’s five largest customers represented approximately 32% of consolidated net sales.

The dollar amount of backlog orders of the Registrant’s business is not material to an understanding of the Registrant’s business, taken as a whole. No material portion of the Registrant’s business is subject to renegotiation of profits or termination of contracts or subcontracts at the election of the U.S. Government.

Trademarks, Licenses and Patents

The Registrant owns a number of trademark registrations. Although in the aggregate these trademarks may be material to the Registrant’s business, the loss of any one of those trademarks, with the exception of the Registrant’s “McCormick,” “Zatarain’s,” “Schwartz,” “Club House” and “Ducros” trademarks, would not have a material adverse effect on the Registrant’s business. The “McCormick” trademark is extensively used by the Registrant in connection with the sale of virtually all of the Registrant’s food products worldwide. The terms of the trademark registrations are as prescribed by law and the registrations will be renewed for as long as the Registrant deems them to be useful.

The Registrant has entered into a number of license agreements authorizing the use of its trademarks by affiliated and non-affiliated entities. The loss of these license agreements would not have a material adverse effect on the Registrant’s business. The term of the license agreements is generally 3 to 5 years or until such time as either party terminates the agreement. Those agreements with specific terms are renewable upon agreement of the parties.

The Registrant owns various patents, but they are not viewed as material to the Registrant’s business.

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Seasonal Nature of Business

Due to seasonal factors inherent in the business, the Registrant’s sales and income are lower in the first two quarters of the fiscal year and increase in the third and fourth quarters. The seasonality reflects customer and consumer buying patterns, primarily in the consumer segment.

Working Capital

In order to meet increased demand for its consumer products during its fourth quarter, the Registrant usually builds its inventories during the third quarter. The Registrant generally finances working capital items (inventory and receivables) through short-term borrowings, which include the use of lines of

credit and the issuance of commercial paper. For a description of the Registrant's liquidity and capital resources, see Note 7 "Financing Arrangements" of the Notes to Consolidated Financial Statements on pages 46 and 47 of the Registrant's Annual Report to Stockholders for 2004, which pages are incorporated by reference, and the "Financial Condition" section of "Management's Discussion and Analysis" on pages 26 through 28 of the Registrant's Annual Report to Stockholders for 2004, which pages are incorporated by reference.

Competition

The Registrant is a global leader in the manufacture and sale of spices, herbs, extracts, seasonings and flavorings and competes in a geographic market that is international and highly competitive. For further discussion, see page 21 of the Registrant's Annual Report to Stockholders for 2004, which page is incorporated by reference.

Research and Development

Many of the Registrant's products are prepared from confidential formulae developed by its research laboratories and product development teams. Expenditures for research and development amounted to \$39.3 million in 2004, \$33.2 million in 2003 and \$31.4 million in 2002. The amount spent on customer-sponsored research activities is not material.

Environmental Regulations

Compliance with Federal, State and local provisions related to protection of the environment has had no material effect on the Registrant's business. There were no material capital expenditures for environmental control facilities in 2004 and there are no material expenditures planned for such purposes in 2005.

Employees

The Registrant had approximately 8,000 employees worldwide as of December 31, 2004. The Registrant believes its relationship with employees to be good. The Registrant has no collective bargaining contracts in the United States. At the Registrant's foreign subsidiaries, approximately 1,200 employees are covered by collective bargaining agreements or similar arrangements.

Financial Information About Geographic Locations

For information on the net sales and long-lived assets of the Registrant, see "Geographic Areas" within Note 16 of the Notes to Consolidated Financial Statements on page 54 of the Registrant's Annual Report to Stockholders for 2004, which page is incorporated by reference, and the "Market Risk Sensitivity" section of "Management's Discussion and Analysis" on page 30 of the Registrant's Annual Report to Stockholders for 2004, which page is incorporated by reference.

Foreign Operations

The Registrant is subject in varying degrees to certain risks typically associated with a global business, such as local economic and market conditions, restrictions on investments, royalties and dividends and exchange rate fluctuations. Approximately 38% of net sales in 2004 were from international operations.

Forward-Looking Information

For a discussion of forward-looking information, see the "Forward-Looking Information" section of "Management's Discussion and Analysis" on page 34 of the Registrant's Annual Report to Stockholders for 2004, which page is incorporated by reference.

Available Information

The Registrant's Internet website address is: www.mccormick.com. The Registrant makes available free of charge through its website its annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act as soon as reasonably practicable after such documents are electronically filed with, or furnished to, the SEC. The Registrant's website also includes the Registrant's Corporate Governance Guidelines, Business Ethics Policy and charters of its Audit Committee, Compensation Committee and Nominating/Corporate Governance Committee. These documents are also available in print to any shareholder upon request.

Item 2. Properties

The Registrant's principal executive offices and primary research facilities are owned and are located in suburban Baltimore, Maryland.

The following is a list of the Registrant's principal manufacturing properties, all of which are owned except for the facilities in Commerce, California and Sydney, Australia, which are leased:

United States

- Hunt Valley, Maryland – consumer and industrial
(4 principal plants)
- Salinas, California – consumer and industrial
- Commerce, California – consumer
- Dallas, Texas – industrial
- Atlanta, Georgia – industrial
- South Bend, Indiana – industrial
- Gretna, Louisiana – consumer

Mexico

Cuautitlan de Romero Rubio, Mexico – industrial

United Kingdom

Haddenham, England – consumer and industrial
Paisley, Scotland – industrial
Littleborough, England – consumer and industrial

France

Carpentras – consumer and industrial
Monteux - consumer (2 principal plants)

The Netherlands

Papendrecht - consumer

Australia

Melbourne – consumer and industrial
Sydney – consumer and industrial

China

Shanghai – consumer and industrial
Guangzhou – consumer and industrial

In addition to distribution facilities and warehouse space available at its manufacturing facilities, the Registrant leases regional distribution facilities in Belcamp, Maryland, Salinas, California and Dallas, Texas and owns a distribution facility in Monteux, France. The Registrant also owns or leases several other properties used for manufacturing consumer and industrial products and for sales, distribution and administrative functions.

The Registrant believes its plants are well maintained and suitable for their intended use. The Registrant further believes that these plants generally have adequate capacity and can accommodate seasonal demands, changing product mixes and certain additional growth. Many additions and improvements have been made to these facilities over the years and the plants' manufacturing equipment includes equipment of the latest type and technology.

Item 3. Legal Proceedings

There are no material pending legal proceedings in which the Registrant or any of its subsidiaries is a party or in which any of their property is the subject.

Item 4. Submission of Matters to a Vote of Security Holders

No matter was submitted during the fourth quarter of Registrant's fiscal year 2004 to a vote of security holders.

Executive Officers of the Registrant

In addition to the executive officers described in the Registrant's Proxy Statement for 2004 incorporated by reference in Item 10 of this Report, the following individuals are also executive officers of the Registrant: Paul C. Beard, H. Grey Goode, Jr., Kenneth A. Kelly, Jr., Robert W. Skelton, Mark T. Timbie, Alan D. Wilson and Jeryl Wolfe.

Mr. Beard is 50 years old and has had the following work experience during the last five years: 3/02 to present – Vice President, Finance & Treasurer; 1/00 to 3/02 – Vice President & General Manager, Global Restaurant Division; 12/98 to 1/00 – Vice President & General Manager, McCormick Flavor Division.

Mr. Goode is 56 years old and has had the following work experience during the last five years: 1/01 to present – Vice President, Tax; 9/96 to 1/01 – Director of Tax.

Mr. Kelly is 50 years old and has had the following work experience during the last five years: 2/00 to present – Vice President and Controller; 7/97 to 2/00 – Vice President, Finance & Administration/McCormick Schilling Division.

Mr. Skelton is 57 years old and has had the following work experience during the last five years: 11/02 to present – Senior Vice President, General Counsel & Secretary; 6/97 to 11/02 - Vice President, General Counsel & Secretary.

Mr. Timbie is 50 years old and has had the following work experience during the last five years: 1/04 to present – President, International Consumer Products Group; 3/01 to 12/03 – President, McCormick Canada; 10/99 to 2/01 – Vice President & General Manager, Perimeter Group/Consumer Markets; 6/96 to 9/99 – Vice President, Sales & Marketing/Consumer Products Division.

Mr. Wilson is 47 years old and has had the following work experience during the last five years: 1/03 to present – President, U.S. Consumer Products Division; 3/01 to 12/02 – Vice President & General Manager, Sales & Marketing; 12/98 to 2/01 – President, McCormick Canada.

Mr. Wolfe is 44 years old and has had the following work experience during the last five years: 10/04 to present – Vice President – Supply Chain & Chief Information Officer; 4/04 to 10/04 – Vice President – Global Business Solutions & Chief Information Officer; 4/00 to 4/04 – Vice President Global Business Solutions.

PART II

Item 5. Market for Registrant’s Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

The Registrant has disclosed in Note 18, “Selected Quarterly Data (Unaudited)” of the Notes to Consolidated Financial Statements on page 55 of the Registrant’s Annual Report to Stockholders for 2004, which page is incorporated by reference, the information relating to the market price and dividends paid on the Registrant’s common stocks. The market price of the Registrant’s Common Stock at the close of business on December 31, 2004 was \$38.75 for the Common Stock and \$38.60 for the Common Stock Non-Voting.

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The Registrant’s Common Stock Non-Voting and voting Common Stock are listed and traded on the New York Stock Exchange. The approximate number of holders of Common Stock of the Registrant based on record ownership as of December 31, 2004 was as follows:

Title of Class	Approximate Number of Record Holders
Common Stock, no par value	2,200
Common Stock Non-Voting, no par value	10,600

The following table summarizes the Company’s purchases of Common Stock (CS) and Common Stock Non-Voting (CSNV) during the fourth quarter of 2004:

ISSUER PURCHASES OF EQUITY SECURITIES

Period	Total Number of Shares Purchased	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Approximate Dollar Value of Shares that May Yet Be Purchased Under the Plans or Programs
September 1, 2004 to September 30, 2004	CS – 0			\$201.9 million
	CSNV – 350,000	\$34.22	350,000	
October 1, 2004 to October 31, 2004	CS – 0			\$170.5 million
	CSNV – 900,000	\$34.89	900,000	
November 1, 2004 to November 30, 2004	CS – 101,984	\$36.59	101,984	\$147.7 million
	CSNV – 526,016	\$36.23	526,016	
Total	CS – 101,984	\$36.59	101,984	\$147.7 million
	CSNV – 1,776,016	\$35.16	1,776,016	

Note: During the quarter, the Company continued to purchase against its \$300 million authorization approved by the Board of Directors in the fourth quarter of 2003. As of November 30, 2004, \$147.7 million remained of the \$300 million authorization. Without significant acquisition activity, the Company expects this program to extend into 2006.

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Item 6. Selected Financial Data

This information is set forth on the line items titled “Net sales-under EITF 01-09,” “Net sales prior to EITF 01-09,” “Net income from continuing operations,” “Earnings per share – Diluted - Continuing operations,” “Common Stock dividends declared,” “Long-term debt” and “Total assets” for the years 2000 through 2004 in the “Historical Financial Summary” on page 56 of the Registrant’s Annual Report to Stockholders for 2004, which line items are incorporated by reference. See also Note 1 “Summary of Significant Accounting Policies” on pages 41 through 43 of the Registrant’s Annual Report to Stockholders for 2004 and Note 3 “Discontinued Operations” on page 44 of the Registrant’s Annual Report to Stockholders for 2004, which pages are incorporated by reference.

Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations

This information is set forth in “Management’s Discussion and Analysis” on pages 21 through 34 of the Registrant’s Annual Report to Stockholders for 2004, which pages are incorporated by reference.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk

This information is set forth in the "Market Risk Sensitivity" section of "Management's Discussion and Analysis" on pages 30 through 32 of the Registrant's Annual Report to Stockholders for 2004, which pages are incorporated by reference, and in Note 8 "Financial Instruments" on pages 47 and 48 of the Registrant's Annual Report to Stockholders for 2004, which pages are incorporated by reference.

Item 8. Financial Statements and Supplementary Data

The financial statements and supplementary data are included on pages 37 through 56 of the Registrant's Annual Report to Stockholders for 2004, which pages are incorporated by reference. The Report of Ernst & Young LLP, Independent Registered Public Accounting Firm, on such financial statements is included on page 36 of the Registrant's Annual Report to Stockholders for 2004, which page is incorporated by reference. The supplemental schedule for 2002, 2003 and 2004 is included on page 14 of this Report on Form 10-K.

The unaudited quarterly data is included in Note 18, "Selected Quarterly Data (Unaudited)" of the Notes to Consolidated Financial Statements on page 55 of the Registrant's Annual Report to Stockholders for 2004, which page is incorporated by reference.

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

None.

Item 9A. Controls and Procedures

Disclosure Controls and Procedures

The Registrant maintains a system of disclosure controls and procedures that is designed to provide reasonable assurance that information, which is required to be disclosed, is accumulated and communicated to management in a timely manner. The Registrant's principal executive officer and principal financial officer evaluated as of November 30, 2004 the effectiveness of this system of disclosure

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controls and procedures, and have concluded that such disclosure controls and procedures were effective as of such date.

Internal Control over Financial Reporting

Management's report on the Registrant's internal controls over financial reporting is included on page 35 of the Registrant's Annual Report to Stockholders for 2004, which page is incorporated by reference. The Independent Registered Public Accounting Firm's report with respect to Management's assessment of the effectiveness of internal control over financial reporting, and the effectiveness of internal control over financial reporting is included on pages 35 and 36 of the Registrant's Annual Report to Stockholders for 2004, which pages are incorporated by reference.

Item 9B. Other Information

On January 25, 2005, the Registrant entered into a \$400,000,000 five year credit agreement with Bank of America, N.A., as administrative agent, and the other financial institutions party thereto (the "Credit Agreement"). The Credit Agreement replaced two existing credit agreements which were terminated on January 25, 2005: (i) a \$225,000,000 five year credit agreement among the Registrant, Wachovia Bank, National Association, as administrative agent, and the other financial institutions party thereto, dated as of June 19, 2001 (as amended and modified from time to time), and (ii) a \$125,000,000 364-day credit agreement among the Registrant, Wachovia Bank, National Association, as administrative agent, and the other financial institutions party thereto, dated as of June 19, 2001 (as amended and modified from time to time).

Loans under the Credit Agreement are to be repaid not later than the maturity date, and may be prepaid under certain circumstances as stated in the Credit Agreement. The unpaid principal amount of any loans outstanding, accrued and unpaid interest, and other amounts owing under the Credit Agreement may be declared to be immediately due and payable if any event of default occurs and is continuing. Upon notice to the administrative agent, the Registrant may request an increase in the aggregate commitments under the Credit Agreement by an amount not exceeding \$100,000,000, provided that the aggregate commitments may not exceed \$500,000,000. The Registrant has limited rights of recourse against third parties under the Credit Agreement. A copy of the Credit Agreement, without schedules and exhibits, is attached hereto as Exhibit 10(xv).

PART III

Item 10. Directors and Executive Officers of the Registrant

Information responsive to this item is set forth in Part I of this Report in the section titled "Executive Officers of the Registrant" and in the sections titled "Election of Directors" and "Section 16(a) Beneficial Ownership Reporting Compliance" in the Registrant's definitive proxy statement for 2005, incorporated by reference herein, to be filed within 120 days after the end of the Registrant's fiscal year (the "2005 Proxy Statement").

The Registrant has adopted a code of ethics that applies to all employees, including its principal executive officer, principal financial officer, principal accounting officer and its Board of Directors. A copy of the code of ethics is available on the Registrant's Internet website at www.mccormick.com and is available in print to any shareholder upon request. The Registrant intends to satisfy the disclosure requirement under Item 10 of Form 8-K regarding an amendment to, or a waiver from, a provision of its code of ethics that applies to its principal executive officer, principal financial officer, principal accounting officer or persons performing similar functions, by posting such information on its website at the Internet website address set forth above.

Item 11. Executive Compensation

Information responsive to this item is incorporated herein by reference to the sections titled "Report on Executive Compensation," "Summary Compensation Table," "Compensation of Directors," "Pension Plan Table," "Stock Options - Option Grants in Last Fiscal Year," "Aggregated Option Exercises in Last Fiscal Year and Fiscal Year-End Option Values," "Equity Compensation Plan Information," "Mid-Term Incentive Plan" and "Performance Graph - Shareholder Return" in the Registrant's 2005 Proxy Statement.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Transactions

Information responsive to this item is incorporated herein by reference to the sections titled "Principal Stockholders," "Election of Directors" and "Equity Compensation Plan Information" in the Registrant's 2005 Proxy Statement.

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Item 13. Certain Relationships and Related Transactions

Information responsive to this Item is incorporated herein by reference to the section entitled "Independence of Directors" in the Registrant's 2005 Proxy Statement.

Item 14. Principal Accountant Fees and Services

Information responsive to this item is incorporated herein by reference to the section titled "Report of Audit Committee and Fees of Independent Registered Public Accounting Firm" in the Registrant's 2005 Proxy Statement.

PART IV**Item 15. Exhibits, Financial Statement Schedules**

(a) The following documents are filed as a part of this report:

1. The consolidated financial statements for McCormick & Company, Incorporated and subsidiaries which are listed in the Table of Contents appearing on page 13 of this Report.
2. The financial statement schedule required by Item 8 of this Form 10-K is listed in the Table of Contents appearing on page 13 of this Report.
3. The exhibits that are filed as a part of this Form 10-K and required by Item 601 of Regulation S-K and Item 15(c) of this Form 10-K are listed on the accompanying Exhibit Index at pages 15 through 19 of this Report.

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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report on Form 10-K to be signed on its behalf by the undersigned, thereunto duly authorized.

McCORMICK & COMPANY, INCORPORATED

By: /s/ Robert J. Lawless Chairman, President & January 27, 2005
Robert J. Lawless Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

Principal Executive Officer:

By: /s/ Robert J. Lawless Chairman, President & January 27, 2005
Robert J. Lawless Chief Executive Officer

Principal Financial Officer:

By: /s/ Francis A. Contino Executive Vice January 27, 2005
Francis A. Contino President - Strategic
 Planning & Chief Financial
 Officer

Principal Accounting Officer:

By: /s/ Kenneth A. Kelly, Jr. Vice President & January 27, 2005
Kenneth A. Kelly, Jr. Controller

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SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons, being a majority of the Board of Directors of McCormick & Company, Incorporated, on the date indicated:

<u>THE BOARD OF DIRECTORS:</u>	<u>DATE:</u>
<u>/s/ Barry H. Beracha</u> Barry H. Beracha	January 27, 2005
<u>/s/ James T. Brady</u> James T. Brady	January 27, 2005
<u>/s/ Francis A. Contino</u> Francis A. Contino	January 27, 2005
<u>Robert G. Davey</u>	January 27, 2005
<u>/s/ Edward S. Dunn, Jr.</u> Edward S. Dunn, Jr.	January 27, 2005
<u>/s/ J. Michael Fitzpatrick</u> J. Michael Fitzpatrick	January 27, 2005
<u>/s/ Freeman A. Hrabowski, III</u> Freeman A. Hrabowski, III	January 27, 2005
<u>/s/ Robert J. Lawless</u> Robert J. Lawless	January 27, 2005
<u>/s/ Margaret M. V. Preston</u> Margaret M. V. Preston	January 27, 2005
<u>/s/ William E. Stevens</u> William E. Stevens	January 27, 2005
<u>/s/ Karen D. Weatherholtz</u> Karen D. Weatherholtz	January 27, 2005

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TABLE OF CONTENTS AND RELATED INFORMATION

Included in the Registrant's 2004 Annual Report to Stockholders, the following consolidated financial statements are incorporated by reference in Item 8*:

Consolidated Statement of Income for the years ended November 30, 2004, 2003 & 2002

Consolidated Balance Sheet, November 30, 2004 & 2003

Consolidated Statement of Cash Flows for the years ended November 30, 2004, 2003 & 2002

Consolidated Statement of Shareholders' Equity for the years ended November 30, 2004, 2003 & 2002

Notes to Consolidated Financial Statements

Report of Independent Registered Public Accounting Firm

Included in Part IV of this Annual Report:

Supplemental Financial Schedule:

II - Valuation and Qualifying Accounts

Schedules other than those listed above are omitted because of the absence of the conditions under which they are required or because the information called for is included in the consolidated financial statements or notes thereto.

***Pursuant to Rule 12b-23 issued by the Commission under the Securities Exchange Act of 1934, as amended, a copy of the 2004 Annual Report to Stockholders of the Registrant for its fiscal year ended November 30, 2004 is being furnished with this Annual Report on Form 10-K.**

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VALUATION AND QUALIFYING ACCOUNTS
(IN MILLIONS) (1)

Column A	Column B	Column C	Column D	Column E
Description	Balance Beginning of Year	Additions Costs and Expenses	Deductions	Balance End Of Year
Year ended November 30, 2004 Allowance for doubtful receivables	\$6.3	\$1.2	\$0.8	\$ 6.7
Year ended November 30, 2003 Allowance for doubtful receivables	\$5.4	\$ 1.9	\$1.0	\$ 6.3
Year ended November 30, 2002 Allowance for doubtful receivables	\$5.0	\$ 1.0	\$0.6	\$ 5.4

Notes:

- (1) The table excludes discontinued operations.

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EXHIBIT INDEX

ITEM 601 EXHIBIT NUMBER	REFERENCE OR PAGE
(2) Plan of acquisition, reorganization, arrangement, liquidation or succession	Not applicable.
(3) Articles of Incorporation and By-Laws	
Restatement of Charter of McCormick & Company, Incorporated dated April 16, 1990	Incorporated by reference from Exhibit 4 of Registration Form S-8, Registration No. 33-39582 as filed with the Securities and Exchange Commission on March 25, 1991.
Articles of Amendment to Charter of McCormick & Company, Incorporated dated April 1, 1992	Incorporated by reference from Exhibit 4 of Registration Form S-8, Registration Statement No. 33-59842 as filed with the Securities and Exchange Commission on March 19, 1993.
Articles of Amendment to Charter of McCormick & Company, Incorporated dated March 27, 2003	Incorporated by reference from Exhibit 4 of Registration Form S-8, Registration Statement No. 333-104084 as filed with the Securities and Exchange Commission on March 28, 2003.
By-Laws of McCormick & Company, Incorporated Restated and Amended on September 17, 2002	Incorporated by reference from Exhibit 3.1 of the Registrant's Form 10-Q for the quarter ended August 31, 2002 as filed with the Securities and Exchange Commission on October 11, 2002.
Amendment to the By-Laws of McCormick & Company, Incorporated dated January 27, 2004	Incorporated by reference from Exhibit 3(i) of the Registrant's Form 10-K for the period ended November 30, 2003 as filed with the Securities and Exchange Commission on January 27, 2004.

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(4) Instruments defining the rights of security holders, including indentures	i) See Exhibit 3 (Restatement of Charter) ii) Summary of Certain Exchange Rights, incorporated by reference from Exhibit 4.1 of the Registrant's Form 10-Q for the quarter ended August 31, 2001 as filed with the Securities and Exchange Commission on October 12, 2001. iii) Indenture dated December 5, 2000 between Registrant and SunTrust Bank, incorporated by reference from Exhibit 4(iii) of Registrant's Form 10-Q for the quarter ended August 31, 2003, as filed with the Securities and Exchange Commission on October 14, 2003. Registrant hereby undertakes to furnish to the Securities and Exchange Commission, upon its request, copies of additional instruments of Registrant with respect to long-term debt that involve an amount of securities that do not exceed 10 percent of the total assets of the Registrant and its subsidiaries on a consolidated basis, pursuant to Regulation S-K, Item 601b(4)(iii)(A).
(9) Voting Trust Agreement	Not applicable.
(10) Material contracts	

- (i) Asset Purchase Agreement dated June 26, 2003 among Kerr Group, Inc., Kerr Acquisition Sub I, LLC and Setco, Inc., a former wholly-owned subsidiary of Registrant, which agreement is incorporated by reference from Exhibit 10(i) of Registrant's Form 10-Q for the quarter ended August 31, 2003, as filed with the Securities and Exchange Commission on October 14, 2003.*
- (ii) Asset Purchase Agreement dated June 26, 2003 among Kerr Group, Inc., Kerr Acquisition Sub II, LLC and Tubed Products, Inc., a former wholly-owned subsidiary of Registrant, which agreement is incorporated by reference from Exhibit 10(ii) of Registrant's Form 10-Q for the quarter ended August 31, 2003, as filed with the Securities and Exchange Commission on October 14, 2003.*
- (iii) Asset Purchase Agreement dated June 26, 2003 among Kerr Group, Inc., Kerr Acquisition Sub II, LLC and O.G. Dehydrated, Inc., a former wholly-owned subsidiary of Tubed Products, Inc., which agreement is incorporated by reference from Exhibit 10(iii) of Registrant's Form 10-Q for the quarter ended August 31, 2003, as filed with the Securities and Exchange Commission on October 14, 2003.*
- (iv) Registrant's supplemental pension plan for certain senior officers, as amended and restated effective June 19, 2001, is contained in the McCormick Supplemental Executive Retirement Plan, a copy of which was attached as Exhibit 10.1 to the Registrant's Form 10-Q for the quarter ended August 31, 2001, as filed with the Securities and Exchange Commission on October 12, 2001, and incorporated by

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reference herein.** Amendment Number 1 to the Supplemental Executive Retirement Plan, effective January 1, 2005, is attached hereto as Exhibit 10(iv).

- (v) The 2001 Stock Option Plan, in which officers and certain other management employees participate, is set forth on pages 33 through 36 of the Registrant's definitive Proxy Statement dated February 15, 2001, as filed with the Securities and Exchange Commission on February 14, 2001, and incorporated by reference herein.**
- (vi) The 1997 Stock Option Plan, in which officers and certain other management employees participate, is set forth in Exhibit B of the Registrant's definitive Proxy Statement dated February 19, 1997, as filed with the Securities and Exchange Commission on February 18, 1997, and incorporated by reference herein.**
- (vii) The 2002 McCormick Mid-Term Incentive Plan, which is provided to a limited number of senior executives, is set forth on pages 23 through 31 of the Registrant's definitive Proxy Statement dated February 15, 2002, as filed with the Commission on February 15, 2002, and incorporated by reference herein.**
- (viii) 2004 Long-Term Incentive Plan, in which officers and certain other management employees participate, is set forth in Exhibit A of the Registrant's definitive Proxy Statement dated February 17, 2004, as filed with the Securities and Exchange Commission on February 17, 2004, and incorporated by reference herein.**
- (ix) 2004 Directors' Non-Qualified Stock Option Plan, provided to members of the Registrant's Board of Directors who are not also employees of the Registrant, is set forth in Exhibit B of the Registrant's definitive Proxy Statement dated February 17, 2004 as filed with the Securities and Exchange Commission on February 17, 2004, and incorporated by reference herein.**
- (x) Directors' Share Ownership Program, provided to members of the Registrant's Board of Directors who are not also employees of the Registrant, is set forth on page 28 of the Registrant's definitive Proxy Statement dated February 17, 2004 as filed with the Securities and Exchange Commission on February 17, 2004, and incorporated by reference herein.**
- (xi) Deferred Compensation Plan, as restated on January 1, 2000, and amended on August 29, 2000, September 5, 2000 and May 16, 2003, in which directors, officers and certain other management employees participate, a copy of which Plan document and amendments was attached as Exhibit 10(viii) of the Registrant's Form 10-Q for the quarter ended August 31, 2003 as filed with the Securities and Exchange Commission on October 14, 2003, and incorporated by reference herein.**
- (xii) Deferred Compensation Plan, effective January 1, 2005, in which directors, officers and certain other management employees participate, and attached hereto as Exhibit 10(xii).
- (xiii) Stock Purchase Agreement among the Registrant, Eridania Beghin-Say and Compagnie Francaise de Sucrierie – CFS, dated July 12, 2000, which agreement is

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incorporated by reference from Exhibit 2 of Registrant's Report on Form 8-K, as filed with the Securities and Exchange Commission on September 15, 2000.

- (xiv) Stock Purchase Agreement dated May 7, 2003 among the Registrant, Zatarain's Brands, Inc., and the stockholders set forth on the stockholder signature pages of the Agreement, which agreement is incorporated by reference from Exhibit 10(vii) of Registrant's Form 10-Q for the quarter ended May 31, 2003, as filed with the Securities and Exchange Commission on July 11, 2003.
- (xv) Credit Agreement dated January 25, 2005 among the Registrant and Certain Financial Institutions.
- (xvi) 364-Day Credit Agreement, dated June 19, 2001 among Registrant and Certain Financial Institutions (terminated on January 25, 2005), which agreement is incorporated by reference from Exhibit 10 (xii) of Registrant's 10-Q for the quarter ended August 31, 2003, as filed with the Securities and Exchange Commission on October 14, 2003.

- (vii) Revolving Credit Agreement, dated as of June 19, 2001 among Registrant and Certain Financial Institutions (terminated on January 25, 2005), which agreement is incorporated by reference from Exhibit 10 (xiii) of Registrant's 10-Q for the quarter ended August 31, 2003, as filed with the Securities and Exchange Commission on October 14, 2003.
- (viii) Consulting agreement between Registrant and Robert W. Schroeder dated January 1, 2004, which agreement is incorporated by reference from Exhibit 10(xv) of Registrant's Form 10-K for the fiscal year ended November 30, 2003, as filed with the Securities and Exchange Commission on January 29, 2004.**
- (ix) Retirement Agreement between Registrant and John C. Molan dated January 27, 2004, which agreement is incorporated by reference from Exhibit 10(xvi) of the Registrant's 10-Q for the quarter ended August 31, 2004, as filed with the Securities and Exchange Commission on October 8, 2004.**

(11)	Statement re computation of per share earnings	Not applicable.
(12)	Statement re computation of ratios	Not applicable.
(13)	Annual report to security holders, Form 10-Q and 10-QSB, or quarterly report to security holders	The Registrant's Annual Report to Stockholders for 2004 is attached as Exhibit 13.
(14)	Code of Ethics	Not applicable.
(16)	Letter re change in certifying accountant	Not applicable.
(18)	Letter re change in accounting principles	Not applicable.
(21)	Subsidiaries of the registrant	Attached as Exhibit 21.
(22)	Published report regarding matters submitted to vote of securities holders	Not applicable.
(23)	Consents of experts and counsel	Attached as Exhibit 23.
(24)	Power of attorney	Not applicable.
(31)	Rule 13a-14(a)/15d-14(a) Certifications	Attached.
(32)	Section 1350 Certifications	Attached.

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(99)	Additional Exhibits	None.
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* Portions of this exhibit have been omitted pursuant to a request for confidential treatment.

** Management contract or compensatory plan or arrangement.

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**AMENDMENT NO. 1
TO THE
McCORMICK & COMPANY, INCORPORATED
SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN**

WHEREAS, McCormick & Company, Incorporated (the "Company") has adopted a Supplemental Executive Retirement Plan, which was amended and restated as of June 19, 2001 (the "Plan");

WHEREAS, section 885 of the American Jobs Creation Act of 2004 (the "AJCA") changed the federal income tax rules governing nonqualified deferred compensation plans by adding section 409A to the Internal Revenue Code of 1986 (the "Code"), generally effective as of January 1, 2005;

WHEREAS, the Department of the Treasury has not issued guidance of general applicability under Code section 409A or under AJCA section 885; and

WHEREAS, in the absence of such guidance, the Company considers it necessary to amend and administer the Plan based on a reasonable interpretation of Code section 409A and AJCA section 885,

NOW, THEREFORE, the Plan is amended as follows:

- 1.1 All provisions of the Plan shall be deemed amended as necessary to comply with the applicable requirements of Code section 409A and AJCA section 885. In the event of any inconsistency between the terms of the Plan and the applicable requirements of such sections, the requirements of such sections shall govern.
- 1.2 The Plan shall be administered in accordance with a reasonable interpretation of the applicable requirements of Code section 409A and AJCA section 885, notwithstanding any inconsistency between those requirements and the text of the Plan.
- 1.3 This Amendment No. 1 shall be effective January 1, 2005, except as otherwise required by Code section 409A or AJCA section 885.

IN WITNESS WHEREOF, this Amendment No. 1 to the Plan has been executed on behalf of the Company this 23rd day of December, 2004.

McCORMICK & COMPANY, INCORPORATED

By: /s/ Karen D. Weatherholtz
Karen D. Weatherholtz
Senior Vice President – Human Relations

\$400,000,000

CREDIT AGREEMENT

Dated as of January 25, 2005

among

MCCORMICK & COMPANY, INCORPORATED
as the Borrower,

BANK OF AMERICA, N.A.,
as Administrative Agent, Swing Line Lender and
L/C Issuer,

and

SUNTRUST BANK
and
WACHOVIA BANK, NATIONAL ASSOCIATION,
as Co-Syndication Agents,

and

WELLS FARGO BANK, N.A.,
and
BNP PARIBAS
as Co-Documentation Agents

and

The Other Lenders Party Hereto

BANC OF AMERICA SECURITIES LLC,
as Joint Lead Arranger and Sole Book Manager,

and

SUNTRUST ROBINSON HUMPHREY

and

WACHOVIA CAPITAL MARKETS LLC,
as Joint Lead Arrangers

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CREDIT AGREEMENT

This **CREDIT AGREEMENT** is entered into as of January 25, 2005 among **MCCORMICK & COMPANY, INCORPORATED**, a Maryland corporation (the "**Borrower**"), each lender from time to time party hereto (collectively, the "**Lenders**" and individually, a "**Lender**"), and **BANK OF AMERICA, N.A.**, as Administrative Agent, Swing Line Lender and L/C Issuer.

The Borrower has requested that the Lenders provide a revolving credit facility and the Lenders are willing to do so on the terms and conditions set forth herein.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I DEFINITIONS

1.01 Certain Defined Terms. As used in this Agreement, the following terms have the meanings set forth below:

"**Absolute Rate**" means a fixed rate of interest expressed in multiples of 1/100th of one basis point.

"**Absolute Rate Loan**" means a Bid Loan that bears interest at a rate determined with reference to an Absolute Rate.

"**Administrative Agent**" means Bank of America in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

“Administrative Agent’s Office” means, with respect to any currency, the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 10.02 with respect to such currency, or such other address or account with respect to such currency as the Administrative Agent may from time to time notify to the Borrower and the Lenders.

“Administrative Questionnaire” means an Administrative Questionnaire in a form supplied by the Administrative Agent.

“Affiliate” of any Person means any other Person which, directly or indirectly, controls, is controlled by or is under common control with such Person (excluding any trustee under, or any committee with responsibility for administering, any Plan). A Person shall be deemed to be “controlled by” any other Person if such other Person possesses, directly or indirectly, power

- (a) to vote 25% or more of the securities (on a fully diluted basis) having ordinary voting power for the election of directors or managing general partners; or
- (b) to direct or cause the direction of the management and policies of such Person whether by contract or otherwise;

provided, however, that notwithstanding the foregoing, for purposes of Section 10.06(b), an “Affiliate” shall be a Person engaged in the business of banking who is controlled by, or under common control with, a Lender.

“Aggregate Commitments” means the Commitments of all the Lenders.

“Agreement” means this Credit Agreement as the same may be amended, supplemented, amended and restated or otherwise modified from time to time.

“Alternative Currency” means each of Euro, Sterling and Yen and each other currency (other than Dollars) that is approved in accordance with Section 1.05.

“Alternative Currency Equivalent” means, at any time, with respect to any amount denominated in Dollars, the equivalent amount thereof in the applicable Alternative Currency as determined by the Administrative Agent, at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date) for the purchase of such Alternative Currency with Dollars.

“Applicable Law” shall mean, in respect of any Person, all provisions of constitutions, statutes, rules, regulations and orders of governmental bodies or regulatory agencies applicable to such Person, and all orders and decrees of all courts and arbitrators in proceedings or actions to which the Person in question is a party or by which it is bound.

“Applicable Percentage” means with respect to any Lender at any time, the percentage (carried out to the ninth decimal place) of the Aggregate Commitments represented by such Lender’s Commitment at such time. If the commitment of each Lender to make Loans and the obligation of the L/C Issuer to make L/C Credit Extensions have been terminated pursuant to Section 8.02 or if the Aggregate Commitments have expired, then the Applicable Percentage of each Lender shall be determined based on the Applicable Percentage of such Lender most recently in effect, giving effect to any subsequent assignments. The initial Applicable Percentage of each Lender is set forth opposite the name of such Lender on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable.

“Applicable Rate” means, from time to time, the following basis points (b.p.) per annum, based upon the Debt Rating as set forth below:

Applicable Rate (b.p.)

Pricing Level	Debt Ratings S&P/Moody’s	Applicable Margin for Eurocurrency Rate Loan/ Letter of Credit Fee	Utilization Fee	Facility	Base Rate +
1	≥ AA- / Aa3	14.0	5.0	6.0	0
2	A+ / A1	15.5	5.0	7.0	0
3	A / A2	17.0	5.0	8.0	0
4	A- / A3	26.0	10.0	9.0	0
5	≤ BBB+ / Baa1	37.5	12.5	12.5	0

“Debt Rating” means, as of any date of determination, the rating as determined by S&P and Moody’s (collectively, the “Debt Ratings”) of the Borrower’s non-credit-enhanced, senior unsecured long-term debt; provided that if a Debt Rating is issued by each of the foregoing rating agencies, then the higher of such Debt Ratings shall apply (with the Debt Rating for Pricing Level 1 being the highest and the Debt Rating for Pricing Level 5 being the lowest), unless there is a split in Debt Ratings of more than one level, in which case the Pricing Level that is one Pricing Level lower than the higher Debt Rating shall apply.

Initially, the Applicable Rate shall be determined based upon the Debt Rating specified in the certificate delivered pursuant to Section 4.01(f)(iv). Thereafter, each change in the Applicable Rate resulting from a publicly announced change in the Debt Rating shall be effective, in the case of an upgrade, during the period commencing on the date of the public announcement thereof and ending on the date immediately preceding the effective date of the next such change and, in the case of a downgrade, during the period commencing on the date of the public announcement thereof and ending on the date immediately preceding the effective date of the next such change.

“Applicable Time” means, with respect to any borrowings and payments in any Alternative Currency, the local time in the place of settlement for such Alternative Currency as may be determined by the Administrative Agent to be necessary for timely settlement on the relevant date in accordance with normal banking procedures in the place of payment.

“Approved Fund” means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

“Assignee Group” means two or more Eligible Assignees that are Affiliates of one another or two or more Approved Funds managed by the same investment advisor.

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 10.06(b)), and accepted by the Administrative Agent, in substantially the form of Exhibit F or any other form approved by the Administrative Agent.

“Attributable Value” means, as to any particular Sale-Leaseback Transaction under which any Person is at the time liable, at any date as of which the amount thereof is to be determined (a) in the case of any such transaction involving a Capitalized Lease, the amount on such date of

the Capitalized Lease Obligation thereunder, or (b) in the case of any other such transaction, the then present value of the minimum rental obligation under such transaction during the remaining term thereof (after giving effect to any extensions at the option of the lessor), computed by discounting the respective rental or other payments at the actual interest factor included in such payment or, if such interest factor cannot be readily determined, at the rate of 9.75% per annum, compounded annually, or calculated in such other manner as may be required by GAAP in effect at the time. The amount of any rental or other payment required to be made under any such transaction not involving a Capitalized Lease may exclude amounts required to be paid by the lessee (or equivalent party) on account of maintenance, repairs, insurance, Taxes, assessments, utilities, operating and labor costs and similar charges. In the case of any such transaction not involving a Capitalized Lease which is terminable by the lessee (or equivalent party) upon payment of a penalty, such rental or other payment may include the amount of such penalty, in which case no rental or other payment shall be considered as required to be paid under such transaction subsequent to the first date on which it may be so terminated.

“Authorized Officer” means, relative to the Borrower, those of its officers whose signatures and incumbency shall have been certified to the Administrative Agent and the Lenders pursuant to Section 4.01(b) or any successor thereto.

“Availability Period” means the period from and including the Closing Date to the earliest of (a) the Maturity Date, (b) the date of termination of the Aggregate Commitments pursuant to Section 2.07, and (c) the date of termination of the commitment of each Lender to make Loans and of the obligation of the L/C Issuer to make L/C Credit Extensions pursuant to Section 8.02.

“Bank of America” means Bank of America, N.A. and its successors.

“Bank of America Fee Letter” means the letter agreement, dated as of December 10, 2004, among the Borrower, the Administrative Agent and Banc of America Securities LLC.

“Base Rate” means for any day a fluctuating rate per annum equal to the higher of (a) the Federal Funds Rate plus 1/2 of 1% and (b) the rate of interest in effect for such day as publicly announced from time to time by Bank of America as its “prime rate.” The “prime rate” is a rate set by Bank of America based upon various factors including Bank of America’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such rate announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change.

“Base Rate Committed Loan” means a Committed Loan that is a Base Rate Loan.

“Base Rate Loan” means a Loan that bears interest based on the Base Rate. All Base Rate Loans shall be denominated in Dollars.

“Bid Borrowing” means a borrowing consisting of simultaneous Bid Loans of the same Type from each of the Lenders whose offer to make one or more Bid Loans as part of such borrowing has been accepted under the auction bidding procedures described in Section 2.03.

“Bid Loan” has the meaning specified in Section 2.03(a).

“Bid Loan Lender” means, in respect of any Bid Loan, the Lender making such Bid Loan to the Borrower.

“Bid Request” means a written request for one or more Bid Loans substantially in the form of Exhibit B-1.

“Borrower” has the meaning specified in the introductory paragraph hereto.

“Borrowing” means a Committed Borrowing, a Bid Borrowing or a Swing Line Borrowing, as the context may require.

“Business Day” means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, the state where the Administrative Agent’s Office with respect to Obligations denominated in Dollars is located and:

(a) if such day relates to any interest rate settings as to a Eurocurrency Rate Committed Loan denominated in Dollars, any fundings, disbursements, settlements and payments in Dollars in respect of any such Eurocurrency Rate Committed Loan, or any other dealings in Dollars to be carried out pursuant to this Agreement in respect of any such Eurocurrency Rate Committed Loan, means any such day on which dealings in deposits in Dollars are conducted by and between banks in the London interbank eurodollar market;

(b) if such day relates to any interest rate settings as to a Eurocurrency Rate Committed Loan denominated in Euro, any fundings, disbursements, settlements and payments in Euro in respect of any such Eurocurrency Rate Committed Loan, or any other dealings in Euro to be carried out pursuant to this Agreement in respect of any such Eurocurrency Rate Committed Loan, means a TARGET Day;

(c) if such day relates to any interest rate settings as to a Eurocurrency Rate Committed Loan denominated in a currency other than Dollars or Euro, means any such day on which dealings in deposits in the relevant currency are conducted by and between banks in the London or other applicable offshore interbank market for such currency; and;

(d) if such day relates to any fundings, disbursements, settlements and payments in a currency other than Dollars or Euro in respect of a Eurocurrency Rate Committed Loan denominated in a currency other than Dollars or Euro, or any other dealings in any currency other than Dollars or Euro to be carried out pursuant to this Agreement in respect of any such Eurocurrency Rate Committed Loan (other than any interest rate settings), means any such day on which banks are open for foreign exchange business in the principal financial center of the country of such currency.

“Capitalized Leases” means all monetary obligations of the Borrower or any of its Subsidiaries under any leasing or similar arrangements which, in accordance with GAAP, would be classified as capitalized leases.

“Capitalized Lease Obligation” means, at any time, the present value of the minimum net lease payments during the term of a Capitalized Lease, computed as provided in the Statement of Financial Accounting Standards No. 13, as amended from time to time.

“Cash Collateralize” has the meaning specified in Section 2.04(g).

“CERCLA” means the Comprehensive Environmental Response, Compensation and Liability Act of 1990, as amended.

“CERCLIS” means the Comprehensive Environmental Response Compensation Liability Information System List.

“Change in Control” means (a) the acquisition by any Person, or two or more Persons acting in concert, of beneficial ownership (within the meaning of Rule 13d-3 of the Securities and Exchange Commission under the Securities Exchange Act of 1934) of 51% or more of the outstanding shares of voting stock of the Borrower after giving effect to certain provisions of the Borrower’s Certificate of Incorporation with respect to the conversion of non-voting stock to voting stock; provided, however, that acquisition by the Borrower’s pension plan or profit sharing plan of 51% or more of the outstanding shares of the Borrower’s voting stock shall not constitute a Change in Control; or (b) during any period of 12 consecutive months, a majority of the members of the board of directors of the Borrower cease to be composed of individuals (i) who were members of the board of directors on the first day of such period, (ii) whose election or nomination to the board of directors was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of the board of directors or (iii) whose election or nomination to the board of directors was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of the board of directors.

“Change in Law” means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority.

“Closing Date” means the first date all the conditions precedent in Section 4.01 are satisfied or waived in accordance with Section 10.01.

“Code” means the Internal Revenue Code of 1986, and all rules and regulations promulgated thereunder.

“Commitment” means, as to each Lender, its obligation to (a) make Committed Loans to the Borrower pursuant to Section 2.01, (b) purchase participations in L/C Obligations, and (c) purchase participations in Swing Line Loans, in an aggregate principal amount at any one time outstanding not to exceed the Dollar amount set forth opposite such Lender’s name on Schedule

2.01 or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement.

“Committed Borrowing” means a borrowing consisting of simultaneous Committed Loans of the same Type, in the same currency and, in the case of Eurocurrency Rate Committed Loans, having the same Interest Period made by each of the Lenders pursuant to Section 2.01.

“Committed Loan” has the meaning specified in Section 2.01.

“Committed Loan Notice” means a notice of (a) a Committed Borrowing, (b) a conversion of Committed Loans from one Type to the other, or (c) a continuation of Eurocurrency Rate Committed Loans, pursuant to Section 2.02(a), which, if in writing, shall be substantially in the form of Exhibit A.

“Competitive Bid” means a written offer by a Lender to make one or more Bid Loans, substantially in the form of Exhibit B-2, duly completed and signed by a Lender.

“Compliance Certificate” means a certificate substantially in the form of Exhibit E.

“Consolidated Net Tangible Assets” means all assets of the Borrower and its Subsidiaries appearing on a consolidated balance sheet of the Borrower and its Subsidiaries prepared in accordance with GAAP minus goodwill and other intangible assets other than prepaid allowances.

“Contingent Liability” means any agreement, undertaking or arrangement by which any Person guarantees, endorses or otherwise becomes or is contingently liable upon (by direct or indirect agreement, contingent or otherwise, to provide funds for payment, to supply funds to, or otherwise to invest in, a debtor, or otherwise to assure a creditor against loss) the indebtedness, obligation or any other liability of any other Person (other than by endorsements of instruments in the course of collection), or guarantees the payment of dividends or other distributions upon the shares of any other Person. The amount of any Person’s obligation under any Contingent Liability shall (subject to any limitation set forth therein) be deemed to be the outstanding principal amount (or maximum amount, if larger) of the debt, obligation or other liability guaranteed thereby.

“Controlled Group” means all members of a controlled group of corporations and all members of a controlled group of trades or businesses (whether or not incorporated) under common control which, together with the Borrower, are treated as a single employer under Section 414(b) or 414(c) of the Code or Section 4001 of ERISA.

“Credit Extension” means each of the following: (a) a Borrowing and (b) an L/C Credit Extension.

“Debt Rating” has the meaning set forth in the definition of “Applicable Rate.”

“Debtor Relief Laws” means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium,

rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

“Default” means any Event of Default or condition, occurrence or event which, after notice, lapse of time or both, would constitute an Event of Default.

“Default Rate” means (a) when used with respect to Obligations other than Letter of Credit Fees, an interest rate equal to (i) the Base Rate plus (ii) the Applicable Rate, if any, applicable to Base Rate Loans plus (iii) 2% per annum; provided, however, that with respect to a Eurocurrency Rate Loan, the Default Rate shall be an interest rate equal to the interest rate (including any Applicable Rate and any Mandatory Cost) otherwise applicable to such Loan plus 2% per annum, and (b) when used with respect to Letter of Credit Fees, a rate equal to the Applicable Rate plus 2% per annum.

“Defaulting Lender” means any Lender that (a) has failed to fund any portion of the Committed Loans, participations in L/C Obligations or participations in Swing Line Loans required to be funded by it hereunder within one Business Day of the date required to be funded by it hereunder, (b) has otherwise failed to pay over to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within one Business Day of the date when due, unless the subject of a good faith dispute, or (c) has been deemed insolvent or become the subject of a bankruptcy or insolvency proceeding.

“Dollar” and “\$” mean lawful currency of the United States.

“Dollar Equivalent” means, at any time, (a) with respect to any amount denominated in Dollars, such amount, and (b) with respect to any amount denominated in any Alternative Currency, the equivalent amount thereof in Dollars as determined by the Administrative Agent at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date) for the purchase of Dollars with such Alternative Currency.

“EBIT” means, for any period, the sum of the amounts for such period of (a) Net Income (excluding any one-time non-recurring charges), (b) Interest Expense and (c) charges for federal, state, local and foreign income taxes, all determined in accordance with GAAP.

“Eligible Assignee” means (a) a Lender; (b) an Affiliate of a Lender; (c) an Approved Fund, and (d) any other Person (other than a natural person) approved by (i) the Administrative Agent, the L/C Issuer and the Swing Line Lender, and (ii) unless an Event of Default has occurred and is continuing, the Borrower (each such approval not to be unreasonably withheld or delayed); provided that notwithstanding the foregoing, “Eligible Assignee” shall not include the Borrower or any of the Borrower’s Affiliates or Subsidiaries; and provided further, however, that an Eligible Assignee shall include only a Lender, an Affiliate of a Lender or another Person, which, through its Lending Offices, is capable of lending the applicable Alternative Currencies to the Borrower without the imposition of any Taxes or additional Taxes, as the case may be.

“EMU” means the economic and monetary union in accordance with the Treaty of Rome 1957, as amended by the Single European Act 1986, the Maastricht Treaty of 1992 and the Amsterdam Treaty of 1998.

“EMU Legislation” means the legislative measures of the European Council for the introduction of, changeover to or operation of a single or unified European currency.

“Environmental Claims” means all claims, however asserted, by any Governmental Authority or other Person alleging potential liability or responsibility for violation of any Environmental Law or for release or injury to the environment.

“Environmental Laws” means all applicable federal, state or local statutes, laws, ordinances, codes, rules and regulations (including consent decrees and administrative orders issued to the Borrower or any Subsidiary) relating to the protection of public health and safety from adverse impacts of Hazardous Materials in the environment.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and any successor statute of similar import, together with the regulations thereunder, in each case as in effect from time to time. References to sections of ERISA also refer to any successor sections.

“Euro” and “EUR” means the lawful currency of the Participating Member States introduced in accordance with EMU legislation.

“Eurocurrency Base Rate” has the meaning specified in the definition of “Eurocurrency Rate”.

“Eurocurrency Bid Margin” means the margin above or below the Eurocurrency Base Rate to be added to or subtracted from the Eurocurrency Base Rate, which margin shall be expressed in multiples of 1/100th of one basis point.

“Eurocurrency Margin Bid Loan” means a Bid Loan that bears interest at a rate based upon the Eurocurrency Base Rate. All Eurocurrency Margin Bid Loans must be denominated in Dollars.

“Eurocurrency Rate” means for any Interest Period with respect to a Eurocurrency Rate Loan, a rate per annum determined by the Administrative Agent pursuant to the following formula:

$$\text{Eurocurrency Rate} = \frac{\text{Eurocurrency Base Rate}}{1.00 - \text{Eurocurrency Reserve Percentage}}$$

Where,

“Eurocurrency Base Rate” means, for such Interest Period:

(a) the rate per annum equal to the British Bankers Association LIBOR Rate (“BBA LIBOR”), as published by Reuters (or other commercially available source providing quotations of BBA LIBOR as designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for deposits in the relevant currency (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period; or

(b) if such rate is not available at such time for any reason, then the “Eurocurrency Base Rate” for such Interest Period shall be the rate per annum determined by the Administrative Agent to be the rate at which deposits in the relevant currency for delivery on the first day of such Interest Period in Same Day Funds in the approximate amount of the Eurocurrency Rate Loan being made, continued or converted by Bank of America (or, in the case of a Bid Loan, the applicable Bid Loan Lender) and with a term equivalent to such Interest Period would be offered by Bank of America’s (or such Bid Loan Lender’s) London Branch (or other Bank of America branch or Affiliate) to major banks in the London or other offshore interbank market for such currency at their request at approximately 11:00 a.m. (London time) two Business Days prior to (or, in the case of Eurocurrency Rate Loans denominated in Sterling, the same Business Day as) the commencement of such Interest Period; or

(c) for any Interest Period with respect to any Eurocurrency Rate Loan advanced by a Lender required to comply with the relevant requirements of the Bank of England and the Financial Services Authority of the United Kingdom, the sum of (i) the rate determined in accordance with clauses (a) or (b) of this definition and (ii) the Mandatory Cost for such Interest Period.

“Eurocurrency Reserve Percentage” means, for any day during any Interest Period, the reserve percentage (expressed as a decimal, carried out to five decimal places) in effect on such day, whether or not applicable to any Lender, under regulations issued from time to time by the FRB for determining the maximum reserve requirement (including any emergency, supplemental or other marginal reserve requirement) with respect to Eurocurrency funding (currently referred to as “Eurocurrency liabilities”). The Eurocurrency Rate for each outstanding Eurocurrency Rate Loan shall be adjusted automatically as of the effective date of any change in the Eurocurrency Reserve Percentage.

“Eurocurrency Rate Committed Loan” means a Committed Loan that bears interest at a rate based on the Eurocurrency Rate. Eurocurrency Rate Committed Loans may be denominated in Dollars or in an Alternative Currency. All Committed Loans denominated in an Alternative Currency must be Eurocurrency Rate Committed Loans.

“Eurocurrency Rate Loan” means a Eurocurrency Rate Committed Loan or a Eurocurrency Margin Bid Loan.

“Event of Default” has the meaning specified in Section 8.01.

“Excluded Taxes” means, with respect to the Administrative Agent, any Lender, the L/C Issuer or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder, (a) taxes imposed on or measured by its overall net income (however denominated), and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable Lending Office is located, (b) any branch profits taxes imposed by the United States or any similar tax imposed by any other jurisdiction in which the Borrower is located and (c) in the case of a

Foreign Lender (other than an assignee pursuant to a request by the Borrower under Section 10.13), any withholding tax that is imposed on amounts payable to such Foreign Lender at the time such Foreign Lender becomes a party hereto (or designates a new Lending Office) or is attributable to such Foreign Lender’s failure or inability (other than as a result of a Change in Law) to comply with Section 3.01(e), except to the extent that such Foreign Lender (or its assignor, if any) was entitled, at the time of designation of a new Lending Office (or assignment), to receive additional amounts from the Borrower with respect to such withholding tax pursuant to Section 3.01(a).

“Existing Credit Agreements” means (a) that certain \$225,000,000 5 Year Credit Agreement among the Borrower, Wachovia Bank, National Association, as administrative agent, and the other financial institutions party thereto, dated as of June 19, 2001 (as amended and modified from time to time) and (b) that certain \$125,000,000 364 Day Credit Agreement among the Borrower, Wachovia Bank, National Association, as administrative agent, and the other financial institutions party thereto, dated as of June 19, 2001 (as amended and modified from time to time).

“Federal Funds Rate” means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to Bank of America on such day on such transactions as determined by the Administrative Agent.

“Fee Letter” means the Bank of America Fee Letter dated December 10, 2004.

“Fiscal Quarter” means any quarter of a Fiscal Year.

“Fiscal Year” means any period of twelve consecutive calendar months ending on November 30; references to a Fiscal Year with a number corresponding to any calendar year (e.g., the “2000 Fiscal Year”) refer to the Fiscal Year ending on the November 30 occurring during such calendar year.

“Foreign Lender” means any Lender that is organized under the laws of a jurisdiction other than that in which the Borrower is resident for tax purposes. For purposes of this definition, the United States, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

“FRB” means the Board of Governors of the Federal Reserve System of the United States, and any Governmental Authority succeeding to any of its principal functions.

“Fund” means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business.

“GAAP” is defined in Section 1.03.

“Governmental Authority” means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

“Granting Lender” has the meaning specified in Section 10.06(h).

“Hazardous Material” means

- (a) any “hazardous substance”, as defined by CERCLA;
- (b) any “hazardous waste”, as defined by the Resource Conservation and Recovery Act, as amended;
- (c) any petroleum product; or
- (d) any pollutant or contaminant or hazardous, dangerous or toxic chemical, material or substance within the meaning of any other applicable federal, state or local law, regulation, ordinance or requirement (including consent decrees and administrative orders issued to the Borrower or any Subsidiary) relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, all as amended or hereafter amended.

“Impermissible Qualification” means, relative to the opinion or certification of any independent public accountant as to any financial statement of the Borrower, any qualification or exception to such opinion or certification

- (a) which is of a “going concern” or similar nature;
- (b) which relates to the limited scope of examination of matters relevant to such financial statement; or
- (c) which relates to the treatment or classification of any item in such financial statement and which, as a condition to its removal, would require an adjustment to such item the effect of which would be to cause the Borrower to be in default of any of its obligations under Section 7.05.

“Indebtedness” of any Person means, without duplication, any obligation (whether present or future, actual or contingent, secured or unsecured, as principal or surety or otherwise) for the payment or repayment of money which would be regarded as indebtedness in accordance with GAAP, including all Contingent Liabilities of such Person in respect of any such obligations.

For all purposes of this Agreement, the Indebtedness of any Person shall include the Indebtedness of any partnership in which such Person is a general partner; provided, however, that the Indebtedness of any Person shall not include any obligation of a partnership in which such Person is a general partner to the extent that such obligation (including any Contingent Liability) is limited by its terms.

“Indemnified Taxes” means Taxes other than Excluded Taxes.

“Indemnitees” has the meaning specified in Section 10.04(b).

“Interest Expense” means, for any period, all as determined in accordance with GAAP, total interest expense, whether paid or accrued (without duplication) (including the interest component of Capitalized Lease Obligations), of the Borrower and its Subsidiaries on a consolidated basis, including, without limitation, all bank fees, commissions, discounts and other fees and charges owed with respect to letters of credit, but excluding, however, amortization of discount, interest paid in property other than cash or any other interest expense not payable in cash.

“Interest Payment Date” means, (a) as to any Loan other than a Base Rate Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date; provided, however, that if any Interest Period for a Eurocurrency Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates; and (b) as to any Base Rate Loan (including a Swing Line Loan), the last Business Day of each March, June, September and December and the Maturity Date.

“Interest Period” means (a) as to each Eurocurrency Rate Loan, the period commencing on the date such Eurocurrency Rate Loan is disbursed or (in the case of any Eurocurrency Rate Committed Loan) converted to or continued as a Eurocurrency Rate Loan and ending on the date one, two, three or six

months thereafter, as selected by the Borrower in its Committed Loan Notice or Bid Request, as the case may be, or, in the case of Eurocurrency Rate Committed Loans, nine or twelve months if requested by the Borrower and consented to by all the Lenders; and (b) as to each Absolute Rate Loan, a period of not less than 14 days and not more than 180 days as selected by the Borrower in its Bid Request; provided that:

- (i) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;
- (ii) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and
- (iii) no Interest Period shall extend beyond the Maturity Date.

“IRS” means the Internal Revenue Service, and any Governmental Authority succeeding to any of its principal functions under the Code.

“ISP” means, with respect to any Letter of Credit, the “International Standby Practices 1998” published by the Institute of International Banking Law & Practice (or such later version thereof as may be in effect at the time of issuance).

“Issuer Documents” means with respect to any Letter of Credit, the Letter Credit Application, and any other document, agreement and instrument entered into by the L/C Issuer and the Borrower (or any Subsidiary) or in favor the L/C Issuer and relating to any such Letter of Credit.

“L/C Advance” means, with respect to each Lender, such Lender’s funding of its participation in any L/C Borrowing in accordance with its Applicable Percentage. All L/C Advances shall be denominated in Dollars.

“L/C Borrowing” means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made or refinanced as a Committed Borrowing. All L/C Borrowings shall be denominated in Dollars.

“L/C Credit Extension” means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the increase of the amount thereof.

“L/C Issuer” means Bank of America in its capacity as issuer of Letters of Credit hereunder, or any successor issuer of Letters of Credit hereunder.

“L/C Obligations” means, as at any date of determination, the aggregate amount available to be drawn under all outstanding Letters of Credit plus the aggregate of all Unreimbursed Amounts, including all L/C Borrowings. For purposes of computing the amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.09. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.14 of the ISP, such Letter of Credit shall be deemed to be “outstanding” in the amount so remaining available to be drawn.

“Laws” means, collectively, all international, foreign, federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and publicly available administrative or judicial precedents or authorities, and all applicable administrative orders, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

“Lender” has the meaning specified in the introductory paragraph hereto and, as the context requires, includes the Swing Line Lender.

“Lending Office” means, as to any Lender, the office or offices of such Lender described as such in such Lender’s Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Administrative Agent.

“Letter of Credit” means any letter of credit issued hereunder. A Letter of Credit may only be issued in Dollars.

“Letter of Credit Application” means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by the L/C Issuer.

“Letter of Credit Expiration Date” means the day that is seven days prior to the Maturity Date then in effect (or, if such day is not a Business Day, the next preceding Business Day).

“Letter of Credit Fee” has the meaning specified in Section 2.04(i).

“Letter of Credit Sublimit” means an amount equal to lesser of (a) \$25,000,000 and (b) the Aggregate Commitments. The Letter of Credit Sublimit is part of, and not in addition to, the Aggregate Commitments.

“Lien” means any security interest, mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or otherwise), charge against or interest in property to secure payment of a debt or performance of an obligation or other priority or preferential arrangement of any kind or nature whatsoever.

“Loan” means an extension of credit by a Lender to the Borrower under Article II in the form of a Committed Loan, a Bid Loan or a Swing Line Loan.

“Loan Documents” means this Agreement, each Note, each Issuer Document and the Fee Letters.

“Mandatory Cost” means, with respect to any period, the percentage rate per annum determined in accordance with Schedule 1.01.

“Material Adverse Effect” means any event which will, or is reasonably likely to, have a material adverse effect on (a) the financial condition, assets, liabilities, operations or business of the Borrower and its Subsidiaries taken as a whole or (b) the Borrower’s ability to perform and comply with its monetary obligations under this Agreement, the Notes and each other Loan Document.

“Maturity Date” means January 25, 2010.

“Moody’s” means Moody’s Investors Service, Inc. and any successor thereto.

“Net Income” means, for any period, with respect to the Borrower and its Subsidiaries, income from continuing operations of the Borrower and its Subsidiaries during such period, determined in accordance with GAAP.

“Note” means a promissory note made by the Borrower in favor of a Lender evidencing Loans made by such Lender, substantially in the form of Exhibit D.

“Obligations” means all advances to, and debts, liabilities, obligations, covenants and duties of, the Borrower arising under or in connection with any Loan Document, Loan or Letter of Credit, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against the Borrower or any Affiliate thereof of

any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

“OFAC” means the U.S. Department of the Treasury’s Office of Foreign Assets Control.

“Organic Document” means, (a) relative to the Borrower, its certificate of incorporation, its by-laws and all shareholder agreements, voting trusts and similar arrangements applicable to any of its authorized shares of capital stock and (b) relative to any Subsidiary, its applicable corporate, partnership, joint venture or limited liability company organizational and governing documents and all arrangements applicable to any of its equity, ownership or membership interests.

“Organization Documents” means, for any corporation, the certificate or articles of incorporation, the bylaws, any certificate of determination or instrument relating to the rights of preferred shareholders of such corporation, any shareholder rights agreement, and all applicable resolutions of the board of directors (or any committee thereof) of such corporation.

“Other Taxes” means any present or future stamp, court or documentary taxes or any other excise or property taxes, charges or similar levies which arise from any payment made hereunder or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, this Agreement or any other Loan Documents.

“Outstanding Amount” means (a) with respect to Committed Loans on any date, the Dollar Equivalent amount of the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of such Committed Loans occurring on such date; (b) with respect to Swing Line Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of such Swing Line Loans occurring on such date; and (c) with respect to any L/C Obligations on any date, the Dollar Equivalent amount of the aggregate outstanding amount of such L/C Obligations on such date after giving effect to any L/C Credit Extension occurring on such date and any other changes in the aggregate amount of the L/C Obligations as of such date, including as a result of any reimbursements by the Borrower of Unreimbursed Amounts.

“Overnight Rate” means, for any day, (a) with respect to any amount denominated in Dollars, the greater of (i) the Federal Funds Rate and (ii) an overnight rate determined by the Administrative Agent, the L/C Issuer, or the Swing Line Lender, as the case may be, in accordance with banking industry rules on interbank compensation, and (b) with respect to any amount denominated in an Alternative Currency, the rate of interest per annum at which overnight deposits in the applicable Alternative Currency, in an amount approximately equal to the amount with respect to which such rate is being determined, would be offered for such day by a branch or Affiliate of Bank of America in the applicable offshore interbank market for such currency to major banks in such interbank market.

“Participant” has the meaning specified in Section 10.06(d).

“Participating Member State” means each state so described in any EMU Legislation.

“PBGC” means the Pension Benefit Guaranty Corporation and any entity succeeding to any or all of its functions under ERISA.

“Pension Plan” means a “pension plan,” as such term is defined in Section 3(2) of ERISA, which is subject to Title IV of ERISA (other than a multiemployer plan as defined in Section 4001(a)(3) of ERISA), and to which the Borrower or any corporation, trade or business that is, along with the Borrower, a member of a Controlled Group, may have liability, including any liability by reason of having been a substantial employer under Section 4063 of ERISA at any time during the preceding five years, or by reason of being deemed to be a contributing sponsor under Section 4069 of ERISA.

“Person” means any individual, trustee, corporation, general partnership, limited partnership, limited liability company, joint stock company, firm, business association, trust, unincorporated organization, bank, joint venture, government, governmental authority or any other entity, whether acting in an individual, fiduciary or other capacity.

“Plan” means any Pension Plan or Welfare Plan.

“Principal Subsidiary” means a Subsidiary (a) whose total assets or net sales (each such amount expressed on a consolidated basis in the case of a Subsidiary which itself has Subsidiaries) represent, respectively, not less than 15% of either the consolidated total assets or consolidated net sales of the Borrower and its Subsidiaries, all as calculated annually by reference to the immediately preceding Fiscal Year-end financial data (consolidated or unconsolidated, as the case may be) of such Subsidiary and the then latest Fiscal Year-end audited consolidated financial statements of the Borrower, or (b) to which is transferred all or substantially all of the assets or undertakings of a Principal Subsidiary. A certificate by an Authorized Officer of the Borrower as to whether a Subsidiary is or is not or was or was not a Principal Subsidiary at a specified date shall, in the absence of manifest error, be conclusive and binding.

“Related Parties” means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents and advisors of such Person and of such Person’s Affiliates.

“Release” means a “release,” as such term is defined in CERCLA.

“Resource Conservation and Recovery Act” means the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., as in effect from time to time.

“Request for Credit Extension” means (a) with respect to a Borrowing, conversion or continuation of Committed Loans, a Committed Loan Notice, (b) with respect to a Bid Loan, a Bid Request, (c) with respect to an L/C Credit Extension, a Letter of Credit Application, and (d) with respect to a Swing Line Loan, a Swing Line Loan Notice.

“Required Lenders” means, as of any date of determination, Lenders having at least 51% of the Aggregate Commitments or, if the commitment of each Lender to make Loans and the obligation of the L/C Issuer to make L/C Credit Extensions have been terminated pursuant to Section 8.02, Lenders holding in the aggregate at least 51% of the Total Outstandings (with the

aggregate amount of each Lender’s risk participation and funded participation in L/C Obligations and Swing Line Loans being deemed “held” by such Lender for purposes of this definition); provided that the Commitment of, and the portion of the Total Outstandings held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders.

“Responsible Officer” means the chief executive officer, the chief operating officer, the president, the chief financial officer, the controller or the treasurer of the Borrower, or any other officer having substantially the same authority and responsibility.

“Revaluation Date” means with respect to any Loan, each of the following: (a) each date of a Borrowing of a Eurocurrency Rate Loan denominated in an Alternative Currency, (b) each date of a continuation of a Eurocurrency Rate Loan denominated in an Alternative Currency pursuant to Section 2.02, and (c) such additional dates as the Administrative Agent shall determine or the Required Lenders shall require.

“Sale-Leaseback Transaction” means any arrangement, directly or indirectly, with any Person whereby a seller or transferor shall sell or otherwise transfer any real or personal property if, as part of the same transaction or series of transactions, the seller or transferor shall then or thereafter lease as lessee, or similarly acquire the right to possession or use of, such sold or transferred property, or property which it intends to use substantially to the same extent or for the same purpose as such sold or transferred property, in any such case under any lease, agreement or other arrangement, whether or not involving a Capitalized Lease, with the Person to whom such property was sold or transferred (other than any such lease, agreement or arrangement having a term, including renewals, not exceeding three years) which obligates the seller or transferor to pay rent as lessee or make any other payment to such Person for such possession or use.

“S&P” means Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc. and any successor thereto.

“Same Day Funds” means (a) with respect to disbursements and payments in Dollars, immediately available funds, and (b) with respect to disbursements and payments in an Alternative Currency, same day or other funds as may be determined by the Administrative Agent to be customary in the place of disbursement or payment for the settlement of international banking transactions in the relevant Alternative Currency.

“SPC” has the meaning specified in Section 10.06(h).

“Special Notice Currency” means at any time an Alternative Currency, other than the currency of a country that is a member of the Organization for Economic Cooperation and Development at such time located in North America or Europe.

“Spot Rate” for a currency means the rate determined by the Administrative Agent to be the rate quoted by the Person acting in such capacity as the spot rate for the purchase by such Person of such currency with another currency through its principal foreign exchange trading office at approximately 10:00 a.m. on the date two Business Days prior to the date as of which the foreign exchange computation is made; provided that the Administrative Agent may obtain

such spot rate from another financial institution designated by the Administrative Agent if the Person acting in such capacity does not have as of the date of determination a spot buying rate for any such currency.

“Sterling” and “£” mean the lawful currency of the United Kingdom.

“Subsidiary” means, with respect to any Person, any corporation, partnership, joint venture, limited liability company or other business entity of which more than 50% of the outstanding capital stock or other interests having ordinary voting power to elect a majority of the board of directors or other governing body of such entity (irrespective of whether at the time securities or interests of any other class or classes of such entity shall or might have voting power upon the occurrence of any contingency) is at the time, directly or indirectly, beneficially owned by such Person, by such Person and one or more other Subsidiaries of such Person, or by one or more other Subsidiaries of such Person. Unless otherwise indicated, when used in this Agreement, the term “Subsidiary” shall refer to a Subsidiary of the Borrower.

“Swing Line” means the revolving credit facility made available by the Swing Line Lender pursuant to Section 2.05.

“Swing Line Borrowing” means a borrowing of a Swing Line Loan pursuant to Section 2.05.

“Swing Line Lender” means Bank of America in its capacity as provider of Swing Line Loans, or any successor swing line lender hereunder.

“Swing Line Loan” has the meaning specified in Section 2.05(a).

“Swing Line Loan Notice” means a notice of a Swing Line Borrowing pursuant to Section 2.05(b), which, if in writing, shall be substantially in the form of Exhibit C.

“Swing Line Sublimit” means an amount equal to the lesser of (a) \$25,000,000 and (b) the Aggregate Commitments. The Swing Line Sublimit is part of, and not in addition to, the Aggregate Commitments.

“TARGET Day” means any day on which the Trans-European Automated Real-time Gross Settlement Express Transfer (TARGET) payment system (or, if such payment system ceases to be operative, such other payment system (if any) determined by the Administrative Agent to be a suitable replacement) is open for the settlement of payments in Euro.

“Taxes” means all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“Total Outstandings” means the aggregate Outstanding Amount of all Loans and all L/C Obligations.

“Type” means (a) with respect to a Committed Loan, its character as a Base Rate Loan or a Eurocurrency Rate Loan, and (b) with respect to a Bid Loan, its character as an Absolute Rate Loan or a Eurocurrency Margin Bid Loan.

“United States” and “U.S.” each means the United States of America.

“Unreimbursed Amount” has the meaning specified in Section 2.04(c)(i).

“Welfare Plan” means a “welfare plan,” as such term is defined in Section 3(l) of ERISA.

“Yen” and “¥” mean the lawful currency of Japan.

1.02 Other Interpretive Provisions. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document (including any Organization Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (iii) the words “herein,” “hereof” and “hereunder,” and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (vi) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(b) In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including;” the words “to” and “until” each mean “to but excluding;” and the word “through” means “to and including.”

(c) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

1.03 Accounting Terms. Unless otherwise specified, all accounting terms used herein or in any other Loan Document shall be interpreted, all accounting determinations and

computations hereunder or thereunder (including under Sections 7.02 and 7.04) shall be made in accordance with generally accepted accounting principles (“GAAP”) as in effect on the Closing Date of this Agreement, and all financial statements required to be delivered hereunder or thereunder shall be prepared in accordance with GAAP as in effect on the date of, or for the period covered by, such financial statements, and applied in the preparation of the financial statements referred to in Section 6.01.

1.04 Exchange Rates; Currency Equivalents.

(a) The Administrative Agent shall determine the Spot Rates as of each Revaluation Date to be used for calculating Dollar Equivalent amounts of Credit Extensions and Outstanding Amounts denominated in Alternative Currencies. Such Spot Rates shall become effective as of such Revaluation Date and shall be the Spot Rates employed in converting any amounts between the applicable currencies until the next Revaluation Date to occur. Except for

purposes of financial statements delivered by the Borrower hereunder or calculating financial covenants hereunder or except as otherwise provided herein, the applicable amount of any currency (other than Dollars) for purposes of the Loan Documents shall be such Dollar Equivalent amount as so determined by the Administrative Agent.

(b) Wherever in this Agreement in connection with a Committed Borrowing or the conversion, continuation or prepayment of a Eurocurrency Rate Loan an amount, such as a required minimum or multiple amount, is expressed in Dollars, but such Committed Borrowing or Eurocurrency Rate Loan is denominated in an Alternative Currency, such amount shall be the relevant Alternative Currency Equivalent of such Dollar amount (rounded to the nearest unit of such Alternative Currency, with 0.5 of a unit being rounded upward), as determined by the Administrative Agent.

1.05 Additional Alternative Currencies.

(a) The Borrower may from time to time request that Eurocurrency Rate Loans be made in a currency other than those specifically listed in the definition of "Alternative Currency;" provided that such requested currency is a lawful currency (other than Dollars) that is readily available and freely transferable and convertible into Dollars. Any such request shall be subject to the approval of the Administrative Agent and the Lenders.

(b) Any such request shall be made to the Administrative Agent not later than 10:00 a.m., 10 Business Days prior to the date of the desired Credit Extension (or such other time or date as may be agreed by the Administrative Agent in its sole discretion), and the Administrative Agent shall promptly notify each Lender thereof. Each Lender shall notify the Administrative Agent, not later than 10:00 a.m., ten Business Days after receipt of such request whether it consents, in its sole discretion, to the making of Eurocurrency Rate Loans.

(c) Any failure by a Lender to respond to such request within the time period specified in the preceding sentence shall be deemed to be a refusal by such Lender to permit Eurocurrency Rate Loans to be made in such requested currency. If the Administrative Agent and all the Lenders consent to making Eurocurrency Rate Loans in such requested currency, the Administrative Agent shall so notify the Borrower and such currency shall thereupon be deemed

for all purposes to be an Alternative Currency hereunder for purposes of any Committed Borrowings of Eurocurrency Rate Loans. If the Administrative Agent shall fail to obtain consent to any request for an additional currency under this Section 1.05, the Administrative Agent shall promptly so notify the Borrower.

1.06 Change of Currency.

(a) Each obligation of the Borrower to make a payment denominated in the national currency unit of any member state of the European Union that adopts the Euro as its lawful currency after the date hereof shall be redenominated into Euro at the time of such adoption (in accordance with the EMU Legislation). If, in relation to the currency of any such member state, the basis of accrual of interest expressed in this Agreement in respect of that currency shall be inconsistent with any convention or practice in the London interbank market for the basis of accrual of interest in respect of the Euro, such expressed basis shall be replaced by such convention or practice with effect from the date on which such member state adopts the Euro as its lawful currency; provided that if any Committed Borrowing in the currency of such member state is outstanding immediately prior to such date, such replacement shall take effect, with respect to such Committed Borrowing, at the end of the then current Interest Period.

(b) Each provision of this Agreement shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify to be appropriate to reflect the adoption of the Euro by any member state of the European Union and any relevant market conventions or practices relating to the Euro.

(c) Each provision of this Agreement also shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify to be appropriate to reflect a change in currency of any other country and any relevant market conventions or practices relating to the change in currency.

1.07 Rounding. Any financial ratios required to be maintained by the Borrower pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

1.08 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Central time (daylight or standard, as applicable).

1.09 Letter of Credit Amounts. Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the stated amount of such Letter of Credit in effect at such time; provided, however, that with respect to any Letter of Credit that, by its terms or the terms of any Issuer Document related thereto, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

ARTICLE II THE CREDITS

2.01 Committed Loans. Subject to the terms and conditions set forth herein, each Lender severally agrees to make loans (each such loan, a "Committed Loan") to the Borrower in Dollars or in one or more Alternative Currencies from time to time, on any Business Day during the Availability Period, in an aggregate amount not to exceed at any time outstanding the amount of such Lender's Commitment; provided, however, that after giving effect to any Committed Borrowing, (i) the Total Outstanding shall not exceed the Aggregate Commitments, (ii) the aggregate Outstanding Amount of the Committed Loans of any Lender, plus such Lender's Applicable Percentage of the Outstanding Amount of all L/C Obligations, plus such Lender's Applicable Percentage of the Outstanding Amount of all Swing Line Loans shall not exceed such Lender's Commitment. Within the limits of each Lender's Commitment, and

subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.01, prepay under Section 2.06, and reborrow under this Section 2.01. Committed Loans may be Base Rate Loans or Eurocurrency Rate Loans, as further provided herein.

2.02 Borrowings, Conversions and Continuations of Committed Loans.

(a) Each Committed Borrowing, each conversion of Committed Loans from one Type to the other, and each continuation of Eurocurrency Rate Committed Loans shall be made upon the Borrower's irrevocable notice to the Administrative Agent, which may be given by telephone. Each such notice must be received by the Administrative Agent not later than 10:00 a.m. (i) three Business Days prior to the requested date of any Borrowing of, conversion to or continuation of Eurocurrency Rate Committed Loans denominated in Dollars or of any conversion of Eurocurrency Rate Committed Loans denominated in Dollars to Base Rate Committed Loans, (ii) four Business Days (or five Business Days in the case of a Special Notice Currency) prior to the requested date of any Borrowing or continuation of Eurocurrency Rate Committed Loans denominated in Alternative Currencies, and (iii) on the requested date of any Borrowing of Base Rate Committed Loans; provided, however, that if the Borrower wishes to request Eurocurrency Rate Committed Loans having an Interest Period other than one, two, three or six months in duration as provided in the definition of "Interest Period," the applicable notice must be received by the Administrative Agent not later than 10:00 a.m. (i) four Business Days prior to the requested date of such Borrowing, conversion or continuation of Eurocurrency Rate Committed Loans denominated in Dollars, or (ii) five Business Days (or six Business Days in the case of a Special Notice Currency) prior to the requested date of such Borrowing, conversion or continuation of Eurocurrency Rate Committed Loans denominated in Alternative Currencies, whereupon the Administrative Agent shall give prompt notice to the Lenders of such request and determine whether the requested Interest Period is acceptable to all of them. Not later than 10:00 a.m., (i) three Business Days before the requested date of such Borrowing, conversion or continuation of Eurocurrency Rate Committed Loans denominated in Dollars, or (ii) four Business Days (or five Business Days in the case of a Special Notice Currency) prior to the requested date of such Borrowing, conversion or continuation of Eurocurrency Rate Committed Loans denominated in Alternative Currencies, the Administrative Agent shall notify the Borrower (which notice may be by telephone) whether or not the requested Interest Period has been consented to by all the Lenders. Each telephonic notice by the Borrower pursuant to this Section 2.02(a) must be confirmed promptly by delivery to the Administrative Agent of a written

Committed Loan Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Each Committed Loan Notice (whether telephonic or written) shall specify (i) whether the Borrower is requesting a Committed Borrowing, a conversion of Committed Loans from one Type to the other, or a continuation of Eurocurrency Rate Committed Loans, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Committed Loans to be borrowed, converted or continued; provided that the principal amount of Committed Loans to be borrowed, converted or continued shall be in a minimum aggregate principal amount of \$10,000,000 or the Dollar Equivalent thereof, or a whole multiple of \$1,000,000 or its Dollar Equivalent in excess thereof, (iv) the Type of Committed Loans to be borrowed or to which existing Committed Loans are to be converted, (v) if applicable, the duration of the Interest Period with respect thereto, and (vi) the currency of the Committed Loans to be borrowed. If the Borrower fails to specify a currency in a Committed Loan Notice requesting a Borrowing, then the Committed Loans so requested shall be made in Dollars. If the Borrower fails to specify a Type of Committed Loan in a Committed Loan Notice or if the Borrower fails to give a timely notice requesting a conversion or continuation, then the applicable Committed Loans shall be made as, or converted to, Base Rate Loans; provided, however, that in the case of a failure to timely request a continuation of Committed Loans denominated in an Alternative Currency, such Loans shall be continued as Eurocurrency Rate Loans in their original currency with an Interest Period of one month. Any such automatic conversion to Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurocurrency Rate Committed Loans. If the Borrower requests a Borrowing of, conversion to, or continuation of Eurocurrency Rate Committed Loans in any such Committed Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month. No Committed Loan may be converted into or continued as a Committed Loan denominated in a different currency, but instead must be prepaid in the original currency of such Committed Loan and reborrowed in the other currency.

(b) Following receipt of a Committed Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount (and currency) of its Applicable Percentage of the applicable Committed Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans or continuation of Committed Loans denominated in a currency other than Dollars, in each case as described in the preceding subsection. In the case of a Committed Borrowing, each Lender shall make the amount of its Committed Loan available to the Administrative Agent in Same Day Funds at the Administrative Agent's Office for the applicable currency not later than 12:00 noon, in the case of any Committed Loan denominated in Dollars, and not later than the Applicable Time specified by the Administrative Agent in the case of any Committed Loan in an Alternative Currency, in each case on the Business Day specified in the applicable Committed Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.02 (and, if such Borrowing is the initial Credit Extension, Section 4.01), the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent either by (i) crediting the account of the Borrower on the books of Bank of America with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by the Borrower; provided, however, that if, on the date the Committed Loan Notice with respect to such Borrowing denominated in Dollars

is given by the Borrower, there are L/C Borrowings outstanding, then the proceeds of such Borrowing, first, shall be applied to the payment in full of any such L/C Borrowings, and second, shall be made available to the Borrower as provided above.

(c) Except as otherwise provided herein, a Eurocurrency Rate Committed Loan may be continued or converted only on the last day of an Interest Period for such Eurocurrency Rate Committed Loan. During the existence of a Default (i) without the consent of the Required Lenders, (A) no Loans denominated in Dollars may be requested as, converted to or continued as Eurocurrency Rate Committed Loans and (B) no Loans denominated in an Alternative Currency may be requested as, converted to or continued as Eurocurrency Rate Committed Loans on the basis of an Interest Period exceeding one month and (ii) the Required Lenders may demand that any or all of the then outstanding Eurocurrency Rate Committed Loans denominated in an Alternative Currency be redenominated into Dollars in the amount of the Dollar Equivalent thereof, on the last day of the then current Interest Period with respect thereto.

(d) The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for Eurocurrency Rate Committed Loans upon determination of such interest rate. At any time that Base Rate Loans are outstanding, the Administrative Agent shall notify the Borrower and the Lenders of any change in Bank of America's prime rate used in determining the Base Rate promptly following the public announcement of such change.

(e) After giving effect to all Committed Borrowings, all conversions of Committed Loans from one Type to the other, and all continuations of Committed Loans as the same Type, there shall not be more than ten Interest Periods in effect with respect to Committed Loans.

2.03 Bid Loans.

(a) General. Subject to the terms and conditions set forth herein, each Lender agrees that the Borrower may from time to time request the Lenders to submit offers to make loans in Dollars (each such loan, a “Bid Loan”) to the Borrower prior to the Maturity Date pursuant to this Section 2.03; provided, however, that after giving effect to any Bid Borrowing the Total Outstandings shall not exceed the Aggregate Commitments. There shall not be more than ten different Interest Periods in effect with respect to Bid Loans at any time.

(b) Requesting Competitive Bids. The Borrower may request the submission of Competitive Bids by delivering a Bid Request to the Administrative Agent not later than 11:00 a.m. (i) one Business Day prior to the requested date of any Bid Borrowing that is to consist of Absolute Rate Loans, or (ii) four Business Days prior to the requested date of any Bid Borrowing that is to consist of Eurocurrency Margin Bid Loans. Each Bid Request shall specify (i) the requested date of the Bid Borrowing (which shall be a Business Day), (ii) the aggregate principal amount of Bid Loans requested (which must be \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof), (iii) the Type of Bid Loans requested, and (iv) the duration of the Interest Period with respect thereto (which for Eurocurrency Rate Loans shall be for maturities of one, two, three or six months, and for Base Rate Loans shall be a period of 14 to 180 days), and shall be signed by a Responsible Officer of the Borrower. No Bid Request shall contain a request for (i) more than one Type of Bid Loan or (ii) Bid Loans having more than three different Interest

Periods. Unless the Administrative Agent otherwise agrees in its sole and absolute discretion, the Borrower may not submit a Bid Request if it has submitted another Bid Request within the prior five Business Days.

(c) Submitting Competitive Bids.

(i) The Administrative Agent shall promptly notify each Lender of each Bid Request received by it from the Borrower and the contents of such Bid Request.

(ii) Each Lender may (but shall have no obligation to) submit a Competitive Bid containing an offer to make one or more Bid Loans in response to such Bid Request. Such Competitive Bid must be delivered to the Administrative Agent not later than 9:30 a.m. (A) on the requested date of any Bid Borrowing that is to consist of Absolute Rate Loans, and (B) three Business Days prior to the requested date of any Bid Borrowing that is to consist of Eurocurrency Margin Bid Loans; provided, however, that any Competitive Bid submitted by Bank of America in its capacity as a Lender in response to any Bid Request must be submitted to the Administrative Agent not later than 9:15 a.m. on the date on which Competitive Bids are required to be delivered by the other Lenders in response to such Bid Request. Each Competitive Bid shall specify (A) the proposed date of the Bid Borrowing; (B) the principal amount of each Bid Loan for which such Competitive Bid is being made, which principal amount (x) may be equal to, greater than or less than the Commitment of the bidding Lender, (y) must be \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof, and (z) may not exceed the principal amount of Bid Loans for which Competitive Bids were requested; (C) if the proposed Bid Borrowing is to consist of Absolute Rate Bid Loans, the Absolute Rate offered for each such Bid Loan and the Interest Period applicable thereto; (D) if the proposed Bid Borrowing is to consist of Eurocurrency Margin Bid Loans, the Eurocurrency Bid Margin with respect to each such Eurocurrency Margin Bid Loan and the Interest Period applicable thereto; and (E) the identity of the bidding Lender.

(iii) Any Competitive Bid shall be disregarded if it (A) is received after the applicable time specified in subsection (ii) above, (B) is not substantially in the form of a Competitive Bid as specified herein, (C) contains qualifying, conditional or similar language, (D) proposes terms other than or in addition to those set forth in the applicable Bid Request, or (E) is otherwise not responsive to such Bid Request. Any Lender may correct a Competitive Bid containing a manifest error by submitting a corrected Competitive Bid (identified as such) not later than the applicable time required for submission of Competitive Bids. Any such submission of a corrected Competitive Bid shall constitute a revocation of the Competitive Bid that contained the manifest error. The Administrative Agent may, but shall not be required to, notify any Lender of any manifest error it detects in such Lender’s Competitive Bid.

(iv) Subject only to the provisions of Sections 3.02, 3.03 and 4.02 and subsection (iii) above, each Competitive Bid shall be irrevocable.

(d) Notice to Borrower of Competitive Bids. Not later than 10:00 a.m. (i) on the requested date of any Bid Borrowing that is to consist of Absolute Rate Loans, or (ii) three

Business Days prior to the requested date of any Bid Borrowing that is to consist of Eurocurrency Margin Bid Loans, the Administrative Agent shall notify the Borrower of the identity of each Lender that has submitted a Competitive Bid that complies with Section 2.03(c) and of the terms of the offers contained in each such Competitive Bid.

(e) Acceptance of Competitive Bids. Not later than 10:30 a.m. (i) on the requested date of any Bid Borrowing that is to consist of Absolute Rate Loans, and (ii) three Business Days prior to the requested date of any Bid Borrowing that is to consist of Eurocurrency Margin Bid Loans, the Borrower shall notify the Administrative Agent of its acceptance or rejection of the offers notified to it pursuant to Section 2.03(d). The Borrower shall be under no obligation to accept any Competitive Bid and may choose to reject all Competitive Bids. In the case of acceptance, such notice shall specify the aggregate principal amount of Competitive Bids for each Interest Period that is accepted. The Borrower may accept any Competitive Bid in whole or in part; provided that:

- (i) the aggregate principal amount of each Bid Borrowing may not exceed the applicable amount set forth in the related Bid Request;
- (ii) the principal amount of each Bid Loan must be \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof;

(iii) the acceptance of offers may be made only on the basis of ascending Absolute Rates or Eurocurrency Bid Margins within each Interest Period; and

(iv) the Borrower may not accept any offer that is described in Section 2.03(c)(iii), or that otherwise fails to comply with the requirements hereof.

(f) Procedure for Identical Bids. If two or more Lenders have submitted Competitive Bids at the same Absolute Rate or Eurocurrency Bid Margin, as the case may be, for the same Interest Period, and the result of accepting all of such Competitive Bids in whole (together with any other Competitive Bids at lower Absolute Rates or Eurocurrency Bid Margins, as the case may be, accepted for such Interest Period in conformity with the requirements of Section 2.03(e)(iii)) would be to cause the aggregate outstanding principal amount of the applicable Bid Borrowing to exceed the amount specified therefor in the related Bid Request, then, unless otherwise agreed by the Borrower, the Administrative Agent and such Lenders, such Competitive Bids shall be accepted as nearly as possible in proportion to the amount offered by each such Lender in respect of such Interest Period, with such accepted amounts being rounded to the nearest whole multiple of \$1,000,000.

(g) Notice to Lenders of Acceptance or Rejection of Bids. The Administrative Agent shall promptly notify each Lender having submitted a Competitive Bid whether or not its offer has been accepted and, if its offer has been accepted, of the amount of the Bid Loan or Bid Loans to be made by it on the date of the applicable Bid Borrowing. Any Competitive Bid or portion thereof that is not accepted by the Borrower by the applicable time specified in Section 2.03(e) shall be deemed rejected.

(h) Notice of Eurocurrency Base Rate. If any Bid Borrowing is to consist of Eurocurrency Margin Loans, the Administrative Agent shall determine the Eurocurrency Base

Rate for the relevant Interest Period, and promptly after making such determination, shall notify the Borrower and the Lenders that will be participating in such Bid Borrowing of such Eurocurrency Base Rate.

(i) Funding of Bid Loans. Each Lender that has received notice pursuant to Section 2.03(g) that all or a portion of its Competitive Bid has been accepted by the Borrower shall make the amount of its Bid Loan(s) available to the Administrative Agent in immediately available funds at the Administrative Agent's Office not later than 12:00 noon on the date of the requested Bid Borrowing. Upon satisfaction of the applicable conditions set forth in Section 4.02, the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent.

(j) Notice of Range of Bids. After each Competitive Bid auction pursuant to this Section 2.03, the Administrative Agent shall notify each Lender that submitted a Competitive Bid in such auction of the ranges of bids submitted (without the bidder's name) and accepted for each Bid Loan and the aggregate amount of each Bid Borrowing.

2.04 Letters of Credit.

(a) The Letter of Credit Commitment.

(i) Subject to the terms and conditions set forth herein, (A) the L/C Issuer agrees, in reliance upon the agreements of the Lenders set forth in this Section 2.04, (1) from time to time on any Business Day during the period from the Closing Date until the Letter of Credit Expiration Date, to issue Letters of Credit denominated in Dollars for the account of the Borrower, and to amend or extend Letters of Credit previously issued by it, in accordance with subsection (b) below, and (2) to honor drawings under the Letters of Credit; and (B) the Lenders severally agree to participate in Letters of Credit issued for the account of the Borrower and any drawings thereunder; provided that after giving effect to any L/C Credit Extension with respect to any Letter of Credit, (x) the Total Outstandings shall not exceed the Aggregate Commitments, (y) the aggregate Outstanding Amount of the Committed Loans of any Lender, plus such Lender's Applicable Percentage of the Outstanding Amount of all L/C Obligations, plus such Lender's Applicable Percentage of the Outstanding Amount of all Swing Line Loans, shall not exceed such Lender's Commitment, and (z) the Outstanding Amount of the L/C Obligations shall not exceed the Letter of Credit Sublimit. Each request by the Borrower for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by the Borrower that the L/C Credit Extension so requested complies with the conditions set forth in the proviso to the preceding sentence. Within the foregoing limits, and subject to the terms and conditions hereof, the Borrower's ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrower may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed.

(ii) The L/C Issuer shall not issue any Letter of Credit, if:

(A) subject to Section 2.04(b)(iii), the expiry date of such requested Letter of Credit would occur more than twelve months after the date of issuance or last extension, unless the Required Lenders have approved such expiry date; or

(B) the expiry date of such requested Letter of Credit would occur after the Letter of Credit Expiration Date, unless all the Lenders have approved such expiry date.

(iii) The L/C Issuer shall not be under any obligation to issue any Letter of Credit if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain the L/C Issuer from issuing such Letter of Credit, or any Law applicable to the L/C Issuer or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over the L/C Issuer shall prohibit, or request that the L/C Issuer refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon the L/C Issuer with respect to such Letter of Credit any restriction, reserve or capital requirement (for which the L/C Issuer is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon the L/C Issuer any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which the L/C Issuer in good faith deems material to it;

(B) the issuance of such Letter of Credit would violate one or more of the internal policies of the L/C Issuer regarding letters of credit generally;

(C) except as otherwise agreed by the Administrative Agent and the L/C Issuer, such Letter of Credit is in an initial stated amount less than \$1,000,000;

(D) the L/C Issuer does not as of the issuance date of such requested Letter of Credit issue Letters of Credit in the requested currency;

(E) such Letter of Credit contains any provisions for automatic reinstatement of the stated amount after any drawing thereunder; or

(F) a default of any Lender's obligations to fund under Section 2.04(c) exists or any Lender is at such time a Defaulting Lender hereunder, unless the L/C Issuer has entered into satisfactory arrangements with the Borrower or such Lender to eliminate the L/C Issuer's risk with respect to such Lender.

(iv) The L/C Issuer shall not amend any Letter of Credit if the L/C Issuer would not be permitted at such time to issue such Letter of Credit in its amended form under the terms hereof.

(v) The L/C Issuer shall be under no obligation to amend any Letter of Credit if (A) the L/C Issuer would have no obligation at such time to issue such Letter of Credit

in its amended form under the terms hereof, or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment to such Letter of Credit.

(vi) The L/C Issuer shall act on behalf of the Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and the L/C Issuer shall have all of the benefits and immunities (A) provided to the Administrative Agent in Article IX with respect to any acts taken or omissions suffered by the L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and Issuer Documents pertaining to such Letters of Credit as fully as if the term "Administrative Agent" as used in Article IX included the L/C Issuer with respect to such acts or omissions, and (B) as additionally provided herein with respect to the L/C Issuer.

(b) Procedures for Issuance and Amendment of Letters of Credit; Auto-Extension Letters of Credit.

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrower delivered to the L/C Issuer (with a copy to the Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of the Borrower. Such Letter of Credit Application must be received by the L/C Issuer and the Administrative Agent not later than 10:00 a.m. at least two Business Days prior to the proposed issuance date or date of amendment as the case may be, or such later date and time as the Administrative Agent and the L/C Issuer may agree in a particular instance in their sole discretion, prior to the proposed issue date or the date of amendment as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the L/C Issuer: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; and (G) such other matters as the L/C Issuer may require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the L/C Issuer (A) the Letter of Credit to be amended; (B) the proposed date of amendment thereof (which shall be a Business Day); (C) the nature of the proposed amendment; and (D) such other matters as the L/C Issuer may require. Additionally, the Borrower shall furnish to the L/C Issuer and the Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any Issuer Documents, as the L/C Issuer or the Administrative Agent may require.

(ii) Promptly after receipt of any Letter of Credit Application, the L/C Issuer will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such Letter of Credit Application from the Borrower and, if not, the L/C Issuer will provide the Administrative Agent with a copy thereof. Unless the L/C Issuer has received written notice from any Lender, the Administrative Agent or the Borrower, at least one Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more

applicable conditions contained in Article IV shall not then be satisfied, then, subject to the terms and conditions hereof, the L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of the Borrower or enter into the applicable amendment, as the case may be, in each case in accordance with the L/C Issuer's usual and customary business practices. Immediately upon the issuance of each Letter of Credit, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the L/C Issuer a risk participation in such Letter of Credit in an amount equal to the product of such Lender's Applicable Percentage times the amount of such Letter of Credit.

(iii) If the Borrower so requests in any applicable Letter of Credit Application, the L/C Issuer may, in its sole and absolute discretion, agree to issue a Letter of Credit that has automatic extension provisions (each, an "Auto-Extension Letter of Credit"); provided that any such Auto-Extension Letter of Credit must permit the L/C Issuer to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the "Non-Extension Notice Date") in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by the L/C Issuer, the Borrower shall not be required to make a specific request to the L/C Issuer for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Lenders shall be deemed to have authorized (but may not require) the L/C Issuer to permit the extension of such Letter of Credit at any time to an expiry date not later than the Letter of Credit Expiration Date; provided, however, that the L/C Issuer shall not permit any such extension if (A) the L/C Issuer has determined that it would not be permitted, or would have no obligation, at such time to issue such Letter of Credit

in its revised form (as extended) under the terms hereof (by reason of the provisions of Section 2.04(a)(ii), 2.04(a)(iii) or otherwise), or (B) it has received notice (which may be by telephone or in writing) on or before the day that is five Business Days before the Non-Extension Notice Date (1) from the Administrative Agent that the Required Lenders have elected not to permit such extension or (2) from the Administrative Agent, any Lender or the Borrower that one or more of the applicable conditions specified in Section 4.02 is not then satisfied, and in each such case directing the L/C Issuer not to permit such extension.

(iv) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the L/C Issuer will also deliver to the Borrower and the Administrative Agent a true and complete copy of such Letter of Credit or amendment.

(c) Drawings and Reimbursements; Funding of Participations.

(i) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the L/C Issuer shall notify the Borrower and the Administrative Agent thereof. Not later than 10:00 a.m. on the date of any payment by the L/C Issuer under a Letter of Credit (each such date, an “Honor Date”), the Borrower shall reimburse the L/C Issuer through the Administrative Agent in an amount equal to the amount of such drawing. If the Borrower fails to so reimburse the L/C Issuer by such

time, the Administrative Agent shall promptly notify each Lender of the Honor Date, the amount of the unreimbursed drawing (the “Unreimbursed Amount”), and the amount of such Lender’s Applicable Percentage thereof. In such event, the Borrower shall be deemed to have requested a Committed Borrowing of Base Rate Loans to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.02 for the principal amount of Base Rate Loans, but subject to the amount of the unutilized portion of the Aggregate Commitments and the conditions set forth in Section 4.02 (other than the delivery of a Committed Loan Notice). Any notice given by the L/C Issuer or the Administrative Agent pursuant to this Section 2.04(c)(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Lender shall upon any notice pursuant to Section 2.04(c)(i) make funds available to the Administrative Agent for the account of the L/C Issuer, at the Administrative Agent’s Office in an amount equal to its Applicable Percentage of the Unreimbursed Amount not later than 12:00 noon on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.04(c)(iii), each Lender that so makes funds available shall be deemed to have made a Base Rate Committed Loan to the Borrower in such amount. The Administrative Agent shall remit the funds so received to the L/C Issuer.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Committed Borrowing of Base Rate Loans because the conditions set forth in Section 4.02 cannot be satisfied or for any other reason, the Borrower shall be deemed to have incurred from the L/C Issuer an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate. In such event, each Lender’s payment to the Administrative Agent for the account of the L/C Issuer pursuant to Section 2.04(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.04.

(iv) Until each Lender funds its Committed Loan or L/C Advance pursuant to this Section 2.04(c) to reimburse the L/C Issuer for any amount drawn under any Letter of Credit, interest in respect of such Lender’s Applicable Percentage of such amount shall be solely for the account of the L/C Issuer.

(v) Each Lender’s obligation to make Committed Loans or L/C Advances to reimburse the L/C Issuer for amounts drawn under Letters of Credit, as contemplated by this Section 2.04(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the L/C Issuer, the Borrower or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Lender’s obligation to make Committed Loans pursuant to this Section 2.04(c) is subject to the conditions set forth in Section 4.02 (other than delivery

by the Borrower of a Committed Loan Notice). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the Borrower to reimburse the L/C Issuer for the amount of any payment made by the L/C Issuer under any Letter of Credit, together with interest as provided herein.

(vi) If any Lender fails to make available to the Administrative Agent for the account of the L/C Issuer any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.04(c) by the time specified in Section 2.04(c)(ii), the L/C Issuer shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the L/C Issuer at a rate per annum equal to the applicable Overnight Rate from time to time in effect. A certificate of the L/C Issuer submitted to any Lender (through the Administrative Agent) with respect to any amounts owing under this subsection (vi) shall be conclusive absent manifest error.

(d) Repayment of Participations.

(i) At any time after the L/C Issuer has made a payment under any Letter of Credit and has received from any Lender such Lender’s L/C Advance in respect of such payment in accordance with Section 2.04(c), if the Administrative Agent receives for the account of the L/C Issuer any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from the Borrower or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), the Administrative Agent will distribute to such Lender its Applicable Percentage thereof (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender’s L/C Advance was outstanding) in the same funds as those received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of the L/C Issuer pursuant to Section 2.04(c)(i) is required to be returned under any of the circumstances described in Section 10.05 (including pursuant to any settlement entered into by the L/C Issuer in its discretion), each Lender shall pay to the Administrative Agent for the account of the L/C Issuer its Applicable Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the applicable Overnight Rate from time to time in effect. The obligations of the Lenders under this subsection shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Obligations Absolute. The obligation of the Borrower to reimburse the L/C Issuer for each drawing under each Letter of Credit and to repay each L/C Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other Loan Document;

(ii) the existence of any claim, counterclaim, setoff, defense or other right that the Borrower or any Subsidiary may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the L/C Issuer or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) any payment by the L/C Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the L/C Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law; or

(v) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower or any Subsidiary.

The Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Borrower's instructions or other irregularity, the Borrower will immediately notify the L/C Issuer. The Borrower shall be conclusively deemed to have waived any such claim against the L/C Issuer and its correspondents unless such notice is given as aforesaid.

(f) Role of L/C Issuer. Each Lender and the Borrower agree that, in paying any drawing under a Letter of Credit, the L/C Issuer shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the L/C Issuer, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of the L/C Issuer shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Lenders or the Required Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Issuer Document. The Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided, however, that this assumption is not intended to, and shall not, preclude the Borrower's pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the L/C Issuer, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of

the L/C Issuer shall be liable or responsible for any of the matters described in Section 2.04(e)(i) through (v); provided, however, that anything in such clauses to the contrary notwithstanding, the Borrower may have a claim against the L/C Issuer, and the L/C Issuer may be liable to the Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Borrower which the Borrower proves were caused by the L/C Issuer's willful misconduct or gross negligence or the L/C Issuer's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, the L/C Issuer may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and the L/C Issuer shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason.

(g) Cash Collateral. Upon the request of the Administrative Agent, (i) if the L/C Issuer has honored any full or partial drawing request under any Letter of Credit and such drawing has resulted in an L/C Borrowing, or (ii) if, as of the Letter of Credit Expiration Date, any L/C Obligation for any reason remains outstanding, the Borrower shall, in each case, immediately Cash Collateralize the then Outstanding Amount of all L/C Obligations. Sections 2.06 and 8.02(c) set forth certain additional requirements to deliver Cash Collateral hereunder. For purposes of this Section 2.04, Section 2.06 and Section 8.02(c), "Cash Collateralize" means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of the L/C Issuer and the Lenders, as collateral for the L/C Obligations, cash or deposit account balances pursuant to documentation in form and substance satisfactory to the Administrative Agent and the L/C Issuer (which documents are hereby consented to by the Lenders). Derivatives of such term have corresponding meanings. The Borrower hereby grants to the Administrative Agent, for the benefit of the L/C Issuer and the Lenders, a security interest in all such cash, deposit accounts and all balances therein and all proceeds of the foregoing. Cash Collateral shall be maintained in blocked, non-interest bearing deposit accounts at Bank of America.

(h) Applicability of ISP. Unless otherwise expressly agreed by the L/C Issuer and the Borrower when a Letter of Credit is issued the rules of the ISP shall apply to each Letter of Credit.

(i) Letter of Credit Fees. The Borrower shall pay to the Administrative Agent for the account of each Lender in accordance with its Applicable Percentage a Letter of Credit fee (the "Letter of Credit Fee") for each Letter of Credit equal to the Applicable Rate times the daily amount

available to be drawn under such Letter of Credit. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.09. Letter of Credit Fees shall be (i) computed on a quarterly basis in arrears and (ii) due and payable on the first Business Day after the end of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand. If there is any change in the Applicable Rate during any quarter, the daily amount available to be drawn under each Letter of Credit shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in

effect. Notwithstanding anything to the contrary contained herein, upon the request of the Required Lenders, while any Event of Default exists, all Letter of Credit Fees shall accrue at the Default Rate.

(j) Fronting Fee and Documentary and Processing Charges Payable to L/C Issuer. The Borrower shall pay directly to the L/C Issuer for its own account a fronting fee with respect to each Letter of Credit, at the rate per annum specified in the Bank of America Fee Letter, computed on the daily amount available to be drawn under such Letter of Credit on a quarterly basis in arrears, and due and payable on the first Business Day after the end of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.09. In addition, the Borrower shall pay directly to the L/C Issuer for its own account, the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of the L/C Issuer relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable on demand and are nonrefundable.

(k) Conflict with Issuer Documents. In the event of any conflict between the terms hereof and the terms of any Issuer Document, the terms hereof shall control.

2.05 Swing Line Loans.

(a) The Swing Line. Subject to the terms and conditions set forth herein, the Swing Line Lender agrees, in reliance upon the agreements of the other Lenders set forth in this Section 2.05, to make loans (each such loan, a "Swing Line Loan") to the Borrower from time to time on any Business Day during the Availability Period in an aggregate amount not to exceed at any time outstanding the amount of the Swing Line Sublimit, notwithstanding the fact that such Swing Line Loans, when aggregated with the Applicable Percentage of the Outstanding Amount of Committed Loans and L/C Obligations of the Lender acting as Swing Line Lender, may exceed the amount of such Lender's Commitment; provided, however, that after giving effect to any Swing Line Loan, (i) the Total Outstandings shall not exceed the Aggregate Commitments, and (ii) the aggregate Outstanding Amount of the Committed Loans of any Lender, plus such Lender's Applicable Percentage of the Outstanding Amount of all L/C Obligations, plus such Lender's Applicable Percentage of the Outstanding Amount of all Swing Line Loans shall not exceed such Lender's Commitment, and provided, further, that the Borrower shall not use the proceeds of any Swing Line Loan to refinance any outstanding Swing Line Loan. Within the foregoing limits, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.05, prepay under Section 2.06, and reborrow under this Section 2.05. Each Swing Line Loan shall be a Base Rate Loan. Immediately upon the making of a Swing Line Loan, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Swing Line Lender a risk participation in such Swing Line Loan in an amount equal to the product of such Lender's Applicable Percentage times the amount of such Swing Line Loan.

(b) Borrowing Procedures. Each Swing Line Borrowing shall be made upon the Borrower's irrevocable notice to the Swing Line Lender and the Administrative Agent, which may be given by telephone. Each such notice must be received by the Swing Line Lender and the Administrative Agent not later than 12:00 noon on the requested borrowing date, and shall specify (i) the amount to be borrowed, which shall be in a minimum amount of \$1,000,000, and (ii) the requested borrowing date, which shall be a Business Day. Each such telephonic notice must be confirmed promptly by delivery to the Swing Line Lender and the Administrative Agent of a written Swing Line Loan Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Promptly after receipt by the Swing Line Lender of any telephonic Swing Line Loan Notice, the Swing Line Lender will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has also received such Swing Line Loan Notice and, if not, the Swing Line Lender will notify the Administrative Agent (by telephone or in writing) of the contents thereof. Unless the Swing Line Lender has received notice (by telephone or in writing) from the Administrative Agent (including at the request of any Lender) prior to 1:00 p.m. on the date of the proposed Swing Line Borrowing (A) directing the Swing Line Lender not to make such Swing Line Loan as a result of the limitations set forth in the proviso to the first sentence of Section 2.05(a), or (B) that one or more of the applicable conditions specified in Article IV is not then satisfied, then, subject to the terms and conditions hereof, the Swing Line Lender will, not later than 2:00 p.m. on the borrowing date specified in such Swing Line Loan Notice, make the amount of its Swing Line Loan available to the Borrower at its office by crediting the account of the Borrower on the books of the Swing Line Lender in Same Day Funds.

(c) Refinancing of Swing Line Loans

(i) The Swing Line Lender at any time in its sole and absolute discretion may request, on behalf of the Borrower (which hereby irrevocably authorizes the Swing Line Lender to so request on its behalf), that each Lender make a Base Rate Committed Loan in an amount equal to such Lender's Applicable Percentage of the amount of Swing Line Loans then outstanding. Such request shall be made in writing (which written request shall be deemed to be a Committed Loan Notice for purposes hereof) and in accordance with the requirements of Section 2.02, without regard to the minimum and multiples specified therein for the principal amount of Base Rate Loans, but subject to the unutilized portion of the Aggregate Commitments and the conditions set forth in Section 4.02. The Swing Line Lender shall furnish the Borrower with a copy of the applicable Committed Loan Notice promptly after delivering such notice to the Administrative Agent. Each Lender shall make an amount equal to its Applicable Percentage of the amount specified in such Committed Loan Notice available to the Administrative Agent in Same Day Funds for the account of the Swing Line Lender at the Administrative Agent's Office for Dollar-denominated payments not later than 12:00 noon on the day specified in such Committed Loan Notice, whereupon, subject to Section 2.05(c)(ii), each Lender that so makes funds available shall be deemed to have made a Base Rate Committed Loan to the Borrower in such amount. The Administrative Agent shall remit the funds so received to the Swing Line Lender.

(ii) If for any reason any Swing Line Loan cannot be refinanced by such a Committed Borrowing in accordance with Section 2.05(c), (i), the request for Base Rate

Committed Loans submitted by the Swing Line Lender as set forth herein shall be deemed to be a request by the Swing Line Lender that each of the Lenders fund its risk participation in the relevant Swing Line Loan and each Lender's payment to the Administrative Agent for the account of the Swing Line Lender pursuant to Section 2.05(c)(i) shall be deemed payment in respect of such participation.

(iii) If any Lender fails to make available to the Administrative Agent for the account of the Swing Line Lender any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.05(c) by the time specified in Section 2.05(c)(i), the Swing Line Lender shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the Swing Line Lender at a rate per annum equal to the applicable Overnight Rate from time to time in effect. A certificate of the Swing Line Lender submitted to any Lender (through the Administrative Agent) with respect to any amounts owing under this subsection (iii) shall be conclusive absent manifest error.

(iv) Each Lender's obligation to make Committed Loans or to purchase and fund risk participations in Swing Line Loans pursuant to this Section 2.05(c) shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the Swing Line Lender, the Borrower or any other Person for any reason whatsoever, (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Lender's obligation to make Committed Loans pursuant to this Section 2.05(c) is subject to the conditions set forth in Section 4.02. No such funding of risk participations shall relieve or otherwise impair the obligation of the Borrower to repay Swing Line Loans, together with interest as provided herein.

(d) Repayment of Participations.

(i) At any time after any Lender has purchased and funded a risk participation in a Swing Line Loan, if the Swing Line Lender receives any payment on account of such Swing Line Loan, the Swing Line Lender will distribute to such Lender its Applicable Percentage of such payment (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender's risk participation was funded) in the same funds as those received by the Swing Line Lender.

(ii) If any payment received by the Swing Line Lender in respect of principal or interest on any Swing Line Loan is required to be returned by the Swing Line Lender under any of the circumstances described in Section 10.05 (including pursuant to any settlement entered into by the Swing Line Lender in its discretion), each Lender shall pay to the Swing Line Lender its Applicable Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned, at a rate per annum equal to the applicable Overnight Rate. The Administrative Agent will make such demand upon the request of the Swing Line

Lender. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Interest for Account of Swing Line Lender. The Swing Line Lender shall be responsible for invoicing the Borrower for interest on the Swing Line Loans. Until each Lender funds its Base Rate Committed Loan or risk participation pursuant to this Section 2.05 to refinance such Lender's Applicable Percentage of any Swing Line Loan, interest in respect of such Applicable Percentage shall be solely for the account of the Swing Line Lender.

(f) Payments Directly to Swing Line Lender. The Borrower shall make all payments of principal and interest in respect of the Swing Line Loans directly to the Swing Line Lender.

2.06 Prepayments.

(a) The Borrower may, upon notice to the Administrative Agent, at any time or from time to time voluntarily prepay Committed Loans in whole or in part without premium or penalty; provided that (i) such notice must be received by the Administrative Agent not later than 10:00 a.m. (A) three Business Days prior to any date of prepayment of Eurocurrency Rate Committed Loans denominated in Dollars, (B) four Business Days (or five, in the case of prepayment of Loans denominated in Special Notice Currencies) prior to any date of prepayment of Eurocurrency Rate Committed Loans denominated in Alternative Currencies, and (C) on the date of prepayment of Base Rate Committed Loans; (ii) any prepayment shall be in a principal amount of \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof or, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment and the Type(s) of Committed Loans to be prepaid and, if Eurocurrency Loans are to be prepaid, the Interest Period(s) of such Loans. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's Applicable Percentage of such prepayment. If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of a Eurocurrency Rate Loan shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05. Each such prepayment shall be applied to the Committed Loans of the Lenders in accordance with their respective Applicable Percentages.

(b) No Bid Loan may be prepaid without the prior consent of the applicable Bid Loan Lender.

(c) The Borrower may, upon notice to the Swing Line Lender (with a copy to the Administrative Agent), at any time or from time to time, voluntarily prepay Swing Line Loans in whole or in part without premium or penalty; provided that (i) such notice must be received by the Swing Line Lender and the Administrative Agent not later than 12:00 noon on the date of the prepayment, and (ii) any such prepayment shall be in a minimum principal amount of \$1,000,000 or a whole multiple of \$1,000,000 in excess thereof. Each such notice shall specify the date and amount of such prepayment. If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein.

(d) If the Administrative Agent notifies the Borrower at any time that the Total Outstandings at such time exceed an amount equal to 105% of the Aggregate Commitments then in effect, then, within two Business Days after receipt of such notice, the Borrower shall prepay Loans and/or the Borrower

shall Cash Collateralize the L/C Obligations in an aggregate amount sufficient to reduce such Outstanding Amount as of such date of payment to an amount not to exceed 100% of the Aggregate Commitments then in effect; provided, however, that, subject to the provisions of Section 2.04(g)(ii), the Borrower shall not be required to Cash Collateralize the L/C Obligations pursuant to this Section 2.06(d) unless after the prepayment in full of the Loans the Total Outstandings exceed the Aggregate Commitments then in effect. The Administrative Agent may, at any time and from time to time after the initial deposit of such Cash Collateral, request that additional Cash Collateral be provided in order to protect against the results of further exchange rate fluctuations.

2.07 Termination or Reduction of Commitments. The Borrower may, upon notice to the Administrative Agent, terminate the Aggregate Commitments, or from time to time permanently reduce the Aggregate Commitments; provided that (i) any such notice shall be received by the Administrative Agent not later than 10:00 a.m. three Business Days prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of \$10,000,000 or any whole multiple of \$5,000,000 in excess thereof, (iii) the Borrower shall not terminate or reduce the Aggregate Commitments if, after giving effect thereto and to any concurrent prepayments hereunder, the Total Outstandings would exceed the Aggregate Commitments, and (iv) if, after giving effect to any reduction of the Aggregate Commitments, the Letter of Credit Sublimit or the Swing Line Sublimit exceeds the amount of the Aggregate Commitments, such Sublimit shall be automatically reduced by the amount of such excess. The Administrative Agent will promptly notify the Lenders of any such notice of termination or reduction of the Aggregate Commitments. The amount of any such Aggregate Commitment reduction shall not be applied to the Letter of Credit Sublimit unless otherwise specified by the Borrower. Any reduction of the Aggregate Commitments shall be applied to the Commitment of each Lender according to its Applicable Percentage. All fees accrued until the effective date of any termination of the Aggregate Commitments shall be paid on the effective date of such termination.

2.08 Repayment of Loans.

- (a) The Borrower shall repay to the Lenders on the Maturity Date the aggregate principal amount of Committed Loans outstanding on such date.
- (b) The Borrower shall repay each Bid Loan on the last day of the Interest Period in respect thereof.
- (c) The Borrower shall repay each Swing Line Loan on the earlier to occur of (i) the date ten Business Days after such Loan is made and (ii) the Maturity Date.

2.09 Interest.

- (a) Subject to the provisions of subsection (b) below, (i) each Eurocurrency Rate Committed Loan shall bear interest on the outstanding principal amount thereof for each Interest

Period at a rate per annum equal to the Eurocurrency Rate for such Interest Period plus the Applicable Rate plus (in the case of a Eurocurrency Rate Loan of any Lender which is lent from a Lending Office in the United Kingdom or a Participating Member State) the Mandatory Cost; (ii) each Base Rate Committed Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate; (iii) each Bid Loan shall bear interest on the outstanding principal amount thereof for the Interest Period therefor at a rate per annum equal to the Eurocurrency Rate for such Interest Period plus (or minus) the Eurocurrency Bid Margin, or at the Absolute Rate for such Interest Period, as the case may be; and (iv) each Swing Line Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate.

- (b) (i) If any amount of principal of any Loan is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

- (ii) If any amount (other than principal of any Loan) payable by the Borrower under any Loan Document is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, then upon the request of the Required Lenders, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

- (iii) Upon the request of the Required Lenders, while any Event of Default exists, the Borrower shall pay interest on the principal amount of all outstanding Obligations hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

- (iv) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

- (c) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

2.10 Fees. In addition to certain fees described in Sections 2.04(i) and (j):

- (a) Facility Fee. The Borrower shall pay to the Administrative Agent for the account of each Lender in accordance with its Applicable Percentage, a facility fee in Dollars equal to the Applicable Rate times the actual daily amount of the Aggregate Commitments (or, if the Aggregate Commitments have terminated, on the Outstanding Amount of all Committed Loans, Swing Line Loans and L/C Obligations), regardless of usage. The facility fee shall accrue at all times during the Availability Period (and thereafter so long as any Committed Loans, Swing Line Loans or L/C Obligations remain outstanding), including at any time during which one or

more of the conditions in Article IV is not met, and shall be due and payable quarterly in arrears on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the Closing Date, and on the Maturity Date (and, if applicable, thereafter on demand). The

facility fee and utilization fee referred to in Section 2.10(b) shall be calculated quarterly in arrears, and if there is any change in the Applicable Rate during any quarter, the actual daily amount shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect.

(b) **Utilization Fee.** The Borrower agrees to pay to the Administrative Agent for the pro rata account of each Lender, in accordance with such Lender's Loans, a utilization fee for each day from the date hereof to and including the Maturity Date for each day that Total Outstandings on the close of business (if a Business Day) of such day is equal to or greater than 50% of the sum of the Aggregate Commitments. The utilization fee shall accrue at all times, including at any time during which one or more of the conditions in Article IV is not met. If applicable, such utilization fee shall be equal to the Applicable Rate times Total Outstandings on the close of business (if a Business Day), payable quarterly in arrears on the last Business Day of March, June, September, and December, and the Maturity Date.

(c) **Other Fees.** The Borrower shall pay to Banc of America Securities LLC and the Administrative Agent fees in the amounts and at the times specified in the Fee Letter, which fees shall be for the respective accounts of the Administrative Agent, Banc of America Securities LLC and the Lenders as specified in the Fee Letter. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

2.11 Computation of Interest and Fees. All computations of interest for Base Rate Loans when the Base Rate is determined by Bank of America's "prime rate" shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year), or, in the case of interest in respect of Committed Loans denominated in Alternative Currencies as to which market practice differs from the foregoing, in accordance with such market practice. Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid, provided that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.13(a), bear interest for one day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

2.12 Evidence of Debt.

(a) The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and by the Administrative Agent in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be conclusive absent manifest error of the amount of the Credit Extensions made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict

between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Note, which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

(b) In addition to the accounts and records referred to in subsection (a), each Lender and the Administrative Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Lender of participations in Letters of Credit and Swing Line Loans. In the event of any conflict between the accounts and records maintained by the Administrative Agent and the accounts and records of any Lender in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

2.13 Payments Generally; Administrative Agent's Clawback.

(a) **General.** All payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein and except with respect to principal of and interest on Loans denominated in an Alternative Currency, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the applicable Administrative Agent's Office in Dollars and in Same Day Funds not later than 1:00 p.m. on the date specified herein. Except as otherwise expressly provided herein, all payments by the Borrower hereunder with respect to principal and interest on Loans denominated in an Alternative Currency shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the applicable Administrative Agent's Office in such Alternative Currency and in Same Day Funds not later than the Applicable Time specified by the Administrative Agent on the dates specified herein. Without limiting the generality of the foregoing, the Administrative Agent may require that any payments due under this Agreement be made in the United States. If, for any reason, the Borrower is prohibited by any Law from making any required payment hereunder in an Alternative Currency, the Borrower shall make such payment in Dollars in the Dollar Equivalent of the Alternative Currency payment amount. The Administrative Agent will promptly distribute to each Lender its Applicable Percentage (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent (i) after 1:00 p.m., in the case of payments in Dollars, or (ii) after the Applicable Time specified by the Administrative Agent in the case of payments in an Alternative Currency, shall in each case be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(b) (i) **Funding by Lenders; Presumption by Administrative Agent.** Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Committed Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Committed Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with Section 2.02 and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Committed Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount in Same Day Funds with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (A) in the case of a payment to be made by such Lender, the Overnight Rate and (B) in the case of a payment to be made by the Borrower, the interest rate applicable to Base Rate Loans. If the

Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Committed Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Committed Loan included in such Committed Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(ii) Payments by Borrower; Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the L/C Issuer hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the L/C Issuer, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders or the L/C Issuer, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or the L/C Issuer, in Same Day Funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the Overnight Rate.

A notice of the Administrative Agent to any Lender or the Borrower with respect to any amount owing under this subsection (b) shall be conclusive, absent manifest error.

(c) Failure to Satisfy Conditions Precedent. If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the applicable Credit Extension set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(d) Obligations of Lenders Several. The obligations of the Lenders hereunder to make Committed Loans, to fund participations in Letters of Credit and Swing Line Loans and to make payments pursuant to Section 10.04(c) are several and not joint. The failure of any Lender to make any Committed Loan, to fund any such participation or to make any payment under Section 10.04(c), on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Committed Loan, to purchase its participation or to make its payment under Section 10.04(c).

(e) Funding Source. Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

2.14 Sharing of Payments by Lenders. If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of the Committed Loans made by it, or the participations in L/C Obligations or in Swing Line Loans held by it resulting in such Lender's receiving payment of a proportion of the aggregate amount of such Committed Loans or participations and accrued interest thereon greater than its pro rata share thereof as provided herein, then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Committed Loans and subparticipations in L/C Obligations and Swing Line Loans of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Committed Loans and other amounts owing them, provided that:

(i) if any such participations or subparticipations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations or subparticipations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this Section shall not be construed to apply to (x) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Committed Loans or subparticipations in L/C Obligations or Swing Line Loans to any assignee or participant, other than to the Borrower or any Subsidiary thereof (as to which the provisions of this Section shall apply).

The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

2.15 Increase in Commitments.

(a) Request for Increase. Provided there exists no Default, upon notice to the Administrative Agent (which shall promptly notify the Lenders), the Borrower may from time to time, on up to two occasions, request an increase in the Aggregate Commitments by an amount (for all such requests) not exceeding \$100,000,000; provided that the Aggregate Commitments may not exceed \$500,000,000; and provided further that any such request for an increase shall be in a minimum amount of \$25,000,000. At the time of sending such notice, the Borrower (in consultation with the Administrative Agent) shall specify the time period within which each Lender is requested to respond (which shall in no event be less than ten Business Days from the date of delivery of such notice to the Lenders).

(b) Lender Elections to Increase. Each Lender shall notify the Administrative Agent within such time period whether or not it agrees to increase its Commitment and, if so, whether by an amount equal to, greater than, or less than its Applicable Percentage of such requested increase. Any Lender not responding within such time period shall be deemed to have declined to increase its Commitment.

(c) Notification by Administrative Agent; Additional Lenders. The Administrative Agent shall notify the Borrower and each Lender of the Lenders' responses to each request made hereunder. If the Lenders do not agree to the full amount of a requested increase, subject to the approval of the Administrative Agent and the L/C Issuer (which approvals shall not be unreasonably withheld), the Borrower may also invite additional Eligible Assignees to become Lenders pursuant to a joinder agreement in form and substance satisfactory to the Administrative Agent and its counsel.

(d) Effective Date and Allocations. If the Aggregate Commitments are increased in accordance with this Section, the Administrative Agent and the Borrower shall determine the effective date (the “Increase Effective Date”) and the final allocation of such increase. The Administrative Agent shall promptly notify the Borrower and the Lenders of the final allocation of such increase and the Increase Effective Date.

(e) Conditions to Effectiveness of Increase. As a condition precedent to such increase, the Borrower shall deliver to the Administrative Agent a certificate dated as of the Increase Effective Date (in sufficient copies for each Lender) signed by a Responsible Officer of the Borrower (i) certifying and attaching the resolutions adopted by the Borrower approving or consenting to such increase, and (ii) certifying that, before and after giving effect to such increase, (A) the representations and warranties contained in Article V and the other Loan Documents are true and correct on and as of the Increase Effective Date, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct as of such earlier date, and except that for purposes of this Section 2.15, the representations and warranties contained in Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to Sections 6.01(a) and 6.01(b), and (B) no Default exists. The Borrower shall prepay any Committed Loans outstanding on the Increase Effective Date (and pay any additional amounts required pursuant to Section 3.05) to the extent necessary to keep the outstanding Committed Loans ratable with any revised Applicable Percentages arising from any nonratable increase in the Commitments under this Section.

(f) Conflicting Provisions. This Section shall supersede any provisions in Sections 2.14 or 10.01 to the contrary.

ARTICLE III TAXES, YIELD PROTECTION AND ILLEGALITY

3.01 Taxes.

(a) Payments Free of Taxes. Any and all payments by or on account of any obligation of the Borrower hereunder or under any other Loan Document shall be made free and clear of and without reduction or withholding for any Indemnified Taxes or Other Taxes, provided that if the Borrower shall be required by applicable law to deduct any Indemnified Taxes (including any Other Taxes) from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) the Administrative Agent, Lender or L/C Issuer, as the case may be, receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower shall make such deductions and (iii) the Borrower shall timely pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law.

(b) Payment of Other Taxes by the Borrower. Without limiting the provisions of subsection (a) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) Indemnification by the Borrower. The Borrower shall indemnify the Administrative Agent, each Lender and the L/C Issuer, within 10 days after demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) paid by the Administrative Agent, such Lender or the L/C Issuer, as the case may be, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender or the L/C Issuer (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender or the L/C Issuer, shall be conclusive absent manifest error.

(d) Evidence of Payments. As soon as practicable after any payment of Indemnified Taxes or Other Taxes by the Borrower to a Governmental Authority, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) Status of Lenders. Any Foreign Lender that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which the Borrower is resident for tax purposes, or any treaty to which such jurisdiction is a party, with respect to payments hereunder or under any other Loan Document shall deliver to the Borrower (with a copy to the Administrative Agent), at the time or times prescribed by applicable law or reasonably requested

by the Borrower or the Administrative Agent, such properly completed and executed documentation prescribed by applicable law as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements.

Without limiting the generality of the foregoing, in the event that the Borrower is resident for tax purposes in the United States, any Foreign Lender shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the request of the Borrower or the Administrative Agent, but only if such Foreign Lender is legally entitled to do so), whichever of the following is applicable:

- (i) duly completed copies of Internal Revenue Service Form W-8BEN claiming eligibility for benefits of an income tax treaty to which the United States is a party,
- (ii) duly completed copies of Internal Revenue Service Form W-8ECI,
- (iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under section 881(c) of the Code, (x) a certificate to the effect that such Foreign Lender is not (A) a “bank” within the meaning of section 881(c)(3)(A) of the Code, (B) a “10 percent shareholder” of the Borrower within the meaning of section 881(c)(3)(B) of the Code, or (C) a “controlled foreign corporation” described in section 881(c)(3)(C) of the Code and (y) duly completed copies of Internal Revenue Service Form W-8BEN, or

(iv) any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in United States Federal withholding tax duly completed together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower to determine the withholding or deduction required to be made.

Without limiting the obligations of the Lenders set forth above regarding delivery of certain forms and documents to establish each Lender's status for U.S. withholding tax purposes, each Lender agrees promptly to deliver to the Administrative Agent or the Borrower, as the Administrative Agent or the Borrower shall reasonably request, on or prior to the Closing Date, and in a timely fashion thereafter, such other documents and forms required by any relevant taxing authorities under the Laws of any other jurisdiction, duly executed and completed by such Lender, as are required under such Laws to confirm such Lender's entitlement to any available exemption from, or reduction of, applicable withholding taxes in respect of all payments to be made to such Lender outside of the U.S. by the Borrower pursuant to this Agreement or otherwise to establish such Lender's status for withholding tax purposes in such other jurisdiction. Each Lender shall promptly (i) notify the Administrative Agent of any change in circumstances which would modify or render invalid any such claimed exemption or reduction, and (ii) take such steps as shall not be materially disadvantageous to it, in the reasonable

judgment of such Lender, and as may be reasonably necessary (including the re-designation of its Lending Office) to avoid any requirement of applicable Laws of any such jurisdiction that the Borrower make any deduction or withholding for taxes from amounts payable to such Lender. Additionally, the Borrower shall promptly deliver to the Administrative Agent or any Lender, as the Administrative Agent or such Lender shall reasonably request, on or prior to the Closing Date, and in a timely fashion thereafter, such documents and forms required by any relevant taxing authorities under the Laws of any jurisdiction, duly executed and completed by the Borrower, as are required to be furnished by such Lender or the Administrative Agent under such Laws in connection with any payment by the Administrative Agent or any Lender of Taxes or Other Taxes, or otherwise in connection with the Loan Documents, with respect to such jurisdiction.

(f) **Treatment of Certain Refunds.** If the Administrative Agent, any Lender or the L/C Issuer determines, in its sole discretion, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section, it shall pay to the Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section with respect to the Indemnified Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the Administrative Agent, such Lender or the L/C Issuer, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that the Borrower, upon the request of the Administrative Agent, such Lender or the L/C Issuer, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent, such Lender or the L/C Issuer in the event the Administrative Agent, such Lender or the L/C Issuer is required to repay such refund to such Governmental Authority. This subsection shall not be construed to require the Administrative Agent, any Lender or the L/C Issuer to make available its tax returns (or any other information relating to its taxes that it deems confidential) to the Borrower or any other Person.

3.02 Illegality. If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund Eurocurrency Rate Loans (whether denominated in Dollars or an Alternative Currency), or to determine or charge interest rates based upon the Eurocurrency Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars or any Alternative Currency in the applicable interbank market, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, any obligation of such Lender to make or continue Eurocurrency Rate Loans in the affected currency or currencies or, in the case of Eurocurrency Rate Loans in Dollars to convert Base Rate Committed Loans to Eurocurrency Rate Committed Loans shall be suspended until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Borrower shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable and such Loans are denominated in Dollars, convert all Eurocurrency Rate Loans of such Lender to Base Rate Loans, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain

such Eurocurrency Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurocurrency Rate Loans. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

3.03 Inability to Determine Rates. If the Required Lenders determine that for any reason in connection with any request for a Eurocurrency Rate Loan or a conversion to or continuation thereof that (a) deposits (whether in Dollars or an Alternative Currency) are not being offered to banks in the applicable offshore interbank market for such currency for the applicable amount and Interest Period of such Eurocurrency Rate Loan, (b) adequate and reasonable means do not exist for determining the Eurocurrency Base Rate for any requested Interest Period with respect to a proposed Eurocurrency Rate Committed Loan (whether in Dollars or an Alternative Currency), or (c) the Eurocurrency Base Rate for any requested Interest Period with respect to a proposed Eurocurrency Rate Committed Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, the obligation of the Lenders to make or maintain Eurocurrency Rate Loans shall be suspended until the Administrative Agent (upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurocurrency Rate Committed Loans or, failing that, will be deemed to have converted such request into a request for a Committed Borrowing of Base Rate Loans in the amount specified therein.

3.04 Increased Costs.

(a) **Increased Costs Generally.** If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except (A) any reserve requirement reflected in the Eurocurrency Rate and (B) the requirements of the Bank of England and the Financial Services Authority or the European Central Bank reflected in the Mandatory Cost, other than as set forth below) or the L/C Issuer;

(ii) subject any Lender or the L/C Issuer to any tax of any kind whatsoever with respect to this Agreement, any Letter of Credit, any participation in a Letter of Credit or any Eurocurrency Loan made by it, or change the basis of taxation of payments to such Lender or the L/C Issuer in respect thereof (except for Indemnified Taxes or Other Taxes covered by Section 3.01 and the imposition of, or any change in the rate of, any Excluded Tax payable by such Lender or the L/C Issuer); or

(iii) cause the Mandatory Cost, as calculated hereunder, not to represent the cost to any Lender of complying with the requirements of the Bank of England and/or the Financial Services Authority or the European Central Bank in relation to its making, funding or maintaining Eurocurrency Rate Loans; or

(iv) impose on any Lender or the L/C Issuer or the London interbank market any other condition, cost or expense affecting this Agreement or Eurocurrency Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Eurocurrency Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender or the L/C Issuer of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or the L/C Issuer hereunder (whether of principal, interest or any other amount) then, upon request of such Lender or the L/C Issuer, the Borrower will pay on demand to such Lender or the L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or the L/C Issuer, as the case may be, for such additional costs incurred or reduction suffered.

(b) **Capital Requirements.** If any Lender or the L/C Issuer determines that any Change in Law affecting such Lender or the L/C Issuer or any Lending Office of such Lender or such Lender's or the L/C Issuer's holding company, if any, regarding capital requirements has or would have the effect of reducing the rate of return on such Lender's or the L/C Issuer's capital or on the capital of such Lender's or the L/C Issuer's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by the L/C Issuer, to a level below that which such Lender or the L/C Issuer or such Lender's or the L/C Issuer's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or the L/C Issuer's policies and the policies of such Lender's or the L/C Issuer's holding company with respect to capital adequacy), then from time to time the Borrower will pay to such Lender or the L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or the L/C Issuer or such Lender's or the L/C Issuer's holding company for any such reduction suffered.

(c) **Certificates for Reimbursement.** A certificate of a Lender or the L/C Issuer setting forth the amount or amounts necessary to compensate such Lender or the L/C Issuer or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender or the L/C Issuer, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) **Delay in Requests.** Failure or delay on the part of any Lender or the L/C Issuer to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of such Lender's or the L/C Issuer's right to demand such compensation, provided that the Borrower shall not be required to compensate a Lender or the L/C Issuer pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than nine months prior to the date that such Lender or the L/C Issuer, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or the L/C Issuer's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

(e) **Additional Reserve Requirements.** The Borrower shall pay to each Lender, as long as such Lender shall be required to comply with any reserve ratio requirement or analogous requirement (other than those comprised of Mandatory Costs) of any central banking or financial regulatory authority imposed in respect of the maintenance of the Commitments or the funding

of the Eurocurrency Rate Loans, such additional costs (expressed as a percentage per annum and rounded upwards, if necessary, to the nearest five decimal places) equal to the actual costs allocated to such Commitment or Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive), which shall be due and payable on each date on which interest is payable on such Loan, provided the Borrower shall have received at least 15 days' prior notice (with a copy to the Administrative Agent) of such additional costs from such Lender. If a Lender fails to give notice 15 days prior to the relevant Interest Payment Date, such additional costs shall be due and payable 15 days from receipt of such notice.

3.05 Compensation for Losses. Upon demand of any Lender (with a copy to the Administrative Agent) from time to time, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(b) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan on the date or in the amount notified by the Borrower;

(c) any failure by the Borrower to make payment of any Loan (or interest due thereon) denominated in an Alternative Currency on its scheduled due date or any payment thereof in a different currency; or

(d) any assignment of a Eurocurrency Rate Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 10.13;

including any loss of anticipated profits, any foreign exchange losses, and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained or from the performance of any foreign exchange contract. The Borrower shall also pay any customary administrative fees charged by such Lender in connection with the foregoing.

For purposes of calculating amounts payable by the Borrower to the Lenders under this Section 3.05, each Lender shall be deemed to have funded each Eurocurrency Rate Committed Loan made by it at the Eurocurrency Base Rate used in determining the Eurocurrency Rate for such Loan by a matching

deposit or other borrowing in the offshore interbank market for such currency for a comparable amount and for a comparable period, whether or not such Eurocurrency Rate Committed Loan was in fact so funded.

3.06 Mitigation Obligations; Replacement of Lenders.

(a) Designation of a Different Lending Office. If any Lender requests compensation under Section 3.04, or the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then such Lender shall use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its

rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) Replacement of Lenders. If any Lender requests compensation under Section 3.04, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, the Borrower may replace such Lender in accordance with Section 10.13.

3.07 Survival. All of the Borrower's obligations under this Article III shall survive termination of the Aggregate Commitments and repayment of all other Obligations hereunder.

ARTICLE IV CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

4.01 Conditions of Initial Credit Extensions. The obligation of each Lender to make its initial Credit Extension hereunder, and to receive through the Administrative Agent the initial Bid Request, is subject to the condition that the Administrative Agent shall have received on or before the date of the initial Credit Extension or Bid Request all of the following, in form and substance satisfactory to the Administrative Agent and each Lender, and in sufficient copies for each Lender:

(a) Loan Documents. This Agreement and any Notes executed by each party thereto shall have been delivered to Administrative Agent;

(b) Resolutions; Incumbency.

(i) Copies of the resolutions of the board of directors of the Borrower authorizing the transactions contemplated hereby, certified as of the Closing Date by the Secretary or an Assistant Secretary of the Borrower; and

(ii) A certificate of the Secretary or Assistant Secretary of the Borrower certifying the names and true signatures of the officers of the Borrower authorized to execute, deliver and perform, as applicable, this Agreement, and all other Loan Documents to be delivered by it hereunder;

(c) Organization Documents; Good Standing. Each of the following documents:

(i) the certificate of incorporation and the bylaws of the Borrower as in effect on the Closing Date, certified by the Secretary or Assistant Secretary of the Borrower as of the Closing Date; and

(ii) a good standing certificate for the Borrower from the Secretary of State (or similar, applicable Governmental Authority) of its state of incorporation and the state of its principal place of business as of a recent date;

(d) Legal Opinions. An opinion of Robert W. Skelton, general counsel to the Borrower and addressed to the Administrative Agent, and the Lenders, in form and substance satisfactory to the Administrative Agent;

(e) Payment of Fees. Evidence of payment by the Borrower of all accrued and unpaid fees, to the extent then due and payable on the Closing Date, including without limitation all accrued interest and fees due and owing under the Existing Credit Agreements;

(f) Certificate. A certificate signed by a Responsible Officer on behalf of the Borrower, dated as of the Closing Date, stating:

(i) that the representations and warranties contained in Article V are true and correct on and as of such date, as though made on and as of such date;

(ii) that no Default or Event of Default exists or would result from any Borrowing being made on the Closing Date;

(iii) that there has occurred since November 30, 2003, no event or circumstance that has resulted or could reasonably be expected to result in a Material Adverse Effect; and

(iv) the current Debt Ratings.

(g) Existing Credit Agreements. Evidence that each of the Existing Credit Agreements has been terminated and any revolving loans or other monetary obligations under the Existing Credit Agreements have been paid in full or refinanced on the Closing Date with Credit Extensions hereunder.

(h) Other Documents. Such other approvals, opinions, documents or materials as the Administrative Agent or any Lender may reasonably request.

Without limiting the generality of the provisions of Section 9.04, for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

4.02 Conditions to All Credit Extensions. The obligation of each Lender to honor any Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Committed Loans to the other Type, or a continuation of Eurocurrency Rate Committed Loans) is subject to the following conditions precedent:

(a) The representations and warranties of the Borrower contained in Article V (other than Sections 5.06 and 5.07) or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct on and as of the date of such Credit Extension, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct as of such earlier date.

(b) No Default or Event of Default shall exist or shall result from such Credit Extension.

(c) The Administrative Agent and, if applicable, the L/C Issuer or the Swing Line Lender shall have received a Request for Credit Extension in accordance with the requirements hereof.

(d) In the case of a Credit Extension to be denominated in an Alternative Currency, there shall not have occurred any change in national or international financial, political or economic conditions or currency exchange rates or exchange controls which in the reasonable opinion of the Administrative Agent, the Required Lenders (in the case of any Loans to be denominated in an Alternative Currency) would make it impracticable for such Credit Extension to be denominated in the relevant Alternative Currency.

Each Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Committed Loans to the other Type or a continuation of Eurocurrency Rate Committed Loans) submitted by the Borrower shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(a) and (b) have been satisfied on and as of the date of the applicable Credit Extension.

ARTICLE V REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Administrative Agent and each Lender that:

5.01 Organization, etc. The Borrower and each of its Subsidiaries is a corporation, partnership or limited liability company duly organized or formed, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, is duly qualified to do business and is in good standing in each jurisdiction where the nature of its business requires such qualification, except where the failure to so qualify will not have a Material Adverse Effect, and has full power and authority and holds all requisite governmental licenses, permits and other approvals to enter into and perform its Obligations under this Agreement, the Notes and each other Loan Document to which it is a party and to own or hold under lease its property and to conduct its business substantially as currently conducted by it.

5.02 Due Authorization, Non-Contravention etc. The execution, delivery and performance by the Borrower of this Agreement, the Notes and each other Loan Document executed or to be executed by it, are within the Borrower's corporate powers, have been duly authorized by all necessary corporate action, and do not

(i) contravene the Borrower's Organic Documents;

(ii) contravene any contractual restriction, law or governmental regulation or court decree or order binding on or affecting the Borrower and its Subsidiaries; or

(iii) result in, or require the creation or imposition of, any Lien on any of the Borrower's properties.

5.03 Government Approval Regulation, etc. No authorization or approval or other action by, and no notice to or filing with, any governmental authority or regulatory body or other Person is required for the due execution, delivery or performance by the Borrower of this Agreement, the Notes or any other Loan Document. The Borrower may, however, be required to file this Agreement with the Securities and Exchange Commission pursuant to applicable securities laws and regulations. Neither the Borrower nor any of its Subsidiaries is an "investment company" within the meaning of the Investment Company Act of 1940, as amended, or a "holding company", or a "subsidiary company" of a "holding company", or an "affiliate" of a "holding company" or of a "subsidiary company" of a "holding company", within the meaning of the Public Utility Holding Company Act of 1935, as amended.

5.04 Validity, etc. This Agreement constitutes, and the Notes and each other Loan Document executed by the Borrower will, on the due execution and delivery thereof, constitute, the legal, valid and binding obligations of the Borrower enforceable in accordance with their respective terms, subject to the effect of bankruptcy insolvency, reorganization, moratorium or similar laws affecting the enforceability of creditors' rights generally and by general principles of equity.

5.05 Financial Information. The consolidated balance sheets of the Borrower and its Subsidiaries as at November 30, 2003, and the related consolidated statements of earnings and cash flow of the Borrower and its Subsidiaries, copies of which have been furnished to the Administrative Agent and each Lender, have been prepared in accordance with GAAP consistently applied, and present fairly in all material respects the consolidated financial condition of the Borrower and its Subsidiaries as at the dates thereof and the results of their operations for the periods then ended.

5.06 No Material Adverse Change. Since the date of the financial statements described in Section 5.05 (except to the extent the information disclosed therein is modified or superseded, as the case may be, by information in the Borrower's quarterly report on Form 10-Q for the quarters ended February 29, 2004, May 31, 2004, and August 31, 2004) there has been no material adverse change in the financial condition, operations, assets, business or properties of the Borrower and its Subsidiaries taken as a whole.

5.07 Litigation, Labor Controversies, etc. There is no pending or, to the knowledge of the Borrower, threatened litigation, action, proceeding, or labor controversy affecting the Borrower or any of its Subsidiaries, or any of their respective properties, businesses, assets or revenues, which will result in a Material Adverse Effect or which purports to affect the legality, validity or enforceability of this Agreement, the Notes or any other Loan Document, except as disclosed in Schedule 5.07 ("Litigation").

5.08 Subsidiaries. The Borrower has no Subsidiaries, except those Subsidiaries

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- (i) which are identified in Schedule 5.08; or
 - (ii) which are dormant or otherwise not material to the business of the Borrower and its Subsidiaries taken as a whole; or
 - (iii) which are hereafter acquired or formed.

It is understood that Subsidiaries may merge, consolidate, liquidate and sell assets as permitted pursuant to Section 7.04.

5.09 Ownership of Properties. The Borrower and each of its Subsidiaries has good and marketable title to all of its tangible properties and assets, real and personal, of any nature whatsoever, free and clear of all Liens, charges or claims except as permitted pursuant to Section 7.03 or Liens, charges or claims that will not have a Material Adverse Effect; and the Borrower has duly registered in the U.S. all trademarks required for the conduct of its business in the U.S., other than those as to which the lack of protection, or failure to register, would not have a Material Adverse Effect.

5.10 Taxes. The Borrower and each of its Subsidiaries has filed all federal and all other material income tax returns and reports required by law to have been filed by it and has paid all taxes and governmental charges thereby shown to be owing, except any such taxes or charges which are being diligently contested in good faith by appropriate proceedings and for which adequate reserves in accordance with GAAP shall have been set aside on its books.

5.11 Pension and Welfare Plans. During the twelve-consecutive-month period ending immediately prior to the date of the execution and delivery of this Agreement, no Pension Plan has been terminated, or has been subject to the commencement of any termination, that could reasonably be expected to have a Material Adverse Effect, and no contribution failure has occurred with respect to any Pension Plan sufficient to give rise to a Lien under section 302(f) of ERISA. No condition exists or event or transaction has occurred with respect to any Pension Plan which might result in the incurrence by the Borrower or any member of the Controlled Group of any liability, fine or penalty which is likely to have a Material Adverse Effect. Except for the post-retirement benefits described in Schedule 5.11 ("ERISA Matters"), the Borrower has no contingent liability with respect to post-retirement benefits provided by the Borrower and its Subsidiaries under a Welfare Plan, other than (i) liability for continuation coverage described in Part 6 of Subtitle B of Title I of ERISA and (ii) liabilities which will not, individually or in the aggregate, have a Material Adverse Effect.

5.12 Environmental Warranties. Except as set forth in Schedule 5.12 ("Environmental Matters"):

(a) all facilities and property (including underlying groundwater) owned or leased by the Borrower or any of its Subsidiaries have been, and continue to be, owned or leased by the Borrower and its Subsidiaries in compliance with all Environmental Laws, except for such non-compliance which, singly or in the aggregate, will not have a Material Adverse Effect;

(b) there have been no past unresolved, and there are no pending or threatened (in writing)

(i) claims, complaints, notices or requests for information received by the Borrower or any of its Subsidiaries with respect to any alleged violation of any Environmental Law, or

(ii) complaints, written notices or inquiries to the Borrower or any of its Subsidiaries regarding potential liability under any Environmental Law,

which violation or potential liability singly or in the aggregate will have a Material Adverse Effect;

(c) there have been no Releases of Hazardous Materials at, on or under any property now or to the Borrower's knowledge previously owned or leased by the Borrower or any of its Subsidiaries that, singly or in the aggregate, have, or will have a Material Adverse Effect;

(d) the Borrower and its Subsidiaries have been issued and are in compliance with all permits, certificates, approvals, licenses and other authorizations relating to environmental matters and necessary for their businesses, except for such permits, approvals, licenses and other authorizations which, if not obtained by the Borrower, or as to which the Borrower is not in compliance (in each case singly or in the aggregate), will not have a Material Adverse Effect;

(e) no property now or, to the Borrower's knowledge, previously owned or leased by the Borrower or any of its Subsidiaries is listed or with the knowledge of the Borrower, proposed for listing (with respect to owned property only) on (i) the CERCLIS or on any similar state list of sites requiring investigation or clean-up or (ii) the National Priorities List pursuant to CERCLA; other than properties as to which any such listing will not result in a Material Adverse Effect;

(f) there are no underground storage tanks, active or abandoned, including petroleum storage tanks, on or under any property now or, to the Borrower's knowledge, previously owned or leased by the Borrower or any of its Subsidiaries that, singly or in the aggregate, have, or will have, a Material Adverse Effect;

(g) to the Borrower's knowledge, neither Borrower nor any Subsidiary of the Borrower has directly transported or directly arranged for the transportation of any Hazardous Material to any location which is listed or, with the knowledge of the Borrower, proposed for listing, on the National Priorities List pursuant to CERCLA, on the CERCLIS or on any similar state list or which is the subject of federal, state or local enforcement actions or other investigations which will lead to claims against the Borrower or such Subsidiary thereof for any remedial work, damage to natural resources or personal injury, including claims under CERCLA, which will have a Material Adverse Effect; and

(h) there are no polychlorinated biphenyls or friable asbestos present at any property owned or leased by the Borrower or any Subsidiary of the Borrower that, singly or in the aggregate, have, or will have, a Material Adverse Effect.

5.13 Regulations U and X. No proceeds of any Loans will be used for a purpose which violates, or would be inconsistent with, FRB Regulation U or X. The Borrower is not engaged in the business of extending credit for the purpose of purchasing or carrying margin

stock, and not more than 25% of the consolidated assets of the Borrower and its Subsidiaries consists of margin stock. Terms for which meanings are provided in FRB Regulation U or X or any regulations substituted therefor, as from time to time in effect, are used in this Section with such meanings.

5.14 Accuracy of Information. Neither this Agreement nor any other document, certificate or statement furnished to the Administrative Agent or any Lender by or on behalf of the Borrower in connection herewith contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein and therein not misleading, in light of the circumstances under which they were made.

5.15 Compliance with Law; Absence of Default. The Borrower and its Subsidiaries are in compliance with all Applicable Laws the noncompliance with which would have a Material Adverse Effect and with all of the material provisions of their respective Organic Documents, and no event has occurred or has failed to occur which has not been remedied or waived, the occurrence or non-occurrence of which constitutes (i) a Default or Event of Default or (ii) a default by the Borrower or one of its Subsidiaries under any other material indenture, agreement or other instrument, or any judgment, decree, or order to which the Borrower or such Subsidiary is a party or by which the Borrower or such Subsidiary or any of their respective properties may be bound, which would have a Material Adverse Effect.

ARTICLE VI AFFIRMATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, or any Loan or other Obligation shall remain unpaid, unless the Required Lenders waive compliance in writing:

6.01 Financial Information Reports, Notices, etc. Subject to the last paragraph of Section 10.07, the Borrower will furnish, or will cause to be furnished, to each Lender and the Administrative Agent copies of the following financial statements, reports, notices and information:

(a) as soon as available and in any event within 10 Business Days following the required submission date of the Borrower's Form 10-Q to the Securities Exchange Commission at the end of each of the first three Fiscal Quarters of each Fiscal Year of the Borrower, a consolidated balance sheet of the Borrower and its Subsidiaries as of the end of such Fiscal Quarter and consolidated statements of earnings and cash flow of the Borrower and its Subsidiaries for such Fiscal Quarter and for the period commencing at the end of the previous Fiscal Year and ending with the end of such Fiscal Quarter, certified by an Authorized Officer of the Borrower, it being understood and agreed that the delivery of the Borrower's Form 10-Q (as filed with the Securities and Exchange Commission) shall satisfy the requirements set forth in this clause);

(b) as soon as available and in any event within 10 Business Days following the required submission date of the Borrower's Form 10-K after the end of each Fiscal Year of the Borrower, a copy of the annual audit report for such Fiscal Year for the Borrower and its Subsidiaries, including therein a consolidated balance sheet of the Borrower and its Subsidiaries

as of the end of such Fiscal Year and consolidated statements of earnings and cash flow of the Borrower and its Subsidiaries for such Fiscal Year, in each case certified (without any Impermissible Qualification) in a manner reasonably acceptable to the Administrative Agent and the Required Lenders by Ernst & Young, LLP or other independent public accountants reasonably acceptable to the Administrative Agent and the Required Lenders (it being understood and agreed that the delivery of the Borrower's Form 10-K (as filed with the Securities and Exchange Commission) shall satisfy such delivery requirement in this clause), together with a certificate from an Authorized Officer of the Borrower containing a computation in reasonable detail of, and showing compliance with, each of the financial ratios and restrictions contained in Sections 7.02, 7.03, 7.04 and 7.05 and to the effect that, in making the examination necessary for the signing of such certificate, he has not become aware of any Default or Event of Default that has occurred and is continuing, or, if he has become aware of such Default or Event of Default, describing such Default or Event of Default and the steps, if any, being taken to cure it;

(c) as soon as available and in any event within 60 days after the end of each Fiscal Quarter, a Compliance Certificate, executed by the Treasurer or an Authorized Officer of the Borrower, showing (in reasonable detail and with appropriate calculations and computations in all respects satisfactory to the Administrative Agent) compliance with the financial covenants set forth in Sections 7.02, 7.03, 7.04 and 7.05 and representing as to the absence of any Default;

(d) as soon as possible and in any event within three Business Days upon any officer or director of the Borrower becoming aware of the occurrence of each Default or Event of Default, a statement of the Treasurer or the chief financial Authorized Officer of the Borrower setting forth details of such Default or Event of Default and the action which the Borrower has taken and proposes to take with respect thereto;

(e) as soon as possible and in any event within five Business Days after (x) the occurrence of any adverse development with respect to any litigation, action, proceeding, or labor controversy described in Section 5.07 which will result in or is likely to result in a Material Adverse Effect or (y) the

commencement of any labor controversy, litigation, action, proceeding of the type described in Section 5.07, notice thereof and copies of all documentation relating thereto;

(f) promptly after the sending or filing thereof, copies of all reports which the Borrower sends to any of its security holders, and all reports and registration statements (other than on Form S-8 or any successor form) which the Borrower or any of its Subsidiaries files with the Securities and Exchange Commission or any national securities exchange;

(g) immediately upon becoming aware of the taking of any specific actions by the Borrower or any other Person to terminate any Pension Plan (other than a termination pursuant to Section 4041(b) of ERISA which can be completed without the Borrower or any Controlled Group member having to provide more than \$10,000,000 in addition to the normal contribution required for the plan year in which termination occurs to make such Pension Plan sufficient), or the failure to make a required contribution to any Pension Plan if such failure is sufficient to give rise to a Lien under section 302(f) of ERISA, or the taking of any action with respect to a Pension Plan which would likely result in the requirement that the Borrower furnish a bond or other security to the PBGC or such Pension Plan, or the occurrence of any event with respect to

any Pension Plan which would likely result in the incurrence by the Borrower of any liability, fine or penalty which will have a Material Adverse Effect, or any increase in the contingent liability of the Borrower with respect to any post-retirement Welfare Plan benefit if the increase in such contingent liability will result in a Material Adverse Effect, notice thereof and copies of all documentation relating thereto;

(h) immediately upon becoming aware of any change in Borrower's Debt Rating, a statement describing such change, whether such change was made by S&P, Moody's or both and the effective date of such change; and

(i) such other non-confidential information respecting the condition or operations, financial or otherwise, of the Borrower or any of its Subsidiaries as any Lender through the Administrative Agent may from time to time reasonably request.

6.02 Compliance with Laws, etc. The Borrower will, and will cause each of its Subsidiaries to, comply in all respects with all Applicable Laws, except where such non-compliance would not have a Material Adverse Effect, such compliance to include (without limitation):

(a) preserve, renew and maintain in full force and effect its legal existence and good standing under the Applicable Laws of the jurisdiction of its organization and each jurisdiction where its conduct of business requires qualification or good standing (except any Subsidiary may merge, consolidate or liquidate as permitted pursuant to Section 7.04), and

(b) the payment, before the same become delinquent, of all taxes, assessments and governmental charges imposed upon it or upon its property except to the extent being diligently contested in good faith by appropriate proceedings and for which adequate reserves in accordance with GAAP shall have been set aside on its books.

6.03 Maintenance of Properties. The Borrower will, and will cause each of its Subsidiaries to, maintain, preserve, protect and keep its material properties in good repair, working order and condition, and make necessary and proper repairs, renewals and replacements so that its business carried on in connection therewith may be properly conducted at all times unless the Borrower determines in good faith that the continued maintenance of any of its properties is no longer economically desirable.

6.04 Insurance. The Borrower will, and will cause each of its Subsidiaries to, maintain or cause to be maintained with responsible insurance companies insurance with respect to its properties material to the business of the Borrower and its Subsidiaries against such casualties and contingencies and of such types and in such amounts as is customary in the case of similar businesses and will, upon request of the Administrative Agent, furnish to each Lender at reasonable intervals a certificate of an Authorized Officer of the Borrower setting forth the nature and extent of all insurance maintained by the Borrower and its Subsidiaries in accordance with this Section, provided, that the Borrower and its Subsidiaries may self-insure to the extent customary for similarly situated corporations engaged in the same or similar business.

6.05 Books and Records. The Borrower will, and will cause each of its Subsidiaries to, keep books and records which accurately reflect all of its business affairs and material

transactions and permit the Administrative Agent and each Lender or any of their respective representatives, at reasonable times and intervals, to visit all of its offices, to discuss its non-confidential financial matters with its officers and independent public accountant and, upon the reasonable request of the Administrative Agent or a Lender, to examine (and, at the expense of the Lenders, photocopy extracts from) any of its non-confidential books or other corporate records.

6.06 Environmental Covenant. The Borrower will, and will cause each of its Subsidiaries to,

(a) use and operate all of its facilities and properties in compliance with all Environmental Laws except for such non-compliance which, singly or in the aggregate, will not have a Material Adverse Effect, keep all necessary permits, approvals, certificates, licenses and other authorizations relating to environmental matters in effect and remain in compliance therewith, except where the failure to keep such permits, approvals, certificates, licenses or other authorizations, or any non-compliance with the provisions thereof will not have a Material Adverse Effect, and handle all Hazardous Materials in compliance with all applicable Environmental Laws, except for any non-compliance that will not have a Material Adverse Effect;

(b) immediately notify the Administrative Agent and provide copies upon receipt of all written inquiries from any local, state or federal governmental agency, claims, complaints or notices relating to the condition of its facilities and properties or compliance with Environmental Laws which will have a Material Adverse Effect, and shall promptly cure and have dismissed with prejudice or contest in good faith any actions and proceedings relating to material compliance with Environmental Laws the result of which, if not contested by the Borrower, would have a Material Adverse Effect; and

(c) provide such non-confidential information and certifications which the Administrative Agent may reasonably request from time to time to evidence compliance with this Section 6.06.

6.07 Use of Proceeds. The Borrower shall use the proceeds of the Credit Extensions for working capital, capital expenditures, share repurchases, refinancing of existing Indebtedness and other lawful corporate purposes.

ARTICLE VII NEGATIVE AND FINANCIAL COVENANTS

So long as any Lender shall have any Commitment hereunder, or any Loan or other Obligation shall remain unpaid, unless the Required Lenders waive compliance in writing:

7.01 Transactions with Affiliates. The Borrower will not, and will not permit any of its Subsidiaries to, enter into, or cause, suffer or permit to exist any material arrangement or contract with any of its other Affiliates (other than other Subsidiaries) unless such arrangement or contract is fair and equitable to the Borrower or such Subsidiary based upon the good faith judgment of the Borrower's Board of Directors, a committee thereof, or the Borrower's Management Committee.

7.02 Indebtedness. The Borrower will not permit any of its Subsidiaries to create, incur, assume or suffer to exist or otherwise become or be liable in respect of any Indebtedness if, after giving effect to the incurrence of any such Indebtedness, the aggregate outstanding amount of Indebtedness of all Subsidiaries would exceed 25% of Consolidated Net Tangible Assets.

7.03 Liens. The Borrower will not, and will not permit any of its Subsidiaries to, create, incur, assume or suffer to exist any Lien upon any of its property, revenues or assets, whether now owned or hereafter acquired, except:

- (a) Liens securing payment of Indebtedness permitted under Section 7.02;
- (b) Liens granted prior to the Closing Date which are identified in Schedule 7.03 ("Permitted Liens");
- (c) any Lien existing on the assets of any Person at the time it becomes a Subsidiary (and not created, assumed or incurred by such Person in contemplation of such event);
- (d) Liens for taxes, assessments or other governmental charges or levies not at the time delinquent or thereafter payable without penalty or being diligently contested in good faith by appropriate proceedings and for which adequate reserves in accordance with GAAP shall have been set aside on its books;
- (e) Liens of carriers, warehousemen, mechanics, materialmen and landlords incurred in the ordinary course of business for sums not overdue or being diligently contested in good faith by appropriate proceedings and for which adequate reserves in accordance with GAAP shall have been set aside on its books;
- (f) Liens incurred in the ordinary course of business in connection with workmen's compensation, unemployment insurance or other forms of governmental insurance or benefits, or to secure performance of tenders, statutory obligations, leases and contracts (other than for borrowed money) entered into in the ordinary course of business or to secure obligations on surety or appeal bonds;
- (g) judgment Liens in existence less than 30 days after the entry thereof or with respect to which execution has been stayed or the payment of which is covered in full (subject to a customary deductible) by insurance maintained with responsible insurance companies;
- (h) other Liens incidental to the conduct of the Borrower's or any of its Subsidiaries' businesses (including without limitation, Liens on goods securing trade letters of credit issued in respect of the importation of goods in the ordinary course of business, or the ownership of any of the Borrower's or any Subsidiary's property and assets which were not incurred in connection with the borrowing of money or the obtaining of advances or credit and which do not in the aggregate materially detract from the value of the Borrower's or any of its Subsidiaries' property or assets or materially impair the use thereof in the operation of Borrower's or any of its Subsidiaries' businesses);

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- (i) Liens in favor of the Borrower on assets of its Subsidiaries, and Liens in favor of Subsidiaries of the Borrower on assets of the Borrower;
 - (j) Liens securing industrial development or pollution control bonds so long as such Liens attach solely to the property acquired, constructed or improved with the proceeds of such bonds; and
 - (k) any Lien not otherwise permitted by this Section 7.03 securing Indebtedness, provided that, immediately after giving effect thereto (and to the incurrence of such Indebtedness secured thereby), the sum of (without duplication and excluding any Indebtedness payable to the Borrower or a Subsidiary) (i) the aggregate outstanding amount of Indebtedness of the Borrower and its Subsidiaries secured by all Liens described in clauses (b), (c) and (k) of this Section 7.03 (excluding any such Liens described in clauses (d) through (j) of this Section 7.03) and (ii) the Attributable Value of all Sale-Leaseback Transactions entered into by the Borrower and its Subsidiaries in the aggregate does not exceed 15% of Consolidated Net Tangible Assets.

7.04 Mergers, Asset Dispositions, etc. The Borrower will not, nor will it permit any of its Subsidiaries to, liquidate, dissolve or enter into any consolidation, merger, joint venture or any other combination or sell, lease, assign, transfer or otherwise dispose of any assets or stock, whether now owned or hereafter acquired, in a single transaction or in a series of transactions other than:

- (a) sales of inventory in the ordinary course of business;
- (b) the merger or consolidation of any Subsidiary with or into the Borrower or a wholly-owned Subsidiary;

(c) the merger or consolidation of any other Person with or into the Borrower or any Subsidiary, so long as, after giving effect thereto, (i) the Borrower or its Subsidiary, as the case may be, is the surviving entity and (ii) no Default or Event of Default would exist;

(d) sales of assets or stock by the Borrower or a Subsidiary to a wholly-owned Subsidiary or the Borrower; and

(e) (i) sales of assets or stock to any other Person or (ii) liquidations of Subsidiaries (other than a Principal Subsidiary) if, after giving effect thereto, the aggregate book value of such assets or stock disposed of or liquidated does not, during the most recent period of 12 consecutive months, exceed 20% of Consolidated Net Tangible Assets as at the end of the Borrower's immediately preceding Fiscal Year; and

(f) joint ventures between Subsidiaries, between one or more Subsidiaries and the Borrower, between the Borrower and other Persons and between Subsidiaries and other Persons.

7.05 EBIT to Interest Expense Ratio. The Borrower will not permit the ratio of EBIT to Interest Expense to be less than 2.5:1.00. For purposes of calculating such ratio, the items included therein shall be measured on a consolidated basis for the Borrower and its Subsidiaries for the four full Fiscal Quarters immediately preceding the date of calculation.

ARTICLE VIII EVENTS OF DEFAULT

8.01 Event of Default. Any of the following shall constitute an "Event of Default":

(a) **Non-Payment of Obligations.** The Borrower shall default in the payment when due of any principal of any Loan, or the Borrower shall default (and such default shall continue unremedied for a period of three Business Days) in the payment when due of any interest on any Loan, or the Borrower shall default after notice (including, without limitation, notice delivered by way of submission of a detailed invoice) (and such default shall continue unremedied for a period of five days) in the payment when due of any fee described in Section 2.10 or of any other Obligation, including, without limitation, fees described in the Fee Letter.

(b) **Breach of Warranty.** Any representation or warranty of the Borrower made or deemed to be made hereunder or in any other Loan Document or any other writing or certificate furnished by or on behalf of the Borrower to the Administrative Agent or any Lender for the purposes of or in connection with this Agreement or any such other Loan Document (including any certificates delivered pursuant to Article IV) is or shall be incorrect when made in any material respect.

(c) **Non-Performance of Certain Covenants and Obligations.** The Borrower shall default in the due performance and observance of any of its obligations under clause (a) of Section 6.02 (with respect to the maintenance and preservation of the Borrower's corporate existence) or under Section 6.06, or the Borrower shall default in the due performance and observance of its obligations under Article VII, and such default (if capable of being remedied within such period) shall not be remedied within five Business Days after any officer of the Borrower obtains actual knowledge thereof.

(d) **Non-Performance of Other Covenants and Obligations.** The Borrower shall default in the due performance and observance of any other agreement contained herein or in any other Loan Document, and such default shall continue unremedied for a period of 30 days after notice thereof shall have been given to the Borrower by the Administrative Agent or any Lender.

(e) **Default on Other Indebtedness.** A default shall occur in the payment when due (subject to any applicable grace period), whether by acceleration or otherwise, of any Indebtedness (other than Indebtedness described in Section 8.01(a)) of the Borrower or any of its Subsidiaries having a principal amount, individually or in the aggregate, in excess of \$25,000,000, or a default shall occur in the performance or observance of any obligation or condition with respect to such Indebtedness (whether or not waived) if the effect of such default is to accelerate the maturity of any such Indebtedness or such default (whether or not waived) shall continue unremedied for any applicable period of time sufficient to permit the holder or holders of such Indebtedness, or any trustee or agent for such holders, to cause such Indebtedness to become due and payable prior to its expressed maturity.

(f) **Judgments.** Any judgment or order for the payment of money in excess of \$25,000,000 shall be rendered against the Borrower or any of its Subsidiaries and either

(i) enforcement proceedings shall have been commenced by any creditor upon such judgment or order; or

(ii) there shall be any period of 30 consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect.

(g) **Pension Plans.** Any of the following events shall occur with respect to any Pension Plan

(i) the institution of any steps by the Borrower, any member of its Controlled Group or any other Person to terminate a Pension Plan if, as a result of such termination, the Borrower or any such member could reasonably be required to make a contribution to such Pension Plan, or could reasonably expect to incur a liability or obligation to such Pension Plan, in excess of \$10,000,000; or

(ii) a contribution failure occurs with respect to any Pension Plan sufficient to give rise to a Lien under Section 302(f) of ERISA which is not cured within 20 days from the date such contribution was due.

(h) **Control of the Borrower.** Any Change in Control shall occur.

(i) **Bankruptcy, Insolvency, etc.** The Borrower or any of its Subsidiaries that are Principal Subsidiaries shall

(i) become insolvent or generally fail to pay, or admit in writing its inability to pay, debts as they become due;

(ii) apply for, consent to, or acquiesce in, the appointment of a trustee, receiver, sequestrator or other custodian for the Borrower or any of such Subsidiaries or a substantial part of any property of any thereof, or make a general assignment for the benefit of creditors;

(iii) in the absence of such application, consent or acquiescence, permit or suffer to exist the appointment of a trustee, receiver, sequestrator or other custodian for the Borrower or any of such Subsidiaries or for a substantial part of the property of any thereof, and such trustee, receiver, sequestrator or other custodian shall not be discharged within 60 days, provided that the Borrower and each such Subsidiary hereby expressly authorizes the Administrative Agent and each Lender to appear in any court conducting any relevant proceeding during such 60-day period to preserve, protect and defend their rights under the Loan Documents;

(iv) permit or suffer to exist the commencement of any bankruptcy, reorganization, debt arrangement or other case or proceeding under any bankruptcy or insolvency law, or any dissolution, winding up or liquidation proceeding, in respect of the Borrower or any of such Subsidiaries, and, if any such case or proceeding is not

commenced by the Borrower or such Subsidiary, such case or proceeding shall be consented to or acquiesced in by the Borrower or such Subsidiary or shall result in the entry of an order for relief or shall remain for 60 days undismissed, provided that the Borrower and each such Subsidiary hereby expressly authorizes the Administrative Agent and each Lender to appear in any court conducting any such case or proceeding during such 60-day period to preserve, protect and defend their rights under the Loan Documents; or

(v) take any corporate action authorizing, or in furtherance of, any of the foregoing.

8.02 Remedies Upon Event of Default. If any Event of Default occurs and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders, take any or all of the following actions:

(a) declare the commitment of each Lender to make Loans and any obligation of the L/C Issuer to make L/C Credit Extensions to be terminated, whereupon such commitments and obligation shall be terminated;

(b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower;

(c) require that the Borrower Cash Collateralize the L/C Obligations (in an amount equal to the then Outstanding Amount thereof); and

(d) exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents;

provided, however, that upon the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under the Bankruptcy Code of the United States, the obligation of each Lender to make Loans and any obligation of the L/C Issuer to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Borrower to Cash Collateralize the L/C Obligations as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

8.03 Application of Funds. After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be Cash Collateralized as set forth in the proviso to Section 8.02), any amounts received on account of the Obligations shall be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the

Administrative Agent and amounts payable under Article III) payable to the Administrative Agent in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders and the L/C Issuer (including fees, charges and disbursements of counsel to the respective Lenders and the L/C Issuer (including fees and time charges for attorneys who may be employees of any Lender or the L/C Issuer) and amounts payable under Article III), ratably among them in proportion to the amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid interest on the Loans, L/C Borrowings and other Obligations, ratably among the Lenders and the L/C Issuer in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Loans and L/C Borrowings, ratably among the Lenders and the L/C Issuer in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, to the Administrative Agent for the account of the L/C Issuer, to Cash Collateralize that portion of L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Borrower or as otherwise required by Law.

Subject to Section 2.04(c), amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Fifth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above.

ARTICLE IX
THE AGENT

9.01 Appointment and Authority. Each of the Lenders and the L/C Issuer hereby irrevocably appoints Bank of America to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the L/C Issuer, and the Borrower shall not have rights as a third party beneficiary of any of such provisions.

9.02 Rights as a Lender. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires,

include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

9.03 Exculpatory Provisions. The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, the Administrative Agent:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law; and

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 10.01 and 8.02) or (ii) in the absence of its own gross negligence or willful misconduct. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Administrative Agent by the Borrower, a Lender or the L/C Issuer.

The Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

9.04 Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or the L/C Issuer, the Administrative Agent may presume that such condition is satisfactory to such Lender or the L/C Issuer unless the Administrative Agent shall have received notice to the contrary from such Lender or the L/C Issuer prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

9.05 Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

9.06 Resignation of Administrative Agent. The Administrative Agent may at any time give notice of its resignation to the Lenders, the L/C Issuer and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Borrower, to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may on behalf of the Lenders and the L/C Issuer, appoint a successor Administrative Agent meeting the qualifications set forth above; provided that if the Administrative Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (1) the retiring

Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents and (2) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and the L/C Issuer directly, until such time as the Required Lenders appoint a successor Administrative Agent as provided for above in this Section. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Administrative Agent, and the retiring Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees

payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Administrative Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article and Section 10.04 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

Any resignation by Bank of America as Administrative Agent pursuant to this Section shall also constitute its resignation as L/C Issuer and Swing Line Lender. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer and Swing Line Lender, (b) the retiring L/C Issuer and Swing Line Lender shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents, and (c) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangement satisfactory to the retiring L/C Issuer to effectively assume the obligations of the retiring L/C Issuer with respect to such Letters of Credit.

9.07 Non-Reliance on Administrative Agent and Other Lenders. Each Lender and the L/C Issuer acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender and the L/C Issuer also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

9.08 No Other Duties, Etc. Anything herein to the contrary notwithstanding, none of the Bookrunners, Arrangers, Syndication Agents, or Co-Documentation Agents listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender or the L/C Issuer hereunder.

ARTICLE X MISCELLANEOUS

10.01 Amendments, Etc. No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower therefrom, shall be effective unless in writing signed by the Required Lenders and the Borrower and acknowledged by the Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such amendment, waiver or consent shall:

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- (a) waive any condition set forth in Section 4.01(a) without the written consent of each Lender;
 - (b) extend or increase the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 8.02) without the written consent of such Lender;
 - (c) postpone any date fixed by this Agreement or any other Loan Document for any payment of principal, interest, fees or other amounts due to the Lenders (or any of them) hereunder or under any other Loan Document without the written consent of each Lender directly affected thereby;
 - (d) reduce the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing, or (subject to subsection (v) of the second proviso to this Section 10.01) any fees or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender directly affected thereby; provided, however, that only the consent of the Required Lenders shall be necessary to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest or Letter of Credit Fees at the Default Rate;
 - (e) change Section 2.14 or Section 8.03 in a manner that would alter the pro rata sharing of payments required thereby without the written consent of each Lender;
 - (f) amend Section 1.06 or the definition of "Alternative Currency" without the written consent of each Lender; or
 - (g) change any provision of this Section or the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender;

and, provided further, that (i) no amendment, waiver or consent shall, unless in writing and signed by the L/C Issuer in addition to the Lenders required above, affect the rights or duties of the L/C Issuer under this Agreement or any Issuer Document relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver or consent shall, unless in writing and signed by the Swing Line Lender in addition to the Lenders required above, affect the rights or duties of the Swing Line Lender under this Agreement; (iii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document; (iv) Section 10.06(h) may not be amended, waived or otherwise modified without the consent of each Granting Lender all or any part of whose Loans are being funded by an SPC at the time of such amendment, waiver or other modification; and (v) each Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except that the Commitment of such Lender may not be increased or extended without the consent of such Lender.

10.02 Notices; Effectiveness; Electronic Communication.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Borrower, the Administrative Agent, the L/C Issuer or the Swing Line Lender, to the address, telecopier number, electronic mail address or telephone number specified for such Person on Schedule 10.02; and

(ii) if to any other Lender, to the address, telecopier number, electronic mail address or telephone number specified in its Administrative Questionnaire.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Lenders and the L/C Issuer hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or the L/C Issuer pursuant to Article II if such Lender or the L/C Issuer, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) Change of Address, Etc. Each of the Borrower, the Administrative Agent, the L/C Issuer and the Swing Line Lender may change its address, telecopier or telephone number

for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the Borrower, the Administrative Agent, the L/C Issuer and the Swing Line Lender.

(d) Reliance by Administrative Agent, L/C Issuer and Lenders. The Administrative Agent, the L/C Issuer and the Lenders shall be entitled to rely and act upon any notices (including telephonic Committed Loan Notices and Swing Line Loan Notices) purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify the Administrative Agent, the L/C Issuer, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

10.03 No Waiver; Cumulative Remedies. No failure by any Lender, the L/C Issuer or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

10.04 Expenses; Indemnity; Damage Waiver.

(a) Costs and Expenses. The Borrower shall pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates (including the reasonable fees, charges and disbursements of counsel for the Administrative Agent), in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by the L/C Issuer in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out-of-pocket expenses incurred by the Administrative Agent, any Lender or the L/C Issuer (including the fees, charges and disbursements of any counsel for the Administrative Agent, any Lender or the L/C Issuer), and shall pay all fees and time charges for attorneys who may be employees of the Administrative Agent, any Lender or the L/C Issuer, in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) Indemnification by the Borrower. The Borrower shall indemnify the Administrative Agent (and any sub-agent thereof), each Lender and the L/C Issuer, and each Related Party of any of the foregoing Persons (each such Person being called an “Indemnitee”) against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the fees, charges and disbursements of any counsel for any Indemnitee), and shall indemnify and hold harmless each Indemnitee from all fees and time charges and disbursements for attorneys who may be employees of any Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any third party or by the Borrower arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by the L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by the Borrower or any of its Subsidiaries, or any Environmental Claims related in any way to the Borrower or any of its Subsidiaries, (iv) any civil penalty or fine assessed by OFAC as a result of the funding of Loans, the issuance of Letters of Credit or the acceptance of payments due under the Credit Documents, or (v) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower, and regardless of whether any Indemnitee is a party thereto, in all cases, whether or not caused by or arising, in whole or in part, out of the comparative, contributory or sole negligence of the Indemnitee; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by the Borrower against an Indemnitee for breach in bad faith of such Indemnitee’s obligations hereunder or under any other Loan Document, if the Borrower has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction.

(c) Reimbursement by Lenders. To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by it to the Administrative Agent (or any sub-agent thereof), the L/C Issuer or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), the L/C Issuer or such Related Party, as the case may be, such Lender’s Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent) or the L/C Issuer in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) or L/C Issuer in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 2.13(d).

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable law, the Borrower shall not assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee referred to in subsection (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

(e) Payments. All amounts due under this Section shall be payable not later than ten Business Days after demand therefor.

(f) Survival. The agreements in this Section shall survive the resignation of the Administrative Agent and the L/C Issuer, the replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations.

10.05 Payments Set Aside. To the extent that any payment by or on behalf of the Borrower is made to the Administrative Agent, the L/C Issuer or any Lender, or the Administrative Agent, the L/C Issuer or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent, the L/C Issuer or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and the L/C Issuer severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the applicable Overnight Rate from time to time in effect in the applicable currency of such recovery or payment. The obligations of the Lenders and the L/C Issuer under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

10.06 Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of

this Section, or (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (f) of this Section, or (iv) to an SPC in accordance with the provisions of subsection (h) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the L/C Issuer and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans (including for purposes of this subsection (b), participations in L/C

Obligations and in Swing Line Loans) at the time owing to it); provided that

(i) except in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and the Loans at the time owing to it or in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund with respect to a Lender, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than \$5,000,000 unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed); provided, however, that concurrent assignments to members of an Assignee Group and concurrent assignments from members of an Assignee Group to a single Eligible Assignee (or to an Eligible Assignee and members of its Assignee Group) will be treated as a single assignment for purposes of determining whether such minimum amount has been met;

(ii) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Commitment assigned, except that this clause (ii) shall not apply to rights in respect of Swing Line Loans;

(iii) any assignment of a Commitment must be approved by the Administrative Agent, the L/C Issuer and the Swing Line Lender unless the Person that is the proposed assignee is itself a Lender (whether or not the proposed assignee would otherwise qualify as an Eligible Assignee); and

(iv) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount, if any, required as set forth in Schedule 10.06, and the

Eligible Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05, and 10.04 with respect to facts and circumstances occurring prior to the effective date of such assignment. Upon request, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section.

(c) Register. The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, and the Borrower, the Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by each of the Borrower and the L/C Issuer at any reasonable time and from time to time upon reasonable prior notice. In addition, at any time that a request for a consent for a material or substantive change to the Loan Documents is pending, any Lender may request and receive from the Administrative Agent a copy of the Register.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural person or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in L/C Obligations and/or Swing Line Loans) owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent, the Lenders and the L/C Issuer shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such

agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 10.01 that affects such Participant. Subject to subsection (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.14 as though it were a Lender.

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 3.01 or 3.04 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 3.01 unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrower, to comply with Section 3.01(e) as though it were a Lender.

(f) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank;

provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) Electronic Execution of Assignments. The words “execution,” “signed,” “signature,” and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

(h) Special Purpose Funding Vehicles. Notwithstanding anything to the contrary contained herein, any Lender (a “Granting Lender”) may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower (an “SPC”) the option to provide all or any part of any Committed Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPC to fund any Committed Loan, and (ii) if an SPC elects not to exercise such option or otherwise fails to make all or any part of such Committed Loan, the Granting Lender shall be obligated to make such Committed Loan pursuant to the terms hereof or, if it fails to do so, to make such payment to the Administrative Agent as is required under Section 2.13(b)(ii). Each party hereto hereby agrees that (i) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrower under this Agreement (including its obligations under Section 3.04), (ii) no SPC shall be liable

for any indemnity or similar payment obligation under this Agreement for which a Lender would be liable, and (iii) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Loan Document, remain the lender of record hereunder. The making of a Committed Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Committed Loan were made by such Granting Lender. In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior debt of any SPC, it will not institute against, or join any other Person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency, or liquidation proceeding under the laws of the United States or any State thereof. Notwithstanding anything to the contrary contained herein, any SPC may (i) with notice to, but without prior consent of the Borrower and the Administrative Agent and with payment of a processing fee in the amount of \$2,500, assign all or any portion of its right to receive payment with respect to any Committed Loan to the Granting Lender and (ii) disclose on a confidential basis any non-public information relating to its funding of Committed Loans to any rating agency, commercial paper dealer or provider of any surety or Guarantee or credit or liquidity enhancement to such SPC.

(i) Resignation as L/C Issuer or Swing Line Lender after Assignment. Notwithstanding anything to the contrary contained herein, if at any time Bank of America assigns all of its Commitment and Loans pursuant to subsection (b) above, Bank of America may, (i) upon 30 days’ notice to the Borrower and the Lenders, resign as L/C Issuer and/or (ii) upon 30 days’ notice to the Borrower, resign as Swing Line Lender. In the event of any such resignation as L/C Issuer or Swing Line Lender, the Borrower shall be entitled to appoint from among the Lenders a successor L/C Issuer or Swing Line Lender hereunder; provided, however, that no failure by the Borrower to appoint any such successor shall affect the resignation of Bank of America as L/C Issuer or Swing Line Lender, as the case may be. If Bank of America resigns as L/C Issuer, it shall retain all the rights, powers, privileges and duties of the L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Committed Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.04(c)). If Bank of America resigns as Swing Line Lender, it shall retain all the rights of the Swing Line Lender provided for hereunder with respect to Swing Line Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Committed Loans or fund risk participations in outstanding Swing Line Loans pursuant to Section 2.05(c). Upon the appointment of a successor L/C Issuer and/or Swing Line Lender, (a) such successor shall succeed to and become vested with all the rights, powers, privileges, and duties of the retiring L/C Issuer or Swing Line Lender, as the case may be, and (b) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to the predecessor L/C Issuer to effectively assume the obligations of the predecessor L/C Issuer with respect to the Letters of Credit.

10.07 Treatment of Certain Information; Confidentiality. Each of the Administrative Agent, the Lenders and the L/C Issuer agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates’ respective partners, directors, officers, employees, agents, advisors

and representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, provided that, to the extent permitted by law and otherwise practicable, the disclosing party uses its reasonable best efforts to give to the Borrower advance notice of disclosure pursuant to this subsection, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations, (g) with the consent of the Borrower or (h) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Administrative Agent, any Lender, the L/C Issuer or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower which source was not known to the recipient to be bound to keep such information confidential.

For purposes of this Section, “Information” means all information received from the Borrower or any Subsidiary relating to the Borrower or any Subsidiary or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or the L/C Issuer on a nonconfidential basis prior to disclosure by the Borrower or any Subsidiary, provided that, in the case of information received from the Borrower or any Subsidiary after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

The Borrower acknowledges that (a) the Administrative Agent will make available to the L/C Issuer and the Lenders materials and/or information provided by or on behalf of the Borrower hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks or another similar electronic system (the "Platform") and (b) certain of the Lenders or the L/C Issuer may be "public-side" Lenders (i.e., Lenders or L/C Issuers that do not wish to receive material non-public information with respect to the Borrower and its Subsidiaries and their respective securities) (each, a "Public Lender"). The Borrower hereby agrees that (w) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" by or at the direction of the Borrower, which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by the Borrower marking, or directing to be marked, the Borrower Materials "PUBLIC", the Borrower shall be deemed to have authorized the Administrative Agent, the L/C Issuer and the Lenders to treat such Borrower Materials as either publicly available information or not material information (although it may be sensitive and proprietary) with respect to the Borrower and its Subsidiaries and their respective securities for purposes of United States federal and state

securities laws; (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated as "Public"; and (z) the Administrative Agent shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not marked as "Public".

10.08 Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender, the L/C Issuer and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, the L/C Issuer or any such Affiliate to or for the credit or the account of the Borrower against any and all of the obligations of the Borrower now or hereafter existing under this Agreement or any other Loan Document to such Lender or the L/C Issuer, irrespective of whether or not such Lender or the L/C Issuer shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower may be contingent or unmaturing or are owed to a branch or office of such Lender or the L/C Issuer different from the branch or office holding such deposit or obligated on such indebtedness. The rights of each Lender, the L/C Issuer and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, the L/C Issuer or their respective Affiliates may have. Each Lender and the L/C Issuer agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

10.09 Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the "Maximum Rate"). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

10.10 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by telecopy shall be effective as delivery of a manually executed counterpart of this Agreement.

10.11 Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

10.12 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

10.13 Replacement of Lenders. If any Lender requests compensation under Section 3.04, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, if any Lender is a Defaulting Lender or if any other circumstance exists hereunder that gives the Borrower the right to replace a Lender as a party hereto, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 10.06), all of its interests, rights and obligations under this Agreement and the related Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

- (a) the Borrower shall have paid to the Administrative Agent the assignment fee specified in Section 10.06(b);
- (b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and L/C Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);
- (c) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter; and

- (d) such assignment does not conflict with applicable Laws.
-

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

10.14 Governing Law; Jurisdiction; Etc.

(a) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) SUBMISSION TO JURISDICTION. THE BORROWER IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NONEXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT THE ADMINISTRATIVE AGENT, ANY LENDER OR THE L/C ISSUER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST THE BORROWER OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) WAIVER OF VENUE. THE BORROWER IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 10.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

10.15 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

10.16 USA PATRIOT Act Notice. Each Lender that is subject to the Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender or the Administrative Agent, as applicable, to identify the Borrower in accordance with the Act.

10.17 Judgment Currency. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Loan Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of the Borrower in respect of any such sum due from it to the Administrative Agent or the Lenders hereunder or under the other Loan Documents shall, notwithstanding any judgment in a currency (the "Judgment Currency") other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the "Agreement Currency"), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent from the Borrower in the Agreement Currency, the Borrower agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the Person to whom such obligation was owing against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent in such currency, the Administrative Agent agrees to return the amount of any excess to the Borrower (or to any other Person who may be entitled thereto under applicable law).

10.18 Entire Agreement. This Agreement and the other Loan Documents represent the final agreement among the parties and may not be contradicted by evidence of prior,

contemporaneous, or subsequent oral agreements of the parties. There are no unwritten oral agreements among the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

**MCCORMICK & COMPANY,
INCORPORATED**

By: /s/ Paul C. Beard
Title: Vice President – Finance & Treasurer

BANK OF AMERICA, N.A., as Administrative
Agent

By: /s/ William Sweeney
Title: Senior Vice President

BANK OF AMERICA, N.A., as a Lender, L/C
Issuer and Swing Line Lender

By: /s/ William Sweeney
Title: Senior Vice President

SUNTRUST BANK

By: /s/ Duncan Owen
Title: Director

**WACHOVIA BANK, NATIONAL
ASSOCIATION**

By: /s/ Mark S. Supple
Title: Vice President

**WELLS FARGO BANK, NATIONAL
ASSOCIATION**

By: /s/ Lori Ross
Title: Vice President

BNP PARIBAS

By: /s/ Nanette Saudon
Title: Vice President

By: /s/ Simone Vinocour
Title: Vice President

THE BANK OF NEW YORK

By: Steven Cavaluzzo
Title: Vice President

THE BANK OF NOVA SCOTIA

By: /s/ Todd Meller
Title: Managing Director

CITIBANK, N.A.

By: /s/ Michael R.R. Pindell
Title: Managing Director

CITIZENS BANK OF PENNSYLVANIA

By: /s/ Peter Heller

Title: Vice President

MANUFACTURERS & TRADERS TRUST CO.

By: /s/ Frank Lago

Title: Vice President

MIZUHO CORPORATE BANK, LTD.

By: /s/ Robert Haviken

Title: Senior Vice President

US BANK, NATIONAL ASSOCIATION

By: /s/ Michael P. Dickman

Title: Assistant Vice President



We're turning up the heat!



2005 Flavor Forecast

McCormick keeps its finger on the pulse of flavor and food trends. We published the *McCormick 2005 Flavor Forecast* to showcase the tastes and trends that will shape the way people eat in coming years for our customers and the media.

Throughout this year's annual report, discover new uses for these products from some of our flavor experts.

10 flavors to watch

- Allspice
- Annatto
- Cardamom
- Cinnamon
- Curry
- Ginger
- Mint
- Pickling Spice
- Sage
- Vanilla

5 trends to watch

Satisfying the senses — A true multisensory experience delivered by the effortless combination of flavors, colors, aromas and textures.

Location, location, location — Ingredients from specific locations known for their premium flavors and freshness.

Worldly tastes — Mini-flavor adventures that combine one or two global tastes with familiar foods.

Health measures — Flavor is the key to making food enjoyable for all types of eating plans.

Elevating the basics — Classic favorites reinvented to reach new heights in flavor.

Ginger

This year's annual report carries the scent of ginger. Often the "secret ingredient" in flavorful dishes, this pungent spice provides heat — but not the fire. It's very popular in Asian, Caribbean and North African cuisines. On page 15 you can discover how one of McCormick's product developers likes to use ginger.

Acquisitions in 2003 and 2004

added annual sales of
nearly \$200 million.



Around the world, 8,000 McCormick employees are working together to deliver great results – to our customers, our consumers and our shareholders.



More than 70% of sales are now value-added.



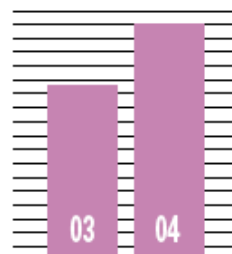
No matter where you look, you'll discover that we are turning up the heat at McCormick.

Sales are sizzling, margins are rising, and we've spiced up our new product efforts. We've uncovered the hottest eating trends in our 2005 Flavor Forecast. At McCormick, we are fired up about our opportunities for growth.

Higher gross profit margins are fueling our growth.

We have increased gross profit margins **1.9 percentage points** since 2001.

In 2004, we increased productivity in developing new products more than 25%.



1

financial highlights

for the year ended November 30 (millions except per share data)	2004	2003	% change
Net sales	\$ 2,526.2	\$ 2,269.6	11.3%
Gross profit	1,007.9	898.6	12.2%
Gross profit margin	39.9%	39.6%	
Operating income	332.7	295.5	12.6%
Operating income margin	13.2%	13.0%	
Net income from continuing operations	214.5	199.2	7.7%
Percent to sales	8.5%	8.8%	
Earnings per share from continuing operations — diluted	1.52	1.40	8.6%
Average shares outstanding — diluted	141.3	142.6	(.9)%
Dividends paid	\$ 76.9	\$ 64.1	20.0%
Dividends paid per share	.56	.46	21.7%
Cash flow from operations	349.5	201.8	73.2%
Debt-to-total-capital	40.9%	44.4%	
Closing stock price	\$ 36.45	\$ 28.69	27.0%

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business description

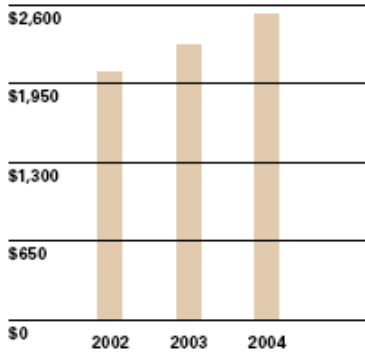
McCormick is a global leader in the manufacture, marketing and distribution of spices, herbs, seasonings and other flavors to the entire food industry. Customers range from retail outlets and food service providers to food processing businesses. Founded in 1889 and built on a culture of Multiple Management, McCormick has approximately 8,000 employees.

vision statement

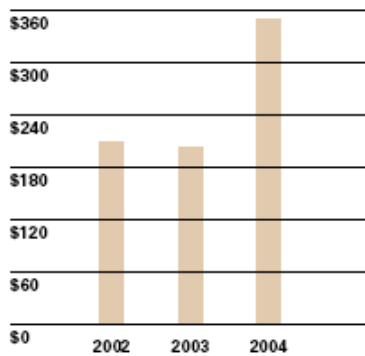
McCormick will be the leading global supplier of high valueadded flavor solutions.

Building on strong brands and innovative products, we will provide superior quality and service to customers and consumers around the world.

net sales
in millions



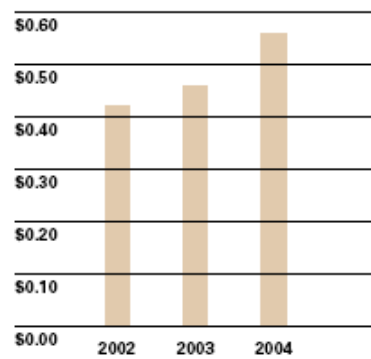
cash flow from operations
in millions



**earnings per share from
continuing operations – diluted**



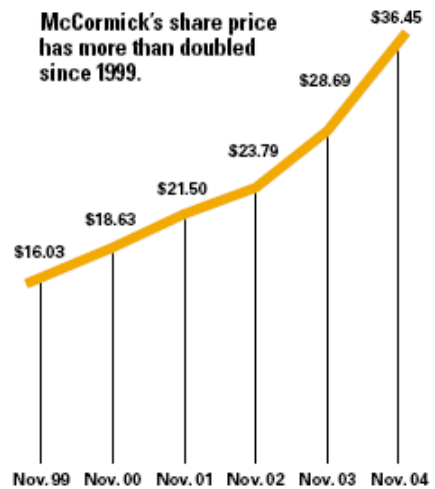
dividends paid per share



For the five years ended 11/30/04, McCormick's total annual shareholder return has exceeded the S&P 500 Stock Index and S&P 500 Food Products Index.

McCormick & Company	20%
S&P 500 Stock Index	-2%
S&P 500 Food Products Index	0%

**McCormick's share price
has more than doubled
since 1999.**



letter to shareholders

fellow shareholders,

2004 was a terrific year at McCormick. Sales reached a record \$2.5 billion. We completed the implementation of our B2K program in the U.S. The goal for the first year of our \$70 million cost reduction program was exceeded. We reached \$1.0 billion in gross profit and increased gross profit margin 0.3 percentage points. With \$350 million in cash from operations we paid \$77 million in dividends, repurchased \$175 million of shares and acquired Silvo, the leading brand of spices and herbs in the Netherlands, for \$75 million.



Robert J. Lawless

Now in our 115th year, we continue to build shareholder value. In fact, total annual return for our shareholders has been 20% during the past five years, twice that of our peer companies. Everywhere you look, you'll discover that McCormick is turning up the heat.

record results for 2004

At the beginning of 2004, with confidence in our business and ability to perform, we set several financial goals.

Our first objective was to grow sales 7-9%. We achieved sales growth of 11%. This was the result of launching successful new products, introducing effective promotions and acquiring Zatarain's mid-year in 2003. We also benefited from higher pricing for vanilla and favorable foreign currency. Sales for our consumer business rose 15%, following a 17% increase in 2003. Our industrial business picked up steam with a 7% sales increase following a 5% increase in 2003.

Second, we set a range for earnings per share of \$1.51 to \$1.54. We ended the year with earnings per share of \$1.52. With higher sales, improved gross profit margins, cost reduction savings and the proceeds from the settlement of a lawsuit claim, we were able to offset some cost increases in areas including employee benefits and fuel. More importantly, we were able to invest in the business for future growth, increasing advertising and product development expense during 2004.

Our third target was to generate \$350- \$400 million from 2004 to 2006 in cash flow from operations, after net capital expenditures and dividends. Our 2004 result of \$206 million has us well on our way toward meeting this target. We generated higher cash from a number of sources including higher net income, reduced inventory and lower prepaid allowances. During 2004, we increased dividends paid by 20% to \$77 million from \$64 million in 2003.

turning up the heat

For each step of our strategy: improve margins, invest in the business and increase sales and profits...we are turning up the heat!

A key to margin improvement is our B2K program, a global initiative that is significantly improving our business processes through state-of-the-art technology. With the implementation for the U.S. complete, our plan is to move international businesses onto this platform by 2006. Utilizing the power of B2K, employees are improving the supply chain throughout the Company. As a result, we significantly reduced costs in 2004, exceeding our \$15 million objective. In 2005 we expect to reduce costs an additional \$25 million and in 2006 an additional \$30 million.

Margin improvement fuels our growth. We will use a portion

of this fuel to invest in the business. We are accelerating the marketing support behind our powerful brands. We have more than doubled advertising expense since 1999. We invested in a promotional analysis process that in its first year significantly increased the effectiveness of our 2004 U.S. trade promotion dollars. Product development expense increased another 18% in 2004 and 84% since 1999. In addition to increasing our resources behind product development, we've increased productivity. New product sales as measured per each R&D professional have doubled in the past five years. A formula management system will be available in 2005 that will give our teams a running start on new products and further reduce the development cycle time for our customers.

Improved margins provide the fuel for business investments... investments designed to increase sales and profits. Throughout the Company we are seeing signs of success in a great number of new products. One product line is grinders. A functional, consumer-oriented package that originated under the Ducros brand in France is being taken to other markets. Worldwide sales of grinders were up 36% in 2004, and new blends and an improved package are in the pipeline for 2005. For several years now, sales to restaurant chains have been strong. Most recently, we have significantly increased sales of coating systems. We have also increased sales and profits with strategic acquisitions. Since its addition to the McCormick family in June 2003, the performance of Zatarain's has exceeded our expectations. At the end of 2004, we completed the acquisition of another excellent brand, Silvo. This leading brand extends our European reach into the Netherlands and will add nearly \$50 million of sales in 2005.

We continue to reaffirm the long-term goals that we set in 2002: to grow sales 5% annually with a range of 3-7% and to increase earnings per share 10-12%. In a tough environment, these are aggressive goals for McCormick and, for that matter, any packaged food company. But we like a challenge at McCormick and have established a strong track record in meeting our goals. In the coming years, we intend to continue our record of superior financial results and increased shareholder value.

leadership at McCormick

Early in 2004, a Management Committee was formed that expanded the former Executive Committee to include leaders of our consumer business. The Management Committee has responsibility for setting strategy, executing growth initiatives, allocating Company resources and for developing and advancing our employees. I believe that our Board of Directors, Management Committee and leadership throughout McCormick are among the best in the food industry.

Toward the end of 2004, Jerry Wolfe was promoted to Vice President — Supply Chain and Chief Information Officer. Fran Contino was named Executive Vice President—Strategic Planning and CFO. Throughout the Company, we continue to challenge and develop our people while tapping into their experience, knowledge and enthusiasm.

We like our business: flavor. Demand for great taste has few boundaries. Kid-friendly flavors, bold and zesty flavors, ethnic flavors and flavors for those on a reduced calorie, low-carb, lowfat, or low-salt diet. From molecule to menu, McCormick has the broadest range of flavor solutions in the industry.

I believe we have a great team at McCormick and a winning strategy that continues to deliver record financial performance year after year. Our core values define the way we work with one another, how we value and serve our customers, and our ultimate responsibility to McCormick shareholders. These values are fundamental to our success.

Thank you to our employees for making our goals a reality. All of us at McCormick are committed to building shareholder value. I am confident of our future success.



Robert J. Lawless, *Chairman, President and CEO*

our core values

We believe...

- **our people are the most important ingredient of our success.**
- **our top priority is to continuously add value for our shareholders.**
- **customers are the reason we exist.**
- **our business must be conducted honestly and ethically.**
- **the best way to achieve our goals is through teamwork.**



board of directors

Barry H. Beracha 62
 Executive Vice President
 Sara Lee Corporation (retired)
 Chief Executive Officer
 Sara Lee Bakery Group (retired)
 Chicago, Illinois
 Food, household and body
 care products and apparel
 Director since 2000
Compensation Committee member

James T. Brady 64
 Managing Director, Mid-Atlantic
 Ballantrae International, Ltd.

Freeman A. Hrabowski, III 54
 President
 University of Maryland Baltimore County
 Baltimore, Maryland
 Director since 1997
Nominating / Corporate Governance Committee member

Robert J. Lawless 58
 Chairman of the Board, President and
 Chief Executive Officer
 McCormick & Company, Inc.
 Director since 1994

Margaret M.V. Preston 47

Ijamsville, Maryland
International management consultants
Director since 1998
Audit Committee member

Francis A. Contino 59
Executive Vice President —
Strategic Planning and Chief Financial Officer
McCormick & Company, Inc.
Director since 1998

Robert G. Davey 55
President — Global Industrial Group
McCormick & Company, Inc.
Director since 1994

Edward S. Dunn, Jr. 61
President, Dunn Consulting
Retail grocery and related industries,
business strategy and marketing consultant
Williamsburg, Virginia
Director since 1998
Compensation Committee member

J. Michael Fitzpatrick 58
President & Chief Operating Officer
Rohm and Haas Company (retired)
Philadelphia, Pennsylvania
Paints and coatings, electronic devices and
personal computers, packaging and
construction materials, household and
personal care products, grocery items
Director since 2001
Compensation Committee member
Nominating / Corporate Governance Committee member

Executive Vice President
Mercantile Private Wealth Management
Mercantile Safe Deposit & Trust Company
Baltimore, Maryland
Director since 2003
Audit Committee member

William E. Stevens 62
Chairman, BBI Group
St Louis, Missouri
Mergers and acquisitions
Director since 1988
Audit Committee member

Karen D. Weatherholtz 54
Senior Vice President — Human Relations
McCormick & Company, Inc.
Director since 1992

Corporate Governance

McCormick's mission is to enhance shareholder value. McCormick employees conduct business under the leadership of the chief executive officer subject to the oversight and direction of the Board of Directors. Both management and the Board of Directors believe that the creation of long-term shareholder value requires us to conduct our business honestly and ethically and in accordance with applicable laws. We also believe that shareholder value is well served if the interests of our employees, customers, suppliers, consumers, and the communities in which we live, are appropriately addressed.

McCormick's success is grounded in its value system as evidenced by our core values.

We are open and honest in business dealings inside and outside the Company. We are dependable and truthful and keep our promises.

Our employees and our Board of Directors are committed to growing our business in accordance with our governance structure and principles and code of ethics.

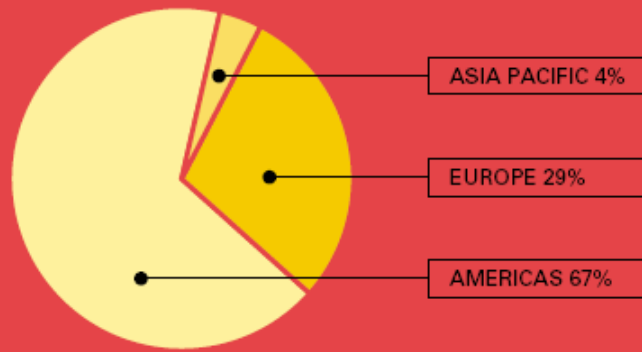
consumer business

financial results

(in millions)

	2004	2003
net sales	\$ 1,339.8	\$ 1,162.3
operating income	\$ 269.7	\$ 230.9

2004 net sales by region



Interest in flavors continues to grow as consumers all over the world are exposed to different cuisines than their own. But food preparation must be quick and easy. McCormick is satisfying this appetite for outstanding flavor and simple preparation with leading brands in key markets around the world.



McCormick's consumer business markets seasoning blends, spices, herbs, extracts, sauces, marinades and specialty foods. Our customers span a broad range of retail outlets and include grocery, drug, mass merchandise and dollar stores.



2004 financial results

Net sales rose 15% in 2004. Volume, price and product mix increased 11%. The 2003 acquisition of Zatarain's was incremental to the first six months of the year and added 4% of the 11% growth rate. Favorable foreign exchange added another 4%. In the Americas, sales were particularly strong as a result of new products, effective marketing, pricing actions and distribution expansion. In Europe, sales success with new products was tempered by a more competitive situation.

Operating income rose 17%. The sales increase and initiatives to improve margins helped to offset cost pressures that included vanilla, fuel and employee benefits. The higher cost of vanilla was also offset by higher pricing. During 2004, we increased advertising 43%. As a percent of net sales, operating income reached 20.1%, as compared to 19.9% in 2003.

market position

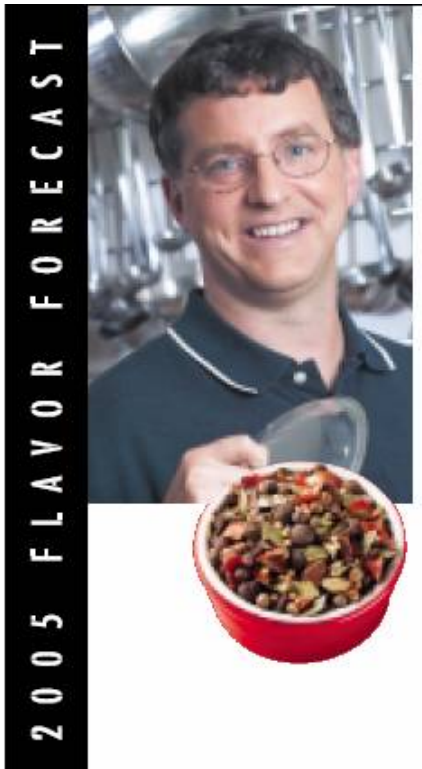
Consumers want to add flavor to their foods — bold and zesty, kid-friendly and fun, ethnic and exotic. But preparation must be easy. A recent Food Market Institute report stated, "Consumers continue to be time-pressed and are looking for solutions to cut the time spent in meal preparation."

As category leader, McCormick is meeting these needs through initiatives such as new products, better



This magazine advertisement features Joe Montana, McCormick's first major celebrity spokesperson. Joe promotes the GrillMates line of products. Worldwide, we increased 2004 sales of grilling seasonings, marinades, sauces and rubs 8%.

9



Jeff Carter

Product Development Manager,
U.S. Consumer Products Division

"It's not your old-fashioned pickling ingredient. McCormick pickling spice is a versatile blend of spices and herbs that has many comfort food applications. Slow cookers are coming back. Try pickling spice with popular slow cooker recipes such as corned beef & cabbage, sauerbraten beef or german style pot roast. An old favorite, McCormick pickling spice, can be a great addition to today's meals."

merchandising, effective marketing and a dynamic website.

Our actions are driving category growth in many key markets. In 2004, the spice and seasoning category rose 2% in the U.S., 5% in Canada and 1% in the U.K. A tough competitive situation in France, however, led to a 1% category decline in 2004.

With both brand and private label products, we enjoy a leading share in our largest markets. In the U.S. and the U.K. our share has increased to nearly 50%, and in France and Canada our share exceeds 50%. We also have a leading share in China and a strong presence in additional markets in Europe and Asia.

As a result of marketing initiatives and expanded distribution we continue to gain market share. In 2004, we added 1.4 percentage points to our U.S. market share of branded spices and seasonings.



Following the acquisition of Zatarain's in 2003, we increased 2004 sales of this brand 20%. The increase was due in part to the successful introduction of a new "Ready-to-Serve" line of rice mixes.

Our unique grinder top adds fresh taste right at the table. With the introduction of new flavors and the addition of new markets, worldwide sales of grinders grew by 36% in 2004.



2004 highlights

- In the Netherlands, acquired the Silvo business, gaining entry into the Dutch market with a 63% market share.
- Launched new products in the last 3 years that accounted for 6% of 2004 sales.
- In the U.S., increased sales of the Zatarain's brand 20% with expanded product penetration and new items.
- In the U.S., significantly increased the effectiveness of trade promotions. This was one of the key factors in a 17% sales increase in the Americas.
- In China, substantially improved our distributor network and streamlined our business to 75 well-qualified distributors. This was a reduction from 250 distributors in the network in 2003.
- Worldwide, grew sales of grinders by 36%. This innovative package originated in France, under the Ducros label.
- Increased sales of our grilling products, including seasonings, marinade blends and sauces, 8% worldwide. Rubs are featured in the new product line up for 2005.
- In the U.S., strengthened a leading position with Hispanic consumers with new products and a focused expansion into Texas and Chicago markets. In 2005, for the first time, McCormick will advertise on Hispanic networks.
- In the U.K., converted more than 5,000 stores to new packaging and merchandising of the Schwartz brand spices and herbs in only two months. With this change, we have significantly reduced the variety of packaging formats in Europe.
- Throughout Europe, achieved 8% growth of dessert aids with new products and new distribution.

growth initiatives

We are growing the consumer business by:

Developing innovative products. As category leader it is our responsibility to bring news and excitement to the category. Consumers are seeking new products that offer convenience and great flavor.

Increasing marketing effectiveness. Approximately 10% of each sales dollar is spent on trade promotions. We are measuring the effectiveness of our promotions to optimize sales. Through advertising we are driving consumer demand and have more than doubled our advertising since 1999. We are working to improve the appearance of our products in their home department and gain additional store placements to build consumer awareness.

With the acquisition of Silvo at the end of 2004, we gained entry into the Dutch market with a 63% market share.



Expanding distribution. We are adding customers in new geographic regions in Europe and the Asia/Pacific region. In more established markets we are achieving better penetration of products including our seafood complements, the Zatarain's brand and dessert aids.

Expanding through acquisitions. We will continue to acquire leading brands that take us into new markets, particularly in Europe. We will seek niche brands that fit well with our existing product lines. To be successful, acquisitions must pass financial hurdles and include a well-constructed integration plan.

With television advertising and a number of new products, sales for our Vahine dessert aids brand in Europe grew 8% in 2004.



outlook

Our growth initiatives are expected to drive 5% annual sales increases. The pace of growth may vary year to year due to acquisitions, foreign exchange and other factors.

For 2005, new products in the pipeline include both wet and dry flavors for grilling, seafood and salads. A relaunch for dry seasoning mixes with new packaging and merchandising is planned in the U.S. Advertising will be focused on value-added products that meet consumers' demand for convenience and great taste. We will continue to expand our leadership position into new geographies. Sales growth and further progress with margin improvement initiatives will continue to improve operating income margin for the consumer business.

Interest in flavors continues to grow as consumers all over the world are exposed to different cuisines than their own. But food preparation must be quick and easy. McCormick is satisfying this appetite for outstanding flavor and simple preparation with leading brands in key markets around the world.



In the U.K., new packaging and

merchandising of our Schwartz brand improves the appearance of the products and shopping experience for the consumer. During 2004, our team converted over 5,000 stores in only two months.

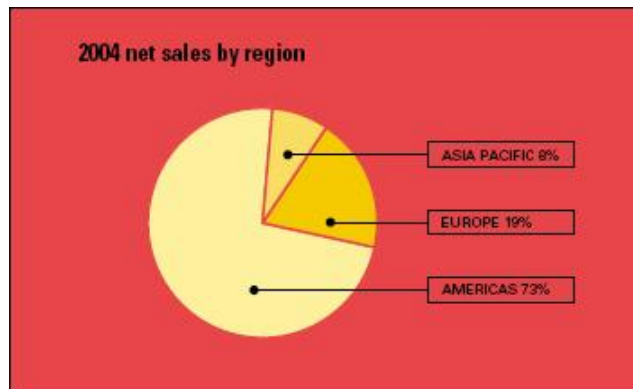
McCormick is the #1 spice and seasoning brand among Hispanic consumers in the U.S. In 2004, we strengthened this leading position with new products, and in 2005, for the first time, will advertise on a major Hispanic television network.



industrial business

financial results
(in millions)

	2004	2003
net sales	\$ 1,186.4	\$ 1,107.3
operating income	\$ 113.6	\$ 108.9



We are building our leadership position in flavors. With our wide range of flavor solutions and ability to create consumer-preferred products, customers increasingly turn to McCormick for new product ideas and as a preferred supplier of great flavor solutions.



McCormick’s industrial business markets blended seasonings, spices and herbs, condiments, compound flavors and extracts, and coating systems to other food processors and to the away-from-home channel, both directly and through distributors and warehouse clubs.

For restaurant customers and other food processors, we develop and deliver consumer-preferred flavors. In fact, new products launched over the last three years accounted for 22% of 2004 sales.



COMPOUND FLAVORS

- Beverage flavors
- Dairy flavors
- Confectionery flavors

PROCESSED FLAVORS

- Meat flavors
- Savory flavors

SEASONINGS

- Seasoning blends
- Salty snack seasonings
- Side dish seasonings
(rice, pasta, potato)
- Sauces and gravies

COATING SYSTEMS

- Batters
- Breaders
- Marinades
- Glazes
- Rubs

CONDIMENTS

- Sandwich sauces
- Ketchup
- Mustards
- Jams and jellies
- Seafood cocktail sauces
- Salad dressings
- Flavored oils

INGREDIENTS

Spices and herbs

Extracts

Essential oils and oleoresins

Fruit and vegetable powders

Tomato powder

2004 financial results

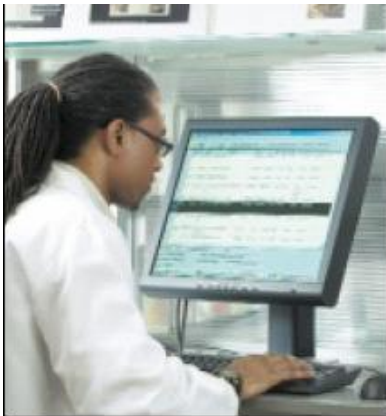
Net sales rose 7% in 2004. Volume, price and product mix increased 4%. Favorable foreign exchange added another 3%. Sales growth in the Americas resulted from new product successes, particularly with restaurant customers, as well as higher pricing for higher cost vanilla, dairy products and other raw materials. In Europe, growth in more value-added products was offset by reduced sales of ingredients. This shift in mix was driven by our decision to exit certain lower margin products and regions.

Operating income rose 4%. Higher sales, an improved product mix, and initiatives to reduce costs provided an offset to cost pressure from other areas including fuel and employee benefits. During 2004, we increased product development expense 18%.

market position

Interest in flavors continues to grow. A report published by The Freedonia Group states that “flavors and flavor enhancers will continue to account for the largest share of overall food additives, due to their extensive use in many processed foods, dairy products, baked goods and candy...opportunities are constantly being created by consumer demand for new flavors based on ethnic cuisines and more intense flavor preparations.”

With blended seasonings, spices and herbs, condiments, compound flavors and extracts, and coating systems,



To further improve our productivity, a new formula management system introduced in 2004 will provide a running start on new projects and reduce the new product cycle time for delivery to our customers beginning in 2005.

13



Chefs in China are adding flavor with our McCormick brand line of spices and seasonings. We grew sales of these food service products 8% in 2004.

McCormick has the broadest range of flavor solutions in the industry. While there are many industrial competitors, most market only one or two of these five categories. And as a leading supplier to food service distributors and warehouse clubs, McCormick is well-positioned to grow with these customers.

For all customers, new products are an essential element of growth. Our multifunctional sales teams work with customers to develop leading products that become marketplace winners.

Spending for research and development has more than doubled since 1998. Our focus has been on value-added, higher margin products. Together, our development, application, culinary and sensory areas enable us to deliver consumer-preferred flavors.

We develop flavorful coating systems for quick service restaurants. In 2004, U.S. sales of coating systems grew by more than 30%.



2004 highlights

- Launched new products during the last 3 years that accounted for 22% of 2004 sales.
- In the U.S., increased sales of coating systems by more than 30%. Directed primarily to the quick service restaurant industry, our flavorful products drove sales for key customers.
- Doubled the sales of new products measured per each research and development professional in the past 5 years. Tripled cost savings per research and development professional in the past 3 years.
- By focusing on more profitable items, reduced SKUs (number of items sold) in the European market from more than 3,250 in 2003 to less than 2,750 in 2004. In 2005, we will streamline our business to fewer than 2,000 individual products in Europe.

Our customers have recognized McCormick for delivering innovation, quality products and reliable service.



- Grew sales of food service herbs and spices 8% in China, establishing the brand as the product of choice among high-end restaurants and catering outlets.
- Recognized by our customers for innovation, quality products and reliable service. For the tenth consecutive year, Sysco ranked McCormick among its top 100 suppliers. Fewer than 10 other suppliers to Sysco share this honor. Frito-Lay named McCormick its 2003 seasoning and ingredient supplier of the year.
- Completed a formula management system that will provide a running start on new projects and reduce new product cycle time delivery to our customers beginning in 2005.
- In the U.S., we are improving the quality of incoming materials through a rigorous vendor management program. This program led to a 36% reduction in incoming material defects during 2004.

With blended seasonings, spices and herbs, condiments, compound flavors and extracts, and coating systems, McCormick has the broadest range of flavor solutions in the industry.



growth initiatives

We are growing the industrial business by:

Supporting the global expansion of our industry-leading customers. Our customers are growing globally, and we are growing with them. Additional restaurant locations in China, product distribution into India, a new brand launched in Europe . . . each of these offers McCormick an opportunity for growth. We can supply much of this growth from existing facilities. We are also seeking to extend our global flavor capabilities into new regions through acquisitions.

Building current and new strategic partnerships. At the end of 2004, our top 15 customers accounted for approximately 70% of sales. They rely on us for consistent, high quality products and flawless service. We will increase our business with existing customers by working collaboratively to pursue growth opportunities. We also have in place a team devoted to identifying and developing new strategic partners. These opportunities include large companies that we do not currently supply, as well as emerging businesses, such as restaurant chains, that are experiencing rapid growth.

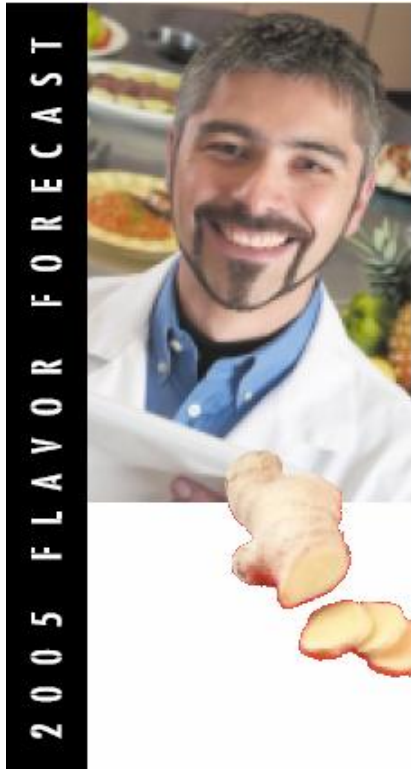
Providing consumer-preferred value-added products. Innovative new products are in demand. With our breadth of flavor solutions, we can participate in the latest high growth area, whether it is dairy, confection, high fiber or low carb. Our culinary and flavor experts add value by including sophisticated flavors in coating systems, seasoning blends, condiments and other products. And our sensory teams conduct careful testing to measure consumer preferences. As our business shifts to more consumer-preferred value-added products, we are growing sales and improving profit margins.

outlook

Our growth initiatives are expected to drive 5% annual sales increases. The pace of growth may vary year to year due to acquisitions, foreign exchange and other factors. Our ongoing focus on value-added products will continue to boost profit margins.

For 2005, new products in the pipeline include flavored beverages, salty snack seasonings, and coating and grilling systems. With cost reduction activities helping the bottom line, profit margins for the industrial business will continue to improve.

We are building our leadership position in flavors. With our wide range of flavor solutions and ability to create consumer-preferred products, customers increasingly turn to McCormick for new product ideas and as a preferred supplier of great flavor solutions.



Claudio Rattes
Senior Food Technologist,
Research & Development

“Ginger is commonly used in baking but my favorite use is to give a recipe some Asian character, especially with poultry and seafood. I like to add a spoonful of McCormick ground ginger per pound of fish along with some toasted sesame seeds in the breading. It will provide a very fresh taste, which may be complemented with lime juice (at the moment of serving) and will reduce any ‘fishy’ aroma.”

Q&A with Bob Lawless

What are your most significant opportunities to grow sales?

On average, we expect to grow sales 5% annually, within a 3-7% range. We do this through innovation, acquisitions and extending our geographic reach. New products will continue to be a vital part of our sales growth. In recent years, at least 10% of annual sales came from new products launched in the prior three

years. We continue to pursue acquisitions as an important avenue of growth. Geographically, we are excited about opportunities to further expand our branded products in China and to countries in Europe where we do not yet have a leading share.

In summary, sales growth will vary year to year based on acquisition activity, foreign currency exchange rates and other factors. However, over time we expect annual sales growth from the following sources: 2-3% from the base business, 1-2% from new products, 1-2% from acquisitions, 0-1% from distribution expansion and 0-1% from pricing actions.



How does concern about health and wellness impact your business?

Consumers are invited to visit www.mccormick.com where they will find healthy recipe and meal ideas in our new “Taste for Health” section. As a supplier of a broad range of flavors, McCormick can add taste to a variety of diets. For consumers on a low-carb diet who are eating more meat, poultry and seafood, we provide coatings, marinades and grilling seasonings. If one’s interest is in whole grains, we offer products that flavor bread, cereal and wholesome snack foods. All too often, diets that call for low-fat, low-salt or low-calorie are often low in flavor. And that’s where McCormick steps in — to add great taste.

I’ve read that Americans are eating out more. Are they cooking less?

In October 2004, USA Today reported that 77% of meals are made at home based on research conducted by NPD. And the Food Marketing Institute has indicated that 84% of consumers ate a home-cooked meal at least three times a week compared to 74% in 2001. At the same time, Americans would like preparation time to be less than thirty minutes according to Parade Magazine’s “What America Eats” issue. McCormick makes cooking quick and easy with products like GrillMates, seafood sauces, and new seasoning mixes that offer both convenience and great flavor. We’re delivering flavor in new ways too, with grinders, salad products and dessert toppings that add taste at the table.

For many of those occasions when people prefer to eat out, grab a snack or heat up a prepared meal, McCormick continues to deliver the flavor! Through our industrial business, we add taste to the products offered in leading restaurants, food service distributors and food processors. In fact, whether you are at home or eating out you can enjoy something flavored by McCormick.

Costs for many basic food ingredients such as soy oil and dairy products can fluctuate year to year.

How does this affect your business?

We strive to maintain stability in costs and pricing. In our industrial business, many customers accept price adjustments that pass through commodity cost changes. In our consumer business, increases and decreases in the costs of spices, herbs and



other ingredients tend to offset one another during any particular year. In certain situations we increase prices to offset rapidly escalating costs. An example occurred in 2003 when vanilla bean costs rose steeply due to a crop shortage, and we responded by increasing prices. We went even one step further. With our global sourcing capabilities, we were able to secure a strategic inventory of vanilla beans to guarantee a supply of vanilla extract for our customers.

You have made several acquisitions in recent years. Are you looking for more?

Yes. Acquisitions which expand our flavor offerings or our geographic penetration are key components of growth.

For our consumer business, we are seeking leading brands of spices and seasonings in those markets where we do not have a strong presence, particularly in Europe. Silvo was an excellent example of acquiring a leading European brand. With a 63% market share, it was a great way to expand our

business into the Netherlands with a highly regarded brand of spices and herbs. In established markets, we search for products that deliver distinct flavors. Here in the U.S., our 2003 acquisition of Zatarain's is a great example of this; Zatarain's unique New Orleans flavors appeal to consumers.

As for our industrial business, we have a broad range of flavor solutions for our U.S. customers and plan to expand our current capabilities in international markets through acquisitions. Regardless of the type of acquisition, a disciplined business plan, a detailed integration plan and a rigorous financial review are the keys to success.

What do you consider to be the “key ingredient” to McCormick’s success?

Our “key ingredient” is without question the people of McCormick. Their enthusiasm, values and drive to win are unmatched. Our employees possess a deep knowledge of the business and excellent relationships with suppliers and customers. Careers are advanced through training and challenging on-the-job experiences. Each of us has measurable goals, and our achievements are rewarded. Employee values are the foundation of our success.

Our leadership team is focused on growing this business. And throughout the Company, our high performance employees are delivering great results — to our customers, our consumers and our shareholders.

How did you develop the “flavor forecast” at the front of this report?

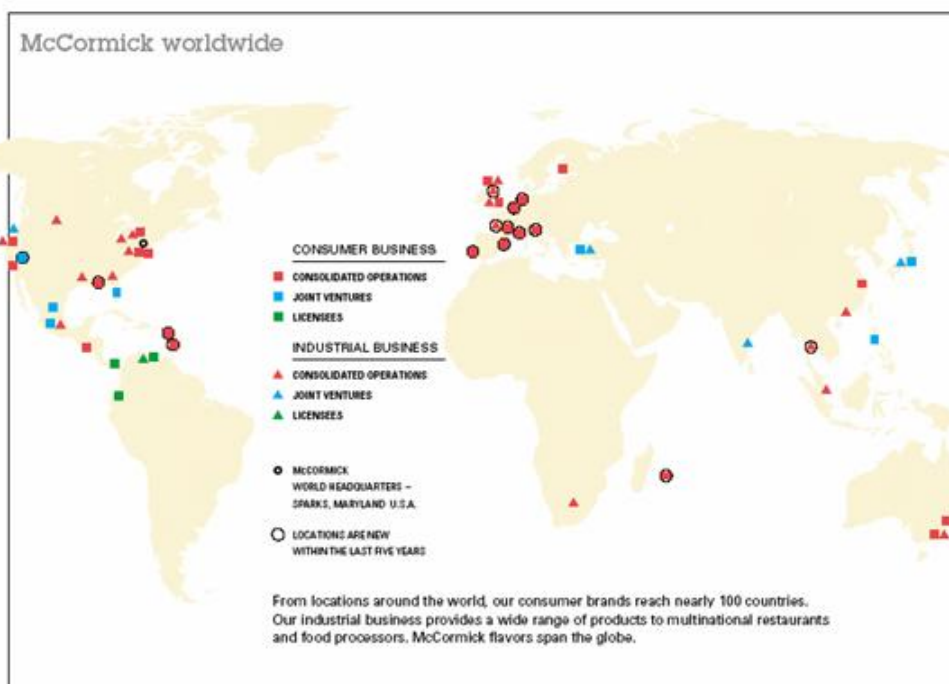
This is our third edition of the “flavor forecast.” It is published for the benefit of our many customers and is shared with the food industry media throughout the U.S. The “forecasters” include chefs, culinary television personalities, cookbook authors and our own trend experts.

Our business at McCormick is all about flavor. We have the broadest range of flavor solutions in the industry and believe that no matter what you eat each day, you are likely to enjoy the taste of McCormick. Throughout this report, our development team shares some ways to bring the latest trends into your home.

Bon appetit!

“ Our ‘key ingredient’ is without question the people of McCormick...”

- Ethical Behavior**
- Teamwork**
- High Performance**
- Innovation**
- Concern for one another**
- = Success**



executive officers

Robert J. Lawless
Chairman of the Board,
President &
Chief Executive Officer

Robert W. Skelton
Senior Vice President,
General Counsel & Secretary

Mark T. Timbie

Paul C. Beard
Vice President —
Finance & Treasurer

Francis A. Contino
Executive Vice President —
Strategic Planning &
Chief Financial Officer

Robert G. Davey
President —
Global Industrial Group

H. Grey Goode, Jr.
Vice President — Tax

Kenneth A. Kelly, Jr.
Vice President & Controller

President — International
Consumer Products Group

Karen D. Weatherholtz
Senior Vice President —
Human Relations

Alan D. Wilson
President —
U.S. Consumer Foods

Jeryl Wolfe
Vice President —
Supply Chain &
Chief Information Officer

2005 FLAVOR FORECAST

Marianne Gillette
Director, Product Development,
Restaurants

"Cardamom reminds me of a zesty grapefruit! I like to add McCormick ground cardamom to tea for a citrus-like flavor. I also love to add cardamom to apples, either in pie, applesauce or healthy, fresh sliced apples. The kids like fresh sliced apples with cinnamon-cardamom-sugar sprinkled on top (1 part cardamom, 2 parts cinnamon, 5 parts sugar). Cardamom is one of my secret ingredients for a great apple pie!"

community service

In McCormick's 115-year history, the record of community service is long and proud. Communities around the world where the Company has facilities have benefited from a variety of philanthropic activities. Through financial contributions and the active participation of employees, McCormick supports numerous causes that improve the quality of life.

The Company has a formal program of charitable giving that grants funds to worthwhile causes with civic, health, welfare, education and the arts receiving the most attention. Programs like the Unsung Heroes Awards, student scholarships, and Charity Day, which fosters employee giving to a wide range of civic causes, have existed for more than 60 years.

McCormick employees are the backbone of the Company's civic efforts. Around the world, our employees devote time and talent to civic causes. Their spirit of volunteerism carries on a legacy that speaks to the very culture of McCormick. The newest chapter to that proud history was realized with the creation of the annual McCormick Community Service Award in the spring of 2004. The program recognizes those employees who best exemplify McCormick's commitment to improve our communities. The five employee finalists receive \$5,000 for the charity of their choice. The 2004 finalists were Maria Teresa Avila Meneses, of Mexico, Rick Ayers, of Canada and Ted Eschmann, Nancy Lawn and Dennis Bayne of Maryland. The grand-prize winner receives \$25,000 to donate to similar charities. The 2004 winner was Steve Sausnock of Maryland. As a member of the local Optimist Club, Steve distributed the funds to numerous causes including The Children's Cancer Campaign, soup kitchens like Our Daily Bread, schools, churches and to support firefighters and police.

Steve said, "My job is to see the money go where it is needed." Steve's attitude reflects a commitment to community that runs throughout the entire Company.



1



2



3



4

The McCormick Community Service Award was initiated in 2004 to honor employees who devote time and energy to better their communities. The grand prize-winner was employee Steve Sausnock, seen receiving the award from Chairman Bob Lawless (1). On behalf of the Optimist Club, Steve distributed the \$25,000 grant to numerous charities and organizations such as the Providence (Md.) Volunteer Fire Company (2), “Shop with a Cop” which pairs needy children with police officers for mentoring (3), and Our Daily Bread soup kitchen (4). The Community Service Award is the latest chapter in McCormick’s long history of philanthropy.

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management's discussion and analysis

Executive Summary

Business Overview

McCormick & Co. is a global leader in the manufacture, marketing and distribution of spices, herbs, seasonings and other flavors to the entire food industry. The Company's major sales, distribution and production facilities are located in North America and Europe and its products reach nearly 100 countries around the world. Additional facilities are based in Mexico, Central America, Australia, China, Singapore, Thailand and South Africa. In 2004, approximately 38% of sales were outside the U.S.

The Company operates in two business segments, consumer and industrial. In 2004, the consumer business accounted for 53% of sales and the industrial business accounted for 47% of sales. Consistent with market conditions in each segment, the consumer business has a higher overall profit margin than the industrial business.

The consumer business supplies a variety of retail outlets that include grocery, drug, dollar and mass merchandise stores. In the U.S., these customers are serviced both directly and indirectly through food wholesalers. In international markets customers are serviced either directly or indirectly through distributors. Products for the consumer segment include spices, herbs, extracts, seasoning blends, sauces, marinades and specialty foods. In 2004, 67% of net sales were in the Americas, 29% in Europe and 4% in the Asia/Pacific region. In its primary markets, the Company supplies both branded and private label products and has a leading share that is more than twice the size of the next largest competitor. The Company is growing the consumer business by developing innovative products, increasing marketing effectiveness, expanding distribution and acquiring leading brands and niche products.

The industrial business supplies both food processors and the restaurant industry. Restaurant customers are supplied both directly and indirectly through distributors and warehouse club stores. Products for the industrial segment include blended seasonings, spices, herbs, condiments, compound flavors and extracts, and coating systems. In 2004, 73% of net sales were in the Americas, 19% in Europe and 8% in the Asia/Pacific region. The Company has many competitors who also supply products to food processors, as well as restaurants, food service distributors and warehouse clubs. The Company is driving sales for the industrial business by supporting the global expansion of its customers, building current and new strategic partnerships, and developing consumer-preferred value-added products. Through acquisitions, the Company seeks to expand its flavor solutions globally.

With its consumer and industrial segments, the Company has the customer base and product development skills to provide flavor solutions for all types of eating occasions, whether it is cooking at home, dining out, purchasing a quick service meal or enjoying a snack.

The Company purchases a significant amount of raw materials from areas throughout the world. The most significant raw materials are vanilla, cheese, pepper, packaging supplies, garlic, onion and capsicums. Some of these are subject to price volatility caused by weather, market conditions, growing and harvesting conditions, governmental actions and other unpredictable factors. While future movements of raw material costs are uncertain, the Company responds to this volatility in a number of ways including strategic raw material purchases, purchases of raw material for future delivery and customer price adjustments.

Strategy for Growth

The Company's strategy is to improve margins, invest in the business and increase sales and profits.

Margins are being improved with new capabilities and processes introduced through McCormick's B2K program, a global initiative that is significantly improving business processes through state-of-the-art technology. Utilizing B2K, employees are improving the supply chain throughout the Company. A goal to reduce costs by \$70 million through 2006 was set early in 2004. In 2004, \$24 million in cost savings were realized, comprised of \$15 million of cost of goods sold and \$9 million of selling, general and administrative expense savings. Margins are also improving as higher-margin more value-added products are introduced. Since 2001, gross profit margin has increased a total of 1.9 percentage points.

The Company is investing in areas such as product development and marketing support to drive sales. Research and development expense and advertising behind McCormick's brands have increased significantly and consistently since 1999. In 2004, research and development expense increased 18% and advertising expense increased 43%.

The Company's long-term financial objectives, first set in 2002, are to increase annual sales 3-7% and earnings per share 10-12%. With the opportunities to increase margins and the sales initiatives for the consumer and industrial businesses, the Company expects to continue to achieve these objectives. Early in 2004, an additional goal was set to generate \$350-\$400 million of cash flow from operations after dividends and net capital expenditures for the three-year period 2004-2006. In 2004, the first \$206 million of this goal was achieved. With this cash the Company is seeking to acquire businesses and to repurchase shares.

Results of Operations — 2004 compared to 2003

for the year ended November 30 (millions except per share data)	2004	2003
Net sales	\$ 2,526.2	\$ 2,269.6
Gross profit	1,007.9	898.6
Gross profit margin	39.9 %	39.6 %
Selling, general and administrative expense	677.7	597.6
Percentage of sales	26.8 %	26.3 %
Operating income	332.7	295.5
Operating income margin	13.2 %	13.0 %
Earnings per share from continuing operations — diluted	1.52	1.40

During 2004 and 2003, there were several acquisitions and divestitures that affected comparability of operating results. In November of 2004, the Company acquired Silvo, the market leader in the Dutch spices and herbs consumer market. Silvo is expected to generate approximately \$50 million in sales in 2005. In June of 2003, the Company acquired Zatarain's, the leading U.S. brand of authentic New Orleans-style food. In January of 2003, Uniqsauces was acquired, which expanded condiment flavors and packaging formats for the Company.

During the third quarter of 2003, the Company sold its packaging business and the U.K. Jenks brokerage operation. As a result, prior period sales and related expenses for these discontinued operations were reclassified and reported as "Net income from discontinued operations" in the consolidated statement of income. The consolidated balance sheet and consolidated statement of cash flows were also reclassified to present separately the assets, liabilities and cash flows of the discontinued operations.

For the year ended November 30, 2004, McCormick reported sales from continuing operations of \$2.5 billion, an increase of 11.3% above 2003. Sales growth was the result of a 4.2% volume increase, 3.7% from favorable foreign exchange rates, 2.2% in the first half of the year from the acquisition of Zatarain's, and a 1.2% increase in pricing and product mix. The acquisition of Silvo on November 1, 2004 added \$4.5 million in sales in 2004. During 2004, the Company achieved higher volume with new products, expanded distribution and more effective marketing.

Gross profit margin increased to 39.9% in 2004 from 39.6% in 2003. The gross profit margin increase was due to cost reductions achieved in the first year of a three-year \$70 million cost reduction program began in 2004. Sale of more value-added products and pricing actions in our consumer business also improved gross profit margin. Higher costs of employee benefits, fuel and a competitive operating environment in Europe during 2004 partly offset the gross profit margin increase.

Selling, general and administrative expenses were higher in 2004 than 2003 on both a dollar basis and as a percentage of net sales. These increases were primarily due to increased distribution expenses, higher advertising expenses and increased employee benefit costs. The increase in distribution expenses was primarily due to higher fuel costs, as well as freight and warehousing costs associated with new product introductions, and incremental distribution costs related to the acquired Zatarain's business. The increase in employee benefit costs was mainly the result of higher pension costs in 2004 compared to 2003. In the consumer business, advertising expenses increased in order to launch several new products and to support the brand name.

Special charges were a credit of \$2.5 million in 2004 compared to a charge of \$5.5 million in 2003. This change was primarily due to a net gain of \$8.7 million recorded in 2004 for funds received from a class action lawsuit that was settled in the Company's favor.

Pension expense was \$30.0 million and \$22.1 million for the years ended November 30, 2004 and 2003, respectively. In connection with the valuation performed at the end of 2003, the discount rate was reduced from 7.0% to 6.0% and the expected long-term rate of return on assets was reduced from 9.0% to 8.5%. These changes along with the increased amortization of prior actuarial losses increased pension expense in 2004. Pension expense in 2005 is expected to increase approximately 6%.

Interest expense from continuing operations increased by \$2.4 million. Higher average debt levels during 2004 contributed to this increase, partially offset by repayment of higher rate long-term debt.

Other income decreased to \$2.1 million in 2004 compared to \$13.1 million in 2003 due to two significant transactions recorded in 2003. In 2003, the Company benefited from \$5.4 million of interest income received on the Ducros purchase price refund and a one-time gain of \$5.2 million from the sale of an interest in non-strategic royalty agreements. The Company entered into the non-strategic royalty agreements in 1995 and since then had benefited modestly from tax credits and royalty income.

The effective tax rate was 30.3% in 2004 down from 30.9% in 2003. The decrease in the effective tax rate is due to mix of earnings among the different taxing jurisdictions in which the Company operates and the settlement of tax audits for less than amounts previously accrued. Due to the anticipated change in available net operating loss carryforwards in various jurisdictions and earnings mix, the Company anticipates the tax rate to increase by 1-2% in 2005.

Income from unconsolidated operations decreased 11.0% in 2004 when compared to 2003. This decline is mainly attributable to lower income from the Company's Signature Brands and Japan joint ventures. The Signature Brands business, a cake decorating business in the U.S., was impacted by a decline in the overall U.S. cake mix category. The Company's retail joint venture in Japan moved its business to a new distributor in 2004 with the objective of building sales in this market over time. The joint venture in Japan is currently working through a period of start-up costs associated with the transition to this new distributor until a higher level of sales is achieved. Income from the company's joint venture in Mexico was equal to last year.

Income from continuing operations was \$214.5 million in 2004 compared to \$199.2 million in 2003. Diluted earnings per share from continuing operations increased \$0.12, comprised of \$0.18 from higher sales and operating margin and a \$0.02 benefit from fewer shares outstanding and lower tax rate, offset by a \$0.05 decline in other income, a \$0.02 increase in interest expense and minority interest, and a \$0.01 decline in income from unconsolidated operations.

Consumer Business

for the year ended November 30 (millions)	2004		2003	
Net sales	\$	1,339.8	\$	1,162.3
Operating income		269.7		230.9
Operating income margin		20.1%		19.9%

In 2004, sales for the consumer business increased 15.3% compared to 2003. Higher volumes added 10.0% to sales, with 4.3% of the volume increase due to the impact, in the first half of the year, of the Zatarain's business. Favorable foreign exchange added 4.3% and positive price and product mix added 1.0%. Sales rose 16.1% in the Americas, with 14.6% of the sales increase from higher volume, 0.8% from price and product mix, and 0.7% from foreign exchange. New products, more effective marketing and distribution gains drove an 8.1% volume increase, with the remaining 6.5% attributable to the Zatarain's acquisition. Price increases on certain products were partially offset by the change in mix of products sold. Sales in Europe rose 14.1%, with favorable foreign exchange contributing 11.7%, the Silvo acquisition in November 2004 adding 1.3%, and price and product mix adding 1.1%. Excluding the foreign exchange and Silvo sales benefits, sales in Europe remained relatively flat. New product and distribution gains were offset by more intense competitive conditions, particularly in France. The spice and seasoning category in France was affected by private label and economy products, particularly with the expansion of discount retail chains into this market. Sales in the Asia/Pacific region increased 11.2%, with favorable foreign exchange contributing 10.4% and higher volume adding 2.7%, partially offset by a 1.9% decline due to unfavorable price and product mix. Volume was affected by an initiative in China to de-emphasize lower margin products. New private label business in Australia contributed to an unfavorable price and product mix.

Operating income for the consumer business increased 16.8% to \$269.7 million, despite a \$14.7 million increase in advertising expense. The operating income increase was driven by strong sales performance, cost reduction efforts and pricing actions. Operating income margin (operating income as a percentage of sales) increased from 19.9% in 2003 to 20.1% in 2004. Cost savings on supply chain initiatives more than offset increases in fuel, employee benefit, advertising costs, international reorganization costs, as well as the difficult competitive environment in Europe. Special charges in the consumer business decreased to \$1.0 million in 2004 from \$1.8 million in 2003. Special charges in the consumer business for 2004 consisted of additional costs associated with the finalization of the production facilities consolidation in Canada. Special charges in the consumer business for 2003 consisted of costs associated with the production facilities consolidation in Canada and the realignment of consumer sales operations in Australia.

As discussed previously, the Company sold its Jenks brokerage business in the U.K. on July 1, 2003 and accordingly, results of this business were classified as discontinued operations.

Industrial Business

for the year ended November 30 (millions)	2004		2003	
Net sales	\$	1,186.4	\$	1,107.3
Operating income		113.6		108.9
Operating income margin		9.6%		9.8%

For 2004, sales from the industrial business rose 7.1% as compared to 2003. Higher volumes added 2.7%, favorable foreign exchange added 3.0% and price and product mix added 1.4%. Sales in the Americas rose 5.7% due to a 4.2% volume increase that was largely driven by sales of new products such as coating systems and sales of snack seasonings. Favorable price and product mix contributed 1.0% and foreign exchange added another 0.5%. Strength in warehouse club sales also contributed to sales growth and more than offset continued weakness in the

food service distributor channel. Higher costs for certain raw materials including vanilla, cheese and soy oil were passed through in higher pricing. In Europe, sales rose 12.3% with foreign exchange contributing 12.0% of increase. A favorable price and product mix increase of 4.2% offset a 3.9% volume decline. A shift in emphasis from lower to higher margin products resulted in reduced sales of certain lower margin products. In the Asia/Pacific region, sales increased 8.8%, with 5.5% of increase from foreign exchange and 4.3% from higher volume, partially offset by a 1.0% unfavorable price and product mix. The volume increase related to higher sales to quick service restaurants and of snack seasonings.

Operating income for the industrial business rose 4.3% to \$113.6 million, despite a \$6.1 million increase in research and development costs. Operating income margin was 9.6% in 2004 down from 9.8% in 2003. Increases in operating margin due to emphasis on more value-added, higher margin products and cost reduction efforts were more than offset by certain cost increases. In the fourth quarter of 2004, a \$6.2 million adjustment, which arose in prior quarters, was recorded after the Company identified and corrected the operational accounting at an industrial plant in Scotland. Higher fuel, employee benefit costs and special charges as well as international reorganization costs also contributed to the decline. Special charges in the industrial business increased to \$3.0 million in 2004 from \$2.3 million in 2003. Special charges in the industrial business for 2004 consisted of additional costs associated with the consolidation of production facilities in Canada and additional costs related to the consolidation of manufacturing facilities in the U.K. Special charges in the industrial business for 2003 consisted of costs associated with the consolidation of production facilities in Canada and severance and other costs related to the consolidation of industrial manufacturing in the U.K.

Results of Operations — 2003 compared to 2002

for the year ended November 30 (millions except per share data)	2003		2002	
Net sales	\$	2,269.6	\$	2,044.9
Gross profit		898.6		799.5
Gross profit margin		39.6%		39.1%
Selling, general and administrative expense		597.6		529.6
Percentage of sales		26.3%		25.9%

Operating income	295.5	262.4
Operating income margin	13.0%	12.8%
Earnings per share from continuing operations — diluted	1.40	1.22

In June of 2003, the Company acquired Zatarain's, the leading U.S. brand of authentic New Orleans-style food. In January of 2003, Uniqsauces was acquired, which expanded condiment flavors and packaging formats for the Company.

During the third quarter of 2003, the Company sold its packaging business and the U.K. brokerage operation. As a result, prior period sales and related expenses for these discontinued operations have been reclassified and reported as "Net income from discontinued operations" in the consolidated statement of income. The consolidated balance sheet and consolidated statement of cash flows were also reclassified to present separately the assets, liabilities and cash flows of the discontinued operations.

For the year ended November 30, 2003, McCormick reported sales from continuing operations of \$2.3 billion, an increase of 11.0% above 2002. Sales benefited from the acquisition of the Zatarain's and Uniqsauces businesses, which accounted for 4.4% of the increase. Favorable foreign exchange rates added another 4.2%, and higher sales, particularly in the U.S. consumer business, contributed an additional 2.4% to sales.

Gross profit margin increased to 39.6% in 2003 from 39.1% in 2002. Gross profit margin was favorably impacted by global procurement efficiencies, cost reduction initiatives and a mix of more consumer sales, which generally have a higher gross profit margin, compared to industrial sales. Increases in commodity costs such as vanilla were offset by price increases, and higher margins from the Zatarain's business were offset by a lower gross profit margin from Uniqsauces.

Selling, general and administrative expenses were higher in 2003 than 2002 on both a dollar basis and as a percentage of net sales. These increases were primarily due to increased distribution expenses, decreased royalty income, increased employee benefit costs and higher advertising and promotional expenses. The increase in distribution expenses was primarily due to the addition of higher distribution costs associated with the Zatarain's business, higher fuel costs and higher costs necessary to service customers during the consolidation of facilities in Canada. The decrease in royalty income is due to lower sales in the McCormick de Mexico joint venture. The increase in employee benefit costs was mainly the result of higher pension costs in 2003 compared to 2002. In the consumer business, advertising and promotional expenses increased in support of the launch of several new products.

Pension expense was \$22.1 million and \$13.0 million for the years ended November 30, 2003 and 2002, respectively. In connection with the valuation performed at the

end of 2003, the discount rate was reduced from 7.0% to 6.0% and the expected long-term rate of return on assets was reduced from 9.0% to 8.5%. These changes were reflective of poor market returns in recent years and a continued low interest rate environment. The changes in assumptions along with investment returns below the assumed rate resulted in the increased pension expense in 2003 and will continue to impact expense going forward.

Interest expense from continuing operations decreased in 2003 versus 2002 due to favorable interest rates.

Other income increased to \$13.1 million in 2003 compared to \$0.7 million in 2002. In the second quarter of 2003, the Company received \$5.4 million of interest income on the Ducros purchase price refund. Also, in the fourth quarter of 2003, the Company recorded a one-time gain of \$5.2 million from the sale of an interest in nonstrategic royalty agreements. The Company entered into these agreements in 1995 and since then had benefited modestly from tax credits and royalty income.

The effective tax rate for 2003 was 30.9%, down from 31.0% in 2002.

Income from unconsolidated operations decreased 26.8% in 2003 when compared to 2002. This decline is mainly attributable to lower income from the McCormick de Mexico joint venture during the first half of 2003 and to a lesser extent, the Signature Brands joint venture in the fourth quarter of 2003. The McCormick de Mexico business, which markets the leading brand of mayonnaise in Mexico, experienced profit pressure from aggressive competition, higher raw material costs and a weak peso versus the prior year. The Signature Brands business, a cake decorating business in the U.S., was impacted in part by the timing of customers' purchases of holiday products. Income from continuing operations was \$199.2 million in 2003 compared to \$173.8 million in 2002. Diluted earnings per share from continuing operations increased \$0.18, comprised of \$0.12 from higher sales and operating margin, \$0.04 from acquisitions and \$0.06 from other income, offset by a \$0.04 decline in income from unconsolidated operations.

Income from discontinued operations was \$4.7 million in 2003 compared to \$6.0 million in 2002. Income from discontinued operations for 2003 included 7 months of the operating results of Jenks and 8 1/2 months of the operating results of Packaging. Also included in discontinued operations in 2003 was a net gain on the sale of discontinued operations of \$9.0 million. This consisted of the gain on the sale of Packaging of \$11.6 million partially offset by the loss on the sale of Jenks of \$2.6 million. All amounts included in discontinued operations were net of income taxes.

In the fourth quarter of 2003, the Company recorded a cumulative effect of an accounting change that reduced net income by \$2.1 million, net of tax. This charge was recorded in accordance with the adoption of certain provisions of a new accounting interpretation that required the consolidation of the lessor of a leased distribution center. Previously, this entity was not consolidated and the distribution center was accounted for as an operating lease. Consolidation of this entity increased fixed assets by \$11.2 million, long-term debt by \$14.0 million and minority interest by \$0.5 million. The effect of consolidation of this entity in prior years would have reduced net income in 2002 and 2001 by \$0.3 million.

Consumer Business

for the year ended November 30 (millions)	2003	2002
Net sales	\$ 1,162.3	\$ 993.9
Operating income	230.9	191.9
Operating income margin	19.9%	19.3%

In 2003, sales from continuing operations for the consumer business increased 16.9% compared to 2002. The acquisitions of Zatarain's and Uniqsauces contributed 6.3% of the sales increase, and the impact of foreign exchange added another 5.8%. Sales rose 15.3% in the Americas, with Zatarain's contributing 7.1% of sales increase and foreign exchange contributing 0.9% of increase. The remaining 7.3% of sales increase was due primarily to higher volumes in the U.S. and Canada. In 2003, the Company achieved new distribution in the dollar store channel and with a major grocery retailer in the U.S. Sales in Europe rose 21.7%, with foreign exchange contributing 16.9% of increase, and the remaining increase due to the acquisition of Uniqsauces. Sales in the Asia/Pacific region increased 12.3%, with foreign exchange contributing 11.7% of the increase. Sales in this region were adversely affected by competitive conditions in Australia and an initiative to discontinue certain lower margin products in China.

Operating income from continuing operations for the consumer business reached \$230.9 million, an increase of 20.3%. Operating income margin (operating income as a percentage of sales) went up from 19.3% in 2002 to 19.9% in 2003. Pricing actions and cost savings on supply chain initiatives more than offset higher expenses of pension, promotion and advertising, distribution and certain commodities. Special charges in the consumer business

decreased to \$1.8 million in 2003 from \$2.7 million in 2002. Special charges in the consumer business for 2003 consisted of additional costs associated with the consolidation of production facilities in Canada and the realignment of consumer sales operations in Australia. Special charges in the consumer business for 2002 primarily consisted of severance, lease exit and relocation costs related to the workforce reduction and realignment of consumer sales operations in the U.S.

The Company sold its Jenks brokerage business in the U.K. on July 1, 2003 and accordingly, results of this business were reclassified from the consumer segment to discontinued operations.

Industrial Business

for the year ended November 30 (millions)	2003	2002
Net sales	\$ 1,107.3	\$ 1,051.0
Operating income	108.9	107.3
Operating income margin	9.8%	10.2%

For the fiscal year 2003, sales from the industrial business rose 5.4% as compared to 2002. The acquisition of Uniqsauces contributed 2.7% of sales increase and foreign exchange added another 2.6%. Sales rose 0.4% in the Americas, with foreign exchange contributing 0.5% of the increase. In the Americas, the restaurant industry was affected by a slowdown in consumer traffic in 2003. While this adversely affected the Company's sales to food service distributors, direct sales to restaurant chains had strong growth resulting from successful new products and customer promotions of existing products. Sales to food processors were largely affected by lower pricing in response to a decrease in raw material costs, particularly for snack food seasonings. In Europe, sales rose 27.9% with Uniqsauces contributing 17.7% of increase and foreign exchange contributing 12.0% of increase. The remaining decrease of 0.5% was due to lower demand for seasoning products, which more than offset strong condiment sales. In the Asia/Pacific region, sales increased 11.9%, with 5.9% of increase from foreign exchange and 6.0% from higher volume.

Operating income from continuing operations for the industrial business rose 1.5% to \$108.9 million. Operating income margin was 9.8% in 2003 compared to 10.2% in 2002. The operating income increase was generally in line with the sales increase, excluding the Uniqsauces acquisition. This acquisition was strategically made for its condiment production facility and certain of its customer relationships. In the industrial segment, commodity cost increases and decreases are generally offset by pricing actions. However, in 2003 vanilla had a negative effect on operating income due to significant volatility in this commodity. The savings on supply chain initiatives were offset by cost increases in pension and other benefit costs. Special charges in the industrial business increased to \$2.3 million in 2003 from \$1.8 million in 2002. Special charges in the industrial business for 2003 consisted of additional costs associated with the consolidation of production facilities in Canada and severance and other costs related to the consolidation of industrial manufacturing in the U.K. Special charges in the industrial business for 2002 primarily consisted of further severance and other costs related to the workforce reduction initiated in 2001 and further costs related to the closure of a U.S. distribution center.

Financial Condition

Strong cash flows from operations enabled the Company to fund operating projects and investments that are designed to meet the Company's growth objectives, to make strategic acquisitions and to repurchase stock.

In the consolidated statement of cash flows, the changes in operating assets and liabilities are presented excluding the effects of changes in foreign currency exchange rates, as these do not reflect actual cash flows. Accordingly, the amounts in the consolidated statement of cash flows do not agree with changes in the operating assets and liabilities that are presented in the consolidated balance sheet. In addition, the net cash flows from operating, investing and financing activities are presented excluding the effects of discontinued operations.

In the consolidated statement of cash flows, net cash provided by continuing operating activities was \$349.5 million in 2004 compared to \$201.8 million in 2003 and \$208.6 million in 2002. The significant increase in operating cash flow in 2004 is primarily the result of a reduction in inventory in 2004 as compared to 2003 when inventory increased, an increase in other liabilities in 2004 compared to a decrease in 2003 and the benefit of higher net income from continuing operations. These favorable cash flows were partially offset by increases in accounts receivable which are in line with increases in sales. The higher inventory in 2003 was due to the Company's strategic decision to purchase vanilla beans in order to ensure an ongoing supply and manage the cost for this raw material. The Company decreased its vanilla bean inventory by \$28 million in 2004 in anticipation of lower cost beans in 2005. The increase in other assets and liabilities in 2004 compared to a decrease in 2003 was due to the timing of liability payments and a higher tax benefit on the exercise of stock options in 2004 compared to 2003. The Company generally receives a tax deduction on the exercise of stock

options. These deductions increased in 2004, due to the increase in both stock price and the exercise of stock options. When 2003 is compared with 2002, the major use of funds was the increase in inventory due to the purchase of vanilla beans. The timing of liability payments contributed to the decrease in other liabilities in 2003.

Net cash used in continuing investing activities was \$141.5 million in 2004 versus \$100.7 million in 2003 and \$95.3 million in 2002. Net capital expenditures (capital expenditures less proceeds from the sale of fixed assets) were \$67.0 million in 2004, \$81.7 million in 2003 and \$93.9 million in 2002. The decrease over the three year period is mainly due to lower B2K spending as 2002 was the peak year of software development expenditures. Net capital expenditures in 2005 are expected to be higher than in 2004 as the Company prepares for the B2K launch in Europe. Cash paid to acquire Silvo during 2004 was \$74.5 million. Cash paid for the acquisitions of the Zatarain's and Uniqsauces businesses during 2003 was \$202.9 million. Cash received from the sale of the Packaging and Jenks businesses during 2003 was \$133.9 million. The Company also received \$55.4 million during 2003 from the Ducros purchase price adjustment, of which, \$5.4 million represented interest and was included in net cash flows from continuing operating activities.

Net cash used in continuing financing activities was \$178.4 million in 2004, \$137.7 million in 2003 and \$114.9 million in 2002. The Company's total borrowings increased \$19.3 million in 2004, compared to an increase of \$16.4 million in 2003 and a decrease of \$74.4 million in 2002. In the second quarter of 2004, the Company issued a total of \$50 million in medium-term notes under its existing \$375 million shelf registration. The \$50 million of medium-term notes mature on April 15, 2009 and pay interest semiannually at a rate of 3.35%. The proceeds of this issuance were used to pay down short-term debt. In 2004, the Company purchased 5.1 million shares of common stock for \$173.8 million under its share repurchase programs versus 4.5 million shares of common stock for \$119.5 million in 2003. In the second quarter of 2004, the Company completed its \$250 million share repurchase authorization and began to buy against its \$300 million authorization approved by the Board of Directors in September 2003. As of November 30, 2004, \$147.7 million remained under the \$300 million share repurchase program. Without significant acquisition activity, the Company expects this program to extend into 2006. The common stock issued in 2004, 2003 and 2002 relates to the Company's stock compensation plans.

Dividend payments increased to \$76.9 million in 2004, up 20.0% compared to \$64.1 million in 2003. Dividends paid in 2004 totaled \$0.56 per share, up from \$0.46 per share in 2003. In November 2004, the Board of Directors approved a 14.3% increase in the quarterly dividend from \$0.14 to \$0.16 per share. Over the last 5 years, dividends per share have risen at a compounded annual rate of 9.9%.

The Company's pension plans had a shortfall of plan assets over accumulated benefit obligations at their 2004 and 2003 measurement dates of \$162.8 million and \$166.6 million, respectively. These shortfalls were due to the continued low interest rate environment and lower than assumed asset returns in 2001 and 2002. However, the shortfall decreased in 2004. As a result, the Company recorded a reduction in the minimum pension liability through a credit of \$7.2 million (\$4.4 million net of tax) to other comprehensive income in 2004. This compares to an increase in minimum pension liability recorded through a charge of \$20.6 million (\$14.4 million net of tax) to other comprehensive income in 2003. Cash payments to pension plans were \$30.6 million in 2004, \$27.2 million in 2003 and \$25.2 million in 2002. The Company plans to make 2005 pension plan contributions similar to those made in 2004. Future increases or decreases in pension liabilities and required cash contributions are highly dependent on changes in interest rates and the actual return on plan assets. The Company bases its investment of plan assets, in part, on the duration of each plan's liabilities. Across all plans, 68% of assets are invested in equities and 32% in fixed income investments.

The Company's ratio of debt-to-total-capital (total capital includes debt, minority interest and shareholders' equity) was 40.9% as of November 30, 2004, a decrease from 44.4% at November 30, 2003 and below the Company's target range of 45-55%. The decrease was primarily the result of an increase in shareholders' equity. Foreign currency had the effect of increasing shareholders' equity and accordingly, decreased the ratio of debt-to-total-capital by 2.6% in 2004. In June 2004, S&P raised the Company's short-term corporate credit and commercial paper ratings to "A-1" from "A-2" and long-term corporate credit and senior unsecured debt ratings to "A" from "A-". During the year, the level of the Company's short-term debt varies. However, it is usually lower at the end of the year. The average short-term borrowings outstanding for the year ended November 30, 2004 and 2003 were \$295.2 million and \$287.6 million, respectively.

The reported values of the Company's assets and liabilities held in its non-U.S. subsidiaries and affiliates have been significantly affected by fluctuations in foreign exchange rates between periods. During the year ended November 30, 2004, the exchange rates for the Euro,

British pound sterling, Canadian dollar and Australian dollar were substantially higher versus the U.S. dollar than in 2003. Exchange rate fluctuations resulted in an increase in accounts receivable of \$21 million, inventory of \$14 million, goodwill of \$51 million and other comprehensive income of approximately \$93 million since November 30, 2003.

The Company has available credit facilities with domestic and foreign banks for various purposes. The amount of unused credit facilities at November 30, 2004 was \$466.1 million. Management believes that internally generated funds and the Company's existing sources of liquidity under its credit facilities are sufficient to meet current liquidity needs and longer-term financing requirements. If the Company were to undertake an acquisition that requires funds in excess of its existing sources of liquidity, it would look to sources of funding from additional credit facilities or equity issuances.

Acquisitions

On November 1, 2004, the Company purchased C.M. van Sillevoldt B.V. (Silvo), the market leader in the Dutch spices and herbs consumer market, for €58 million in cash (equivalent to \$74.5 million) funded with cash from operations and current credit facilities. Silvo sells spices, herbs and seasonings under the Silvo brand in the Netherlands and the India brand as well as private label store brands in Belgium. The brand has a strong heritage and high recognition among consumers in the Netherlands. The acquisition is consistent with the Company's strategy to acquire established brands to complement the Company's leadership position in the development and marketing of flavors for food. The business is achieving growth through innovative products and packaging with a focus on convenience, quality, and ethnic flavors. The acquisition was accounted for under the purchase method, and the results of operations have been included in the Company's consolidated results from the date of acquisition. The excess of the purchase price over the estimated fair value of the tangible net assets purchased was \$59.4 million and is classified as goodwill in the consumer segment. The allocation of the purchase price is based on preliminary estimates, subject to revision, after asset values have been finalized. Revisions to the allocation, which may be significant, will be reported as changes to various assets and liabilities. The Company does not anticipate significant amounts to be allocated to amortizable intangible assets and, therefore, the amount of intangible asset amortization is not expected to be material to the results of operations in future periods.

In the second quarter of 2004, the Company completed the purchase price allocation for the Zatarain's acquisition. The excess of the purchase price over the estimated fair value of the net assets purchased was \$176.2 million, which includes \$3.4 million of fees directly related to the acquisition. An analysis of the various types of intangible assets resulted in a determination that the excess purchase price should be classified as the value of the acquired brand name and goodwill. No other intangible assets were identified as a result of this analysis. The Company has concluded that a substantial portion of the value of the excess purchase price resides in consumer trust and recognition of the Zatarain's brand name as authentic New Orleans-style cuisine. As a result, the Company has assigned \$106.4 million of the excess purchase price to this unamortizable brand based on an analysis of the premium value that is derived from consumer loyalty and trust in the brands' quality. Zatarain's brand name has been used since 1889, and the Company intends to use and support the brand name indefinitely. The Company will review this intangible asset for impairment annually using the discounted cash flow method. The remaining \$69.8 million of intangible assets were allocated to goodwill in the consumer segment.

Beyond 2000

Late in 1999, the Company initiated the B2K program as a global program of business process improvement. B2K is designed to re-engineer transactional processes, strengthen the product development process, extend collaborative processes with trading partners, optimize the supply chain and generally enhance the Company's capabilities to increase sales and profit. An integral part of B2K is the design and implementation of an enterprise wide state-of-the-art technology and information system platform.

In 2002, the Company implemented the initial phase of its B2K program and began using the new state-of-the-art technology and processes in a significant portion of U.S. operations, including its largest consumer operating unit. The rollout of B2K to the U.S. industrial operations was completed in 2004. The Company plans to rollout B2K to its international operations by 2006. The Company will continue to integrate and optimize all of its businesses through broader access to information and increased collaboration with its trading partners. Through B2K, employee time devoted to transaction execution will be reduced and more time will be devoted to the growth and effectiveness of the business.

Overall levels of capital spending and expense have increased from historical levels to support the B2K effort. To date, \$120 million of costs associated with B2K have been capitalized and \$33 million has been expensed.

Additional capital spending of approximately \$25 million and an additional expense of approximately \$15 million is anticipated under this program. Capital costs under the B2K program are for computer hardware, software and software development and are reflected in property, plant and equipment in the consolidated balance sheet. Costs expensed under the B2K program include costs of business re-engineering, data conversion and training and are reflected in both cost of sales and selling, general and administrative expense in the consolidated statement of income.

Special Charges

In 2001, McCormick adopted a plan to further streamline its operations. This plan, adopted during the fourth quarter of 2001, included the consolidation of several distribution and manufacturing locations, the reduction of administrative and manufacturing positions, and the reorganization of several joint ventures. The estimated cost of the total plan is approximately \$32.6 million (\$25.6 million after-tax). Total cash expenditures in connection with these costs approximates \$16.7 million, which is funded through internally generated funds. The remaining \$15.9 million of costs associated with the plan consist of write-offs of assets. The total cost of the plan includes \$1.8 million of special charges related to Packaging and Jenks that have been classified as income from discontinued operations in the consolidated statement of income. Annualized cash savings from the plan are expected to be approximately \$8.0 million (\$5.3 million after-tax), most of which have been realized to date. Savings under the plan are being used for spending on initiatives such as brand support and supply chain management. These savings are included within the cost of goods sold and selling, general and administrative expenses in the consolidated statement of income.

In 2001, the Company recorded \$11.2 million (\$7.4 million after-tax) of charges from continuing operations associated with the 2001 restructuring plan. Of this amount, \$10.3 million was classified as special charges and \$0.9 million as cost of goods sold in the consolidated statement of income. These charges related to the consolidation of manufacturing in Canada, a distribution center consolidation in the U.S., a product line elimination and a realignment of the Company's sales operations in the U.K., and a workforce reduction which encompasses plans in all segments and across all geographic areas.

During the year ended November 30, 2002, the Company recorded \$7.5 million (\$5.5 million after-tax) of special charges associated with the 2001 restructuring plan, which could not be accrued at the time of the original announcement in 2001. These charges included the write-off of an investment in an industry purchasing consortium, further costs of lease exit and relocation costs related to the workforce reduction and realignment of consumer sales operations in the U.S. and further severance and other costs related to the previously discussed workforce reduction. Also included in the 2002 charges were further costs related to the closure of a U.S. distribution center and further costs of the consolidation of manufacturing in Canada which included the disposition of a manufacturing facility. During 2002, total cash expenditures in connection with the plan were \$6.3 million. The major components of the 2002 special charges include charges for employee termination benefits of \$3.3 million, asset write-downs of \$3.3 million, and other related exit costs of \$0.9 million.

During the year ended November 30, 2003, the Company recorded special charges related to continuing operations of \$5.5 million (\$3.6 million after-tax). The costs recorded in 2003 included additional costs associated with the consolidation of production facilities in Canada, net of a gain on the sale of a manufacturing facility, severance and other costs related to the consolidation of industrial manufacturing in the U.K. and the realignment of the Company's consumer sales operations in Australia. During 2003, total cash expenditures in connection with the plan were \$4.7 million. The major components of the 2003 special charges include charges for employee termination benefits of \$4.7 million, gain on the sale of assets of \$(0.6) million, and other related exit costs of \$1.4 million.

During the year ended November 30, 2004, the Company recorded special charges related to continuing operations of \$6.2 million (\$4.3 million after-tax). The costs recorded in 2004 primarily include costs related to the consolidation of industrial manufacturing facilities in the U.K. and Canada, the reorganization of a consumer joint venture and additional severance costs for position eliminations. During 2004, total cash expenditures in connection with the plan were \$4.7 million. Also included in special charges/(credits) is a net gain of \$8.7 million (\$5.5 million after-tax) related to funds received from a class action lawsuit that was settled in the Company's favor in the second quarter of 2004. This matter dated back to 1999 when a number of class action lawsuits were filed against manufacturers and sellers of various flavor enhancers for their violation of antitrust laws. The Company, as a purchaser of such products, participated as a member of the plaintiff class. In the second quarter of 2004, the Company received \$11.1 million as a settlement of this claim and as a result of the settlement, was required to settle claims against the Company for a portion of this gross amount. The net gain recorded was \$8.7 million. This amount was recorded as a special credit and was not allocated to the business segments.

Costs yet to be incurred from the 2001 restructuring plan include the possible reorganization of a joint venture and completion of the reorganization of certain industrial manufacturing facilities in the U.K. These actions are expected to be completed in 2005. The total 2001 restructuring plan includes severance charges for 392 position reductions. As of November 30, 2004, 389 of the 392 planned position reductions had taken place.

Refer to note 4 of the notes to consolidated financial statements for further information.

Discontinued Operations

On August 12, 2003, the Company completed the sale of substantially all the operating assets of its packaging segment (Packaging) to the Kerr Group, Inc. Packaging manufactured certain products used for packaging the Company's spices and seasonings as well as packaging products used by manufacturers in the vitamin, drug and personal care industries. Under the terms of the sale agreement, Packaging was sold for \$132.5 million in cash and possible additional future payments over five years contingent on the buyer meeting certain performance objectives. At the end of the first year of such possible contingent payment periods, no additional payment was due from the buyer for that year. The proceeds were used to pay off a substantial portion of the commercial paper borrowing related to the Zatarain's acquisition in 2003. The final purchase price is also subject to other contingencies related to the performance of certain customer contracts which could result in a decrease in the sale price. The Company recorded a net gain on the sale of Packaging of \$11.6 million (net of income taxes of \$7.9 million) in the third quarter of 2003. Included in this gain was a net pension and postretirement curtailment gain of \$3.3 million and the write-off of goodwill of \$0.7 million. The contingent consideration, if any, associated with the sale of Packaging will be recognized in the future as an adjustment to the gain based on the performance criteria established. The Company also entered into a multi-year, market priced agreement with the acquirer to purchase certain packaging products.

On July 1, 2003 the Company sold the assets of Jenks Sales Brokers (Jenks), a division of the Company's wholly-owned U.K. subsidiary, to Jenks' senior management for \$5.8 million in cash. Jenks provided sales and distribution services for other consumer product companies and was previously reported as a part of the Company's consumer segment. The Company recorded a net loss on the sale of Jenks of \$2.6 million (net of an income tax benefit of \$0.6 million) in the third quarter of 2003. Included in this loss is a write-off of goodwill of \$0.4 million.

The operating results of Packaging and Jenks were classified as "Income from discontinued operations, net" in the consolidated statement of income. Jenks was previously included in the Company's consumer segment, and Packaging was previously reported as a separate segment. Certain fixed overhead charges previously allocated to Packaging have been reallocated to the other business segments. The cash flows of Packaging and Jenks were reported as "Net cash (used in)/provided by discontinued operations" in the consolidated statement of cash flows.

Market Risk Sensitivity

The Company utilizes derivative financial instruments to enhance its ability to manage risk, including foreign exchange and interest rate exposures, which exist as part of its ongoing business operations. The Company does not enter into contracts for trading purposes, nor is it a party to any leveraged derivative instrument. The use of derivative financial instruments is monitored through regular communication with senior management and the utilization of written guidelines. The information presented below should be read in conjunction with notes 7 and 8 of the notes to consolidated financial statements.

Foreign Exchange Risk — The Company is exposed to fluctuations in foreign currency in the following main areas: cash flows related to raw material purchases; the translation of foreign currency earnings to U.S. dollars; the value of foreign currency investments in subsidiaries and unconsolidated affiliates and cash flows related to repatriation of these investments. Primary exposures include the U.S. dollar versus functional currencies of the Company's major markets (Euro, British pound sterling, Australian dollar, Canadian dollar, Mexican peso, Japanese yen, and Chinese renminbi). The Company enters into foreign currency exchange contracts to facilitate managing foreign currency risk.

The following table summarizes the foreign currency exchange contracts held at November 30, 2004. All contracts are valued in U.S. dollars using year-end 2004 exchange rates and have been designated as hedges of foreign currency transactional exposures, firm commitments or anticipated transactions, all with a maturity period of less than one year.

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Foreign Currency Exchange Contracts

Currency sold	Currency received	Notional value (millions)	Average contractual exchange rate (USD/fc)	Fair value (millions)
Euro	USD	\$ 10.9	1.23	\$ (.8)
British pound sterling	USD	7.8	1.80	(.4)
Canadian dollar	USD	29.9	.78	(2.5)

The Company has a number of smaller contracts with an aggregate notional value of \$2.5 million to purchase or sell various other currencies, such as the Australian dollar, Japanese yen, and South African rand as of November 30, 2004. The aggregate fair value of these contracts was \$(0.2) million at November 30, 2004.

At November 30, 2003, the Company had foreign currency exchange contracts for the Euro, British pound sterling, Canadian dollar, Australian dollar, Japanese yen and South African rand with a notional value of \$58.9 million, all of which matured in 2004. The fair value of these contracts was \$(1.7) million at November 30, 2003.

Contracts with durations which are less than 5 days and used for short-term cash flow funding within the Company are not included in the notes or table above.

During 2004, the foreign currency translation component in other comprehensive income was principally related to the impact of exchange rate fluctuations on the Company's net investments in France, the U.K., Canada, and Australia. The Company did not hedge its net investments in subsidiaries and unconsolidated affiliates in 2004, 2003, or 2002.

Interest Rate Risk — The Company's policy is to manage interest rate risk by entering into both fixed and variable rate debt. The Company also uses interest rate swaps to minimize worldwide financing costs and to achieve a desired mix of its fixed and variable rate debt. The table that follows provides principal cash flows and related interest rates, excluding the effect of interest rate swaps, by fiscal year of maturity at November 30, 2004 and 2003. For foreign currency-denominated debt, the information is presented in U.S. dollar equivalents. Variable interest rates are based on the weighted-average rates of the portfolio at the end of the year presented.

Year of Maturity at November 30, 2004

(millions)	2005	2006	2007	2008	Thereafter	Total	Fair value
Debt							
Fixed rate	\$ 32.5	\$ 196.1	\$.3	\$ 149.9	\$ 104.4	\$ 483.2	\$ 523.5
Average interest rate	5.95%	7.33%	—	7.69%	4.2%		
Variable rate	\$ 140.7	—	—	—	\$ 14.3	\$ 155.0	\$ 155.0
Average interest rate	2.13%				2.43%		

Year of Maturity at November 30, 2003

(millions)	2004	2005	2006	2007	Thereafter	Total	Fair value
Debt							
Fixed rate	\$ 16.3	\$ 32.3	\$ 196.4	\$.3	\$ 205.4	\$ 450.7	\$ 508.5
Average interest rate	7.00%	7.10%	7.42%	—	7.53%		
Variable rate	\$ 154.7	\$ 14.2	—	—	—	\$ 168.9	\$ 168.9
Average interest rate	1.52%	1.59%					

Note: The table above displays the debt by the terms of the original debt instrument without consideration of interest rate swaps. These swaps have the following effects. The variable interest rate on \$75 million of commercial paper is hedged by interest rate swaps through 2011. Net interest payments on the \$75 million will be fixed at 6.35% during this period. Interest rate swaps, settled upon the issuance of the medium-term notes maturing in 2006 and 2008, effectively fixed the interest rate on \$294 million of the notes at a weighted-average fixed rate of 7.62%. The fixed interest rate on \$100 million of the 6.4% medium-term notes due in 2006 is effectively converted to a variable rate by interest rate swaps through 2006. Net interest payments on these notes are based on LIBOR plus 3.595% during this period. The fixed interest rate on \$50 million of 3.35% medium-term notes due in 2009 is effectively converted to a variable rate by interest rate swaps through 2009. Net interest payments are based on LIBOR minus .21% during this period.

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Commodity Risk — The Company purchases certain raw materials which are subject to price volatility caused by weather, market conditions, growing and harvesting conditions, governmental actions and other unpredictable factors. While future movements of raw material costs are uncertain, the Company responds to this volatility in a number of ways, including strategic raw material purchases, purchases of raw material for future delivery and customer price adjustments. Generally, the Company does not use derivatives to manage the volatility related to this risk.

Credit Risk — The customers of the consumer business are predominantly food retailers and food wholesalers. Recently, consolidations in these industries have created larger customers, some of which are highly leveraged. This has increased the Company's exposure to credit risk. Several customers over the past two years have filed for bankruptcy protection; however, these bankruptcies have not had a material effect on the Company's results. The Company feels that the risks have been adequately provided for in its bad debt allowance.

Contractual Obligations and Commercial Commitments

The following table reflects a summary of the Company's contractual obligations and commercial commitments as of November 30, 2004:

Contractual Cash Obligations Due by Year

(millions)	Total	Less than 1 year	1-3 years	3-5 years	More than 5 years
Notes payable	\$ 140.2	\$ 140.2	—	—	—
Long-term debt	498.0	33.0	\$ 196.4	\$ 198.9	\$ 69.7
Operating leases	58.8	13.9	19.2	11.1	14.6
Interest payments	166.2	35.4	42.8	19.0	69.0
Raw material purchase obligations (a)	91.6	91.6	—	—	—
Other purchase obligations (b)	7.4	7.4	—	—	—
Total contractual cash obligations	\$ 962.2	\$ 321.5	\$ 258.4	\$ 229.0	\$ 153.3

(a) Raw material purchase obligations outstanding as of year-end may not be indicative of outstanding obligations throughout the year due to the Company's response to varying raw material cycles.

(b) Other purchase obligations primarily consist of advertising media commitments.

Note: In 2005, the Company's pension and postretirement funding is expected to be approximately \$43 million. Pension and postretirement funding can vary significantly each year due to changes in legislation and the Company's significant assumptions. As a result, the Company has not presented pension and postretirement funding in the table above.

Commercial Commitments Expiration by Year

(millions)	Total	Less than 1 year	1-3 years	3-5 years	More than 5 years
Guarantees	\$ 6.6	\$ 2.2	\$ 4.2	\$.2	—
Standby and trade letters of credit	12.3	12.3	—	—	—
Lines of credit	466.1	241.1	225.0	—	—
Total commercial commitments	\$ 485.0	\$ 255.6	\$ 229.2	\$.2	—

Note: In January 2005, the Company entered into a new five-year, \$400 million credit facility, which expires in January 2010. This facility replaces the line of credit of \$350 million existing at year end of which \$125 million would have expired in June 2005 and \$225 million would have expired in June 2006.

Off-Balance Sheet Arrangements

The Company had no off-balance sheet arrangements as of November 30, 2004. In 2003, the Company consolidated the lessor of a leased distribution center and, as a result, the entity is reflected in the consolidated balance sheet.

Recently Issued Accounting Pronouncements

In January 2003, the FASB issued and subsequently revised Interpretation No. 46, "Consolidation of Variable Interest Entities." The Company adopted Interpretation No. 46 as it relates to special purpose entities in the fourth quarter of 2003. The Company consolidated the lessor of a leased distribution center used by the Company and recorded a cumulative effect of an accounting change of \$2.1 million (net of income tax benefit of \$1.2 million). Consolidation of this entity increased assets by \$11.2 million, long-term debt by \$14.0 million and minority interest by \$0.5 million. The effect of consolidation of this entity in prior years would have reduced net income in 2002 by \$0.3 million. In the third quarter of 2004, the Company adopted the remaining provisions of Interpretation No. 46 and there was no material effect upon adoption of this statement.

In May 2004, the FASB issued Staff Position 106-2, "Accounting and Disclosure Requirements Related to the Medicare Prescription Drug Improvement and Modernization Act of 2003" which provides guidance on the accounting for the effects of the Act. FASB Staff Position 106-2 is effective for the first interim or annual period beginning after June 15, 2004. The Company adopted FASB Staff Position 106-2 in the third quarter of 2004. See Note 10 for impact of adoption.

In November 2004, the FASB issued SFAS No. 151, "Inventory Costs," an amendment to ARB No. 43, Chapter 4, "Inventory Pricing." SFAS No. 151 is effective for inventory costs incurred during fiscal years beginning after June 15, 2005. The Company believes there will be no material effect upon adoption of this statement.

In December 2004, the FASB issued SFAS No. 123R, "Share-Based Payment," a revision of SFAS No. 123, "Accounting for Stock-Based Compensation" and superseding APB Opinion No. 25, "Accounting for Stock Issued to Employees." SFAS No. 123R requires the Company to expense grants made under the stock option and employee stock purchase plan programs. That cost will be recognized over the vesting period of the plans. SFAS No. 123R is effective for the first interim or annual period beginning after June 15, 2005. Upon adoption of SFAS No. 123R, amounts previously disclosed under SFAS

No.123 will be recorded in the consolidated income statement. The Company is evaluating the alternatives allowed under the standard, which the Company is required to adopt beginning in the fourth quarter of 2005.

Critical Accounting Estimates and Assumptions

In preparing the financial statements in accordance with United States generally accepted accounting principles (GAAP), management is required to make estimates and assumptions that have an impact on the assets, liabilities, revenue, and expense amounts reported. These estimates can also affect supplemental information disclosed by the Company, including information about contingencies, risk, and financial condition. The Company believes, given current facts and circumstances, its estimates and assumptions are reasonable, adhere to GAAP, and are consistently applied. Inherent in the nature of an estimate or assumption is the fact that actual results may differ from estimates and estimates may vary as new facts and circumstances arise. In preparing the financial statements, the Company makes routine estimates and judgments in determining the net realizable value of accounts receivable, inventory, fixed assets, and prepaid allowances. Management believes the Company's most critical accounting estimates and assumptions are in the following areas:

Customer Contracts

In several of its major markets, the consumer business sells its products by entering into annual or multi-year contracts with its customers. These contracts include provisions for items such as sales discounts, marketing allowances and performance incentives. The discounts, allowances, and incentives are expensed based on certain estimated criteria such as sales volume of indirect customers, customers reaching anticipated volume thresholds, and marketing spending. The Company routinely reviews these criteria and makes adjustments as facts and circumstances change.

Goodwill and Brand Name Asset Valuation

The Company reviews the carrying value of goodwill and brand name assets annually utilizing discounted cash flow models. Changes in estimates of future cash flows caused by items such as unforeseen events or changes in market

conditions could negatively affect the reporting unit's brand name assets' fair value and result in an impairment charge. The Company cannot predict the occurrence of events that might adversely affect the reported value of goodwill and brand name assets that totaled \$819.3 million at November 30, 2004. However, the current fair values of the Company's reporting units and brand name are significantly in excess of carrying values, and accordingly management believes that only significant changes in the cash flow assumptions would result in impairment.

Income Taxes

The Company files income tax returns and estimates income taxes in each of the taxing jurisdictions in which it operates. The Company is subject to tax audits in each of these jurisdictions, which could result in changes to the estimated taxes. The amount of these changes would vary by jurisdiction and would be recorded when known. Management has recorded valuation allowances to reduce its deferred tax assets to the amount that is more likely than not to be realized. In doing so, management has considered future taxable income and ongoing tax planning strategies in assessing the need for a valuation allowance.

Pension and Postretirement Benefits

Pension and other postretirement plans' costs require the use of assumptions for discount rates, investment returns, projected salary increases, mortality rates, and health care cost trend rates. The actuarial assumptions used in the Company's pension and postretirement benefit reporting are reviewed annually and compared with external benchmarks to ensure that they appropriately account for the Company's future pension and postretirement benefit obligations. While the Company believes that the assumptions used are appropriate, differences between assumed and actual experience may affect the Company's operating results. A 1% change in the actuarial assumption for discount rate would impact pension and postretirement benefit expense by approximately \$12 million. A 1% change in the expected return on plan assets would impact pension expense by approximately \$4 million. In addition, see the preceding sections of the MD&A and notes 9 and 10 of notes to consolidated financial statements for a discussion of these assumptions and the effects on the financial statements.

Forward-Looking Information

Certain information contained in this report includes "forward-looking statements" within the meaning of section 21(E) of the Securities Exchange Act. The Company intends the forward-looking statements to be covered by the safe harbor provisions for forward-looking statements in this section. All statements regarding the Company's expected financial plans, future capital requirements, forecasted, demographic and economic trends relating to its industry, ability to complete internal restructuring programs and to realize anticipated cost savings from such programs, ability to complete acquisitions, to realize anticipated cost savings and other benefits from acquisitions, to recover acquisition-related costs, and similar matters are forward-looking statements. In some cases, these statements can be identified by the Company's use of forward-looking words such as "may," "will," "should," "anticipate," "estimate," "expect," "plan," "believe," "predict," "potential," or "intend." The forward-looking information is based on various factors and was derived using numerous assumptions. However, these statements only reflect the Company's predictions. These statements are subject to known and unknown risks, uncertainties, and other factors that could cause the Company's actual results to differ materially from the statements. Important factors that could cause the Company's actual results to be materially different from its expectations include actions of competitors, customer relationships, market acceptance of new products, actual amounts and timing of special charge items, removal and disposal costs, final negotiations of third-party contracts, the impact of stock market conditions on its share repurchase program, fluctuations in the cost and availability of supply chain resources, global economic conditions, including interest and currency rate fluctuations, and inflation rates. The Company undertakes no obligation to update or revise publicly any forward-looking statements, whether as a result of new information, future events or otherwise.

report of management

We are responsible for the preparation and integrity of the consolidated financial statements appearing in our Annual Report. The consolidated financial statements were prepared in conformity with United States generally accepted accounting principles and include amounts based on management's estimates and judgments. All other financial information in this report has been presented on a basis consistent with the information included in the financial statements.

We are also responsible for establishing and maintaining adequate internal controls over financial reporting. We maintain a system of internal controls that is designed to provide reasonable assurance as to the fair and reliable preparation and presentation of the consolidated financial statements, as well as to safeguard assets from unauthorized use or disposition.

Our control environment is the foundation for our system of internal controls over financial reporting and is embodied in our Business Ethics Policy. It sets the tone of our organization and includes factors such as integrity and ethical values. Our internal controls over financial reporting are supported by formal policies and procedures which are reviewed, modified and improved as changes occur in business conditions and operations.

The Audit Committee of the Board of Directors, which is composed solely of outside directors, meets periodically with members of management, the internal auditors and the independent auditors to review and discuss internal controls over financial reporting and accounting and financial reporting matters. The independent auditors and internal auditors report to the Audit Committee and accordingly have full and free access to the Audit Committee at any time.

We conducted an evaluation of the effectiveness of our internal controls over financial reporting based on the framework in *Internal Control — Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission. This evaluation included review of the documentation of controls, evaluation of the design effectiveness of controls, testing of the operating effectiveness of controls and a conclusion on this evaluation. Although there are inherent limitations in the effectiveness of any system of internal controls over financial reporting, based on our evaluation, we have concluded that our internal controls over financial reporting were effective as of November 30, 2004.

Ernst & Young LLP, an independent registered public accounting firm, has issued an attestation report on management's assessment of internal control over financial reporting, which is included herein.

Robert J. Lawless Chairman, President & Chief Executive Officer

Francis A. Contino Executive Vice President, Strategic Planning & Chief Financial Officer

Kenneth A. Kelly, Jr. Vice President & Controller, Chief Accounting Officer

**report of independent registered
public accounting firm
internal control over financial reporting**

The Board of Directors and Shareholders of
McCormick & Company, Incorporated

We have audited management's assessment, included in the accompanying Report of Management, that McCormick & Company, Incorporated and subsidiaries maintained effective internal control over financial reporting as of November 30, 2004, based on the criteria established in *Internal Control — Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (the COSO criteria). The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting. Our responsibility is to express an opinion on management's assessment and an opinion on the effectiveness of the Company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, evaluating management's assessment, testing and evaluating the design and operating effectiveness of internal control, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future

periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, management's assessment that McCormick & Company, Incorporated and subsidiaries maintained effective internal control over financial reporting as of November 30, 2004, is fairly stated, in all material respects, based on the COSO criteria. Also in our opinion, McCormick & Company, Incorporated and subsidiaries maintained, in all material respects, effective internal control over financial reporting as of November 30, 2004, based on the COSO criteria.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the accompanying consolidated balance sheets of McCormick & Company, Incorporated and subsidiaries as of November 30, 2004 and 2003 and the related statements of income, shareholders' equity and cash flows for each of the years in the three-year period ended November 30, 2004, and our report dated January 25, 2005 expresses an unqualified opinion on these statements.

**report of independent registered
public accounting firm
consolidated financial statements**

The Board of Directors and Shareholders of
McCormick & Company, Incorporated

We have audited the accompanying consolidated balance sheets of McCormick & Company, Incorporated and subsidiaries as of November 30, 2004 and 2003, and the related consolidated statements of income, shareholders' equity and cash flows for each of the three years in the period ended November 30, 2004. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of McCormick & Company, Incorporated and subsidiaries at November 30, 2004 and 2003, and the consolidated results of its operations and its cash flows for each of the three years in the period ended November 30, 2004, in conformity with United States generally accepted accounting principles.

As discussed in note 1 of the notes to consolidated financial statements, the Company changed the manner in which it accounts for a variable interest entity upon adoption of certain provisions of Financial Accounting Standards Board Interpretation No. 46, "Consolidation of Variable Interest Entities" (FIN 46) on September 1, 2003. The Company adopted the remaining provisions of FIN 46 effective May 31, 2004.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the effectiveness of McCormick & Company and subsidiaries' internal control over financial reporting as of November 30, 2004, based on criteria established in *Internal Control — Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated January 25, 2005 expressed an unqualified opinion thereon.

Ernst & Young LLP

Baltimore, Maryland
January 25, 2005

consolidated statement of income

for the year ended November 30 (millions except per share data)	2004	2003	2002
Net sales	\$ 2,526.2	\$ 2,269.6	\$ 2,044.9
Cost of goods sold	1,518.3	1,371.0	1,245.4
Gross profit	1,007.9	898.6	799.5
Selling, general and administrative expense	677.7	597.6	529.6
Special charges (credits)	(2.5)	5.5	7.5
Operating income	332.7	295.5	262.4
Interest expense	41.0	38.6	39.2
Other income, net	2.1	13.1	.7
Income from consolidated operations before income taxes	293.8	270.0	223.9
Income taxes	89.0	83.4	69.4
Net income from consolidated operations	204.8	186.6	154.5
Income from unconsolidated operations	14.6	16.4	22.4
Minority interest	4.9	3.8	3.1
Net income from continuing operations	214.5	199.2	173.8
Discontinued operations, net of tax:			
Net income	—	4.7	6.0
Gain on sale	—	9.0	—
Net income before cumulative effect of accounting change	214.5	212.9	179.8
Cumulative effect of accounting change, net of tax	—	(2.1)	—
Net income	\$ 214.5	\$ 210.8	\$ 179.8
Earnings per share — basic:			
Net income from continuing operations	\$ 1.57	\$ 1.43	\$ 1.25
Net income from discontinued operations	—	.03	.04
Gain on sale of discontinued operations	—	.06	—
Cumulative effect of accounting change	—	(.02)	—
Net income	1.57	1.51	1.29
Earnings per share — diluted:			
Net income from continuing operations	\$ 1.52	\$ 1.40	\$ 1.22
Net income from discontinued operations	—	.03	.04
Gain on sale of discontinued operations	—	.06	—
Cumulative effect of accounting change	—	(.01)	—
Net income	1.52	1.48	1.26

consolidated balance sheet

at November 30 (millions)	2004	2003
Current assets		
Cash and cash equivalents	\$ 70.3	\$ 25.1
Receivables, less allowances of \$6.7 for 2004 and \$6.3 for 2003	407.6	344.7
Inventories	350.2	362.8
Prepaid expenses and other current assets	35.9	26.8
Total current assets	<u>864.0</u>	<u>759.4</u>
Property, plant and equipment, net	486.6	458.3
Goodwill, net	712.9	708.7
Intangible assets, net	115.2	8.2
Prepaid allowances	56.8	83.8
Investments and other assets	134.1	127.1
Total assets	<u>\$ 2,369.6</u>	<u>\$ 2,145.5</u>
Current liabilities		
Short-term borrowings	\$ 140.2	\$ 154.3
Current portion of long-term debt	33.0	16.7
Trade accounts payable	195.1	178.8
Other accrued liabilities	404.4	360.2
Total current liabilities	<u>772.7</u>	<u>710.0</u>
Long-term debt	465.0	448.6
Other long-term liabilities	211.2	209.5
Total liabilities	<u>1,448.9</u>	<u>1,368.1</u>
Minority interest	31.0	22.2
Shareholders' equity		
Common stock, no par value; authorized 320.0 shares; issued and outstanding: 2004 — 14.6 shares, 2003 — 15.3 shares	130.0	91.1
Common stock non-voting, no par value; authorized 320.0 shares; issued and outstanding: 2004 — 120.9 shares, 2003 — 121.9 shares	206.0	171.5
Retained earnings	434.1	472.6
Accumulated other comprehensive income	119.6	20.0
Total shareholders' equity	<u>889.7</u>	<u>755.2</u>
Total liabilities and shareholders' equity	<u>\$ 2,369.6</u>	<u>\$ 2,145.5</u>

See Notes to Consolidated Financial Statements, pages 41-55.

consolidated statement of cash flows

for the year ended November 30 (millions)	2004	2003	2002
Operating activities			
Net income	\$ 214.5	\$ 210.8	\$ 179.8
Net income from discontinued operations	—	(4.7)	(6.0)
Gain on sale of discontinued operations	—	(9.0)	—
Cumulative effect of accounting change	—	2.1	—
Net income from continuing operations	<u>214.5</u>	<u>199.2</u>	<u>173.8</u>
Adjustments to reconcile net income from continuing operations to net cash provided by continuing operating activities:			
Depreciation and amortization	72.0	65.3	53.4
Deferred income taxes	(1.7)	15.6	21.1
Income from unconsolidated operations	(14.6)	(16.4)	(22.4)
Changes in operating assets and liabilities:			
Receivables	(35.5)	9.8	(35.0)
Inventories	33.8	(50.0)	(18.7)
Prepaid allowances	27.2	13.5	2.7
Trade accounts payable	5.7	(17.1)	13.3
Other assets and liabilities	38.5	(38.7)	1.3
Dividends received from unconsolidated affiliates	9.6	20.6	19.1
Net cash provided by continuing operating activities	<u>349.5</u>	<u>201.8</u>	<u>208.6</u>
Investing activities			
Acquisitions of businesses	(74.5)	(202.9)	(1.4)
Purchase price adjustment	—	50.0	—
Capital expenditures	<u>(69.8)</u>	<u>(91.6)</u>	<u>(100.4)</u>

Proceeds from sale of discontinued operations	—	133.9	—
Proceeds from sale of property, plant and equipment	2.8	9.9	6.5
Net cash used in continuing investing activities	(141.5)	(100.7)	(95.3)
Financing activities			
Short-term borrowings, net	(14.3)	17.2	(73.8)
Long-term debt borrowings	50.1	—	—
Long-term debt repayments	(16.5)	(.8)	(.6)
Proceeds from exercised stock options	53.0	29.5	23.2
Common stock acquired by purchase	(173.8)	(119.5)	(5.1)
Dividends paid	(76.9)	(64.1)	(58.6)
Net cash used in continuing financing activities	(178.4)	(137.7)	(114.9)
Effect of exchange rate changes on cash and cash equivalents	15.6	19.0	9.5
Net cash (used in)/provided by discontinued operations	—	(4.6)	8.1
Increase /(decrease) in cash and cash equivalents	45.2	(22.2)	16.0
Cash and cash equivalents at beginning of year	25.1	47.3	31.3
Cash and cash equivalents at end of year	\$ 70.3	\$ 25.1	\$ 47.3

See Notes to Consolidated Financial Statements, pages 41-55.

consolidated statement of shareholders' equity

(millions)	Common Stock Shares	Common Stock Non-Voting Shares	Common Stock Amount	Retained Earnings	Accumulated Other Comprehensive Income (Loss)	Total Shareholders' Equity
Balance, November 30, 2001	15.8	122.7	\$ 202.9	\$ 344.1	\$ (83.9)	\$ 463.1
Comprehensive income:						
Net income				179.8		179.8
Currency translation adjustments					56.9	56.9
Change in realized and unrealized gains on derivative financial instruments, net of tax of \$1.0					(1.5)	(1.5)
Minimum pension liability adjustment, net of tax of \$40.1					(69.1)	(69.1)
Net change in unrealized gain on pension assets, net of tax of \$0.2					.3	.3
Comprehensive income						166.4
Dividends				(58.6)		(58.6)
Shares purchased and retired	(.3)	(.1)	(1.2)	(5.6)		(6.8)
Shares issued, including tax benefit of \$3.3	1.4	.5	29.0	(.8)		28.2
Equal exchange	(1.3)	1.3				—
Balance, November 30, 2002	15.6	124.4	\$ 230.7	\$ 458.9	\$ (97.3)	\$ 592.3
Comprehensive income:						
Net income				210.8		210.8
Currency translation adjustments, net of tax of \$1.1					130.7	130.7
Change in realized and unrealized gains on derivative financial instruments, net of tax of \$0.5					.2	.2
Minimum pension liability adjustment, net of tax of \$6.4					(14.4)	(14.4)
Net change in unrealized gain on pension assets, net of tax of \$0.5					.8	.8
Comprehensive income						328.1
Dividends				(83.3)		(83.3)
Shares purchased and retired	(.1)	(4.4)	(6.8)	(113.8)		(120.6)
Shares issued, including tax benefit of \$6.4	1.1	.6	37.0			37.0
Stock based compensation			1.7			1.7
Equal exchange	(1.3)	1.3				—
Balance, November 30, 2003	15.3	121.9	\$ 262.6	\$ 472.6	\$ 20.0	\$ 755.2
Comprehensive income:						
Net income				214.5		214.5
Currency translation adjustments					92.9	92.9
Change in realized and unrealized gains on derivative financial instruments, net of tax of \$0.8					1.5	1.5
Minimum pension liability adjustment, net of tax of \$2.8					4.4	4.4
Net change in unrealized gain on pension assets, net of tax of \$0.5					.8	.8
Comprehensive income						314.1

Dividends				(79.2)		(79.2)
Shares purchased and retired	(.8)	(4.7)	(13.0)	(173.8)		(186.8)
Shares issued, including tax benefit of \$20.6	2.8	1.0	86.4			86.4
Equal exchange	(2.7)	2.7				—
Balance, November 30, 2004	<u>14.6</u>	<u>120.9</u>	<u>\$ 336.0</u>	<u>\$ 434.1</u>	<u>\$ 119.6</u>	<u>\$ 889.7</u>

See Notes to Consolidated Financial Statements, pages 41-55.

notes to consolidated financial statements

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Consolidation

The consolidated financial statements include the accounts of the Company and its majority-owned or controlled subsidiaries. Significant intercompany transactions have been eliminated. Investments in unconsolidated affiliates, over which the Company exercises significant influence, but not control, are accounted for by the equity method. Accordingly, the share of net income or loss of such unconsolidated affiliates is included in consolidated net income. The implications of the Financial Accounting Standards Board (FASB) Interpretation No. 46, "Consolidation of Variable Interest Entities" on the Company's consolidation policy are discussed later in this note.

Use of Estimates

Preparation of financial statements in conformity with accounting principles generally accepted in the U.S. requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. Actual amounts could differ from these estimates.

Cash and Cash Equivalents

All highly liquid investments purchased with an original maturity date of 3 months or less are classified as cash equivalents.

Inventories

Inventories are stated at the lower of cost or market. Cost is determined using standard or average costs which approximate the first-in, first-out costing method.

Property, Plant and Equipment

Property, plant and equipment is stated at historical cost and depreciated over its estimated useful life using the straight-line method for financial reporting and both accelerated and straight-line methods for tax reporting. The estimated useful lives range from 20 to 40 years for buildings and 3 to 12 years for the Company's machinery, equipment and computer software.

Repair and maintenance costs incurred to restore or keep capital assets at an acceptable level of operating condition, but without an increase in the previously estimated useful life or capacity of the asset are expensed as incurred.

Software Development Costs

The Company capitalizes costs associated with software developed or obtained for internal use in accordance with American Institute of Certified Public Accountants Statement of Position 98-1, "Accounting for the Costs of Computer Software Developed or Obtained for Internal Use." Capitalized internal use software development costs include only (1) external direct costs of materials and services consumed in developing or obtaining the software, (2) payroll and payroll-related costs for employees who are directly associated with and who devote time to the project, and (3) interest costs incurred, when material, while developing the software. Capitalization of these costs ceases when the project is substantially complete and ready for its intended purpose. Capitalized internal use software development costs are amortized using the straight-line method over a range of 3 to 8 years, but not exceeding the expected life of the product. The Company capitalized \$14.1 million of software and software development costs during the year ended November 30, 2004 and \$25.1 million during the year ended November 30, 2003.

In the fourth quarter of 2004, the Company changed its estimated useful life of certain software costs from 5 to 8 years. This change was due to the vendor stating their support for the software for a period longer than originally anticipated. In accordance with APB 20, "Accounting Changes," this change was made beginning in the fourth quarter of 2004. The 2004 favorable impact to depreciation expense as a result of this change is \$1.1 million (\$0.8 million after-tax) and is reflected in the consolidated statement of income.

Goodwill and Other Intangible Assets

In accordance with Statement of Financial Accounting Standard (SFAS) No. 142, "Goodwill and Other Intangible Assets," goodwill and indefinite-lived intangible assets are reviewed at least annually for impairment using the discounted cash flow method. Separable intangible assets that have finite useful lives are amortized over their useful lives. An impaired intangible asset would be written down to fair value, using the discounted cash flow method.

Prepaid Allowances

Prepaid allowances arise when the Company prepays sales discounts and marketing allowances to certain customers in connection with multi-year sales contracts. These costs are capitalized and amortized against net sales. The majority of the Company's contracts are for a specific committed customer sales volume while others are for a specific time duration. Prepaid allowances on volume based contracts are amortized based on the actual volume of customer purchases, while prepaid allowances on time based contracts are amortized on a straight-line basis over the life of the contract. The amounts reported in the consolidated balance sheet are stated at the lower of unamortized cost or management's estimate of the net realizable value of these allowances.

Revenue Recognition

Revenue is recognized when it is realized or realizable and has been earned. The Company recognizes revenue when it has persuasive evidence of an arrangement, the product has been delivered to the customer, the sales price is fixed or determinable and collectibility is reasonably assured. The Company

reduces revenue for estimated product returns, allowances and price discounts based on historical experience.

Trade allowances, consisting primarily of customer pricing allowances, merchandising funds and consumer coupons, are offered through various programs to customers and consumers. Revenue is recorded net of trade allowances.

Receivables consist of amounts billed and currently due from customers. The Company has an allowance for doubtful accounts to reduce its receivables to their net realizable value. Management estimates the allowance for doubtful accounts based on factors including aging of receivables and historical collection experience.

Shipping and Handling

Shipping and handling costs are included in the selling, general and administrative expense caption in the consolidated statement of income. Shipping and handling expense was \$75.3 million, \$60.9 million, and \$52.4 million for the years ended November 30, 2004, 2003 and 2002, respectively.

Research and Development

Research and development costs are expensed as incurred and are included in the selling, general and administrative expense caption in the consolidated statement of income. Research and development expense was \$39.3 million, \$33.2 million, and \$31.4 million for the years ended November 30, 2004, 2003 and 2002, respectively.

Advertising

Advertising costs, which include the development and production of advertising materials and the communication of this material through various forms of media, are expensed in the period the advertising first takes place. Advertising expense is included in the selling, general and administrative expense caption in the consolidated statement of income. Advertising expense was \$49.2 million, \$34.5 million, and \$27.4 million for the years ended November 30, 2004, 2003 and 2002, respectively.

Stock-Based Compensation

The Company uses the intrinsic value method as defined in Accounting Principles Board Opinion No. 25, "Accounting for Stock Issued to Employees," to account for stock options issued to employees and directors. Accordingly, no compensation expense is recognized for these stock options since all options granted have an exercise price equal to the market value of the underlying stock on the grant date. During 2003, the Company recorded \$1.2 million (net of income taxes of \$0.5 million) of stock compensation expense in discontinued operations as a result of accelerated vesting of certain options related to the employees of the discontinued operations. The following table illustrates the effect on net income and earnings per common share if the Company had applied the fair value recognition provisions of SFAS No. 123 to stock-based employee compensation.

(millions except per share data)	2004	2003	2002
Net income as reported	\$ 214.5	\$ 210.8	\$ 179.8
Add: stock-based employee compensation recorded, net of tax	.3	1.2	—
Deduct: stock-based employee compensation expense, net of tax	(15.5)	(12.7)	(9.2)
Pro forma net income	\$ 199.3	\$ 199.3	\$ 170.6
Earnings per common share:			
Basic — as reported	\$ 1.57	\$ 1.51	\$ 1.29
Basic — pro forma	1.45	1.43	1.22
Diluted — as reported	1.52	1.48	1.26
Diluted — pro forma	1.41	1.40	1.20

The per share weighted-average fair value of options granted was \$6.79, \$4.70, and \$4.99 in 2004, 2003 and 2002, respectively. The fair value for these options was estimated at the date of grant using a Black-Scholes option pricing model with the following range of assumptions for the Company's various stock option plans and Employee Stock Purchase Plans:

	2004	2003	2002
Risk-free interest rates	3.3 - 3.8%	1.7 - 3.3%	4.5%
Dividend yield	1.8%	2.0%	2.0%
Expected volatility	21.75%	19.1 - 22.3%	21.6%
Expected lives	5.0 - 6.0 years	1.6 - 6.0 years	6.0 years

Recently Issued Accounting Pronouncements

In January 2003, the FASB issued and subsequently revised Interpretation No. 46, "Consolidation of Variable Interest Entities." The Company adopted Interpretation No. 46 as it relates to special purpose entities in the fourth quarter of 2003. As a result, the Company consolidated the lessor of a leased distribution center used by the Company and recorded a cumulative effect of an accounting change of \$2.1 million (net of income tax benefit of \$1.2 million). Consolidation of this entity increased assets by \$11.2 million, long-term debt by \$14.0 million and minority interest by \$0.5 million. The effect of consolidation of this entity in prior years would have reduced net income in 2002 by \$0.3 million. In 2004, the Company adopted the remaining provisions of Interpretation No. 46 and there was no material effect on the consolidated financial statements.

In May 2004, the FASB issued Staff Position 106-2, "Accounting and Disclosure Requirements Related to the Medicare Prescription Drug Improvement and Modernization Act of 2003" which provides guidance on the accounting for the effects of the Act. FASB Staff Position 106-2 is effective for the first interim or annual period beginning after June 15, 2004. The Company adopted FASB Staff Position 106-2 in the third quarter of 2004. See Note 10 for impact of adoption.

In November 2004, the FASB issued SFAS No. 151, "Inventory Costs," an amendment to ARB No. 43, Chapter 4, "Inventory Pricing." FAS No. 151 is effective for inventory costs incurred during fiscal years beginning after June 15, 2005. The Company believes there will be no material effect upon adoption of this statement.

In December 2004, the FASB issued SFAS No. 123R, "Share-Based Payment," a revision of SFAS No. 123, "Accounting for Stock-Based Compensation" and superseding APB Opinion No. 25, "Accounting for Stock Issued to Employees." SFAS No. 123R requires the Company to expense grants made under the stock option and employee stock purchase plan programs. That cost will be recognized over the vesting period of the plans. SFAS No. 123R is effective for the first interim or annual period beginning after June 15, 2005. Upon adoption of SFAS No. 123R, amounts previously disclosed under SFAS No. 123 will be recorded in the consolidated income statement. The Company is evaluating the alternatives allowed under the standard, which the Company is required to adopt beginning in the fourth quarter of 2005.

Reclassifications

Certain amounts in prior years have been reclassified to conform to the current year presentation. The effect of these reclassifications is not material to the consolidated financial statements.

2. ACQUISITIONS

On November 1, 2004, the Company purchased C.M. van Sillevoldt B.V. (Silvo), the market leader in the Dutch spices and herbs consumer market, for €58 million in cash (equivalent to \$74.5 million) funded with cash from operations and current credit facilities. Silvo sells spices, herbs and seasonings under the Silvo brand in the Netherlands and the India brand as well as private label store brands in Belgium. The brand has a strong heritage and high recognition among consumers in the Netherlands. The acquisition is consistent with the Company's strategy to acquire established brands to complement the Company's leadership position in the development and marketing of flavors for food. The acquisition was accounted for under the purchase method, and the results of operations have been included in the Company's consolidated results from the date of acquisition. The excess of the purchase price over the estimated fair value of the net tangible assets purchased was \$59.4 million and is classified as goodwill in the consumer segment. The allocation of the purchase price is based on preliminary estimates, subject to revision, after asset values have been finalized. Revisions to the allocation, which may be significant, will be reported as changes to various assets and liabilities. The Company does not anticipate significant amounts to be allocated to amortizable intangible assets and, therefore, the amount of intangible asset amortization is not expected to be material to the results of operations in future periods.

On June 4, 2003, the Company purchased Zatarain's, the leading New Orleans-style food brand in the United States, for \$180.0 million in cash funded with commercial paper borrowings. Zatarain's manufactures and markets flavored rice and dinner mixes, seafood seasonings and many other products that add flavor to food. The acquisition was accounted for under the purchase method, and the results of operations have been included in the Company's consolidated results from the date of acquisition. The excess of the purchase price over the estimated fair value of the net assets purchased was \$176.2 million, which includes \$3.4 million of fees directly related to the acquisition. In the second quarter of 2004, the Company completed the purchase price allocation for the Zatarain's acquisition. An analysis of the various types of intangible assets resulted in the determination that the excess purchase price should be classified as the value of the acquired brand name and goodwill. No other intangible assets were identified as a result of this analysis. The Company has concluded that a substantial portion of the value of the excess purchase price resides in consumer trust and recognition of the Zatarain's brand name as authentic New Orleans-style cuisine. As a result, the Company has assigned \$106.4 million of the excess purchase price to this unamortizable brand based on an analysis of the premium value that is derived from consumer loyalty and trust in the brand quality. Zatarain's brand name has been used since 1889, and the Company intends to use and support the brand name indefinitely. The Company will review this intangible asset for impairment annually using the discounted cash flow method. The remaining \$69.8 million of intangible assets was allocated to goodwill in the consumer segment.

On January 9, 2003, the Company acquired the Uniqsauces business, a condiment business based in Europe, for \$19.5 million in cash. Uniqsauces manufactures and markets condiments to retail grocery and food service customers, including quick service restaurants. The acquisition was accounted for under the purchase method, and the results of operations have been included in the Company's consolidated results from the date of acquisition. The purchase price of this acquisition was allocated entirely to fixed assets and working capital. No goodwill was recorded as a result of this acquisition.

On August 31, 2000, the Company acquired Ducros, S.A. and Sodis, S.A.S. (Ducros) from Eridania Beghin-Say, for 2.75 billion French francs (equivalent to \$379 million). In conjunction with this acquisition, the Company recorded \$11.4 million of liabilities for the reorganization of resources in the Ducros organization in Europe. Actions under this plan, which included the consolidation of sales areas and offices and the exit from certain smaller markets, were completed during 2003.

The Ducros purchase contract provided for a potential adjustment to the purchase price with interest from the date of purchase. On April 29, 2003, the Company settled the purchase price adjustment with the prior owners of Ducros.

The Company received payment of €49.6 million (equivalent to \$55.4 million). Of the \$55.4 million received, \$5.4 million represented interest earned on the settlement amount from the date of acquisition in accordance with the terms of the original purchase agreement. The interest income was included in "Other income, net" in the consolidated statement of income for the year ended November 30, 2003. The remaining \$50.0 million of the settlement amount was recorded as a reduction to goodwill related to the acquisition.

3. DISCONTINUED OPERATIONS

Following a review in 2002, the packaging business and the U.K. Jenks brokerage operation were determined to be noncore to the Company. On August 12, 2003, the Company completed the sale of substantially all the operating assets of its packaging segment (Packaging) to the Kerr Group, Inc. Packaging manufactured certain products used for packaging the Company's spices and seasonings as well as packaging products used by manufacturers in the vitamin, drug and personal care industries. Under the terms of the sale agreement, Packaging was sold for \$132.5 million in cash and possible additional future payments over five years contingent on the buyer meeting certain performance objectives. At the end of the first year of such possible contingent payment periods, no additional payment was due from the buyer for that year. The proceeds were used to pay off a substantial portion of the commercial paper borrowing related to the Zatarain's acquisition. The final purchase price is also subject to other contingencies related to the performance of certain customer contracts which could result in a decrease in the sale price. The Company recorded a net gain on the sale of Packaging of \$11.6 million (net of income taxes of \$7.9 million). Included in this gain was a net pension and postretirement curtailment gain of \$3.3 million and the write-off of goodwill of \$0.7 million. The contingent consideration, if any, associated with the sale of Packaging will be recognized in the future as an adjustment to the gain based on the performance criteria established. The Company also entered into a multi-year, market priced, agreement with the acquirer to purchase certain packaging products.

On July 1, 2003, the Company sold the assets of Jenks Sales Brokers (Jenks), a division of the Company's whollyowned U.K. subsidiary, to Jenks' senior management for \$5.8 million in cash. Jenks provided sales and distribution services for consumer product companies, including the Company, and was previously reported as a part of the Company's consumer segment. The Company recorded a net loss on the sale of Jenks of \$2.6 million (net of an income tax benefit of \$0.6 million) in 2003. Included in this loss is a write-off of goodwill of \$0.4 million.

The operations of Packaging and Jenks were reported as "Income from discontinued operations, net" in the consolidated statement of income in accordance with the provisions of SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets." Interest expense was allocated to discontinued operations based on the ratio of the net assets of the discontinued operations to the total net assets of the Company. The cash flows of Packaging and Jenks were reported as "Net cash (used in)/provided by discontinued operations" in the consolidated statement of cash flows. The disclosures in the notes to consolidated financial statements exclude discontinued operations.

Summary operating results for the discontinued businesses were as follows:

(millions)	2003		2002	
Net sales — Packaging	\$	120.3	\$	170.6
Net sales — Jenks		59.6		104.5
Net sales — discontinued operations	\$	179.9	\$	275.1
Pre-tax income — Packaging	\$	12.4	\$	21.7

Interest expense allocation	(2.5)	(4.0)
Income taxes	(3.9)	(6.9)
Net income — Packaging	6.0	10.8
Pre-tax (loss) — Jenks	(1.8)	(6.6)
Interest expense allocation	(.1)	(.2)
Income taxes	.6	2.0
Net (loss) — Jenks	(1.3)	(4.8)
Net income — discontinued operations	\$ 4.7	\$ 6.0

The following table presents summarized cash flow information of the discontinued operations for the years ended November 30, 2003, and 2002:

(millions)	2003	2002
Operating activities	\$ 3.7	\$ 18.4
Investing activities	(5.2)	(10.3)
Financing activities	(3.1)	—
Net cash (used in)/provided by discontinued operations	\$ (4.6)	\$ 8.1

4. SPECIAL CHARGES

During the fourth quarter of 2001, the Company adopted a plan to further streamline its operations. This plan included the consolidation of several distribution and manufacturing locations, the reduction of administrative and manufacturing positions, and the reorganization of several joint ventures. The estimated cost of the total plan is approximately \$32.6 million (\$25.6 million after-tax). Total cash expenditures in connection with these costs approximate \$16.7 million, which are funded through internally generated funds. The remaining \$15.9 million of costs associated with the plan consist of write-offs of assets. The total cost of the plan includes \$1.8 million of costs related to Packaging and Jenks that have been classified as income from discontinued operations in the consolidated statement of income. Annualized cash savings are expected to be approximately \$8.0 million (\$5.3 million after-tax), most of which have been realized to date. Savings

under the plan are being used for spending on initiatives such as brand support and supply chain management. These savings are included within the cost of goods sold and selling, general and administrative expenses in the consolidated statement of income.

In 2001, the Company recorded \$11.2 million (\$7.4 million after-tax) of charges from continuing operations associated with the 2001 restructuring plan. Of this amount, \$10.3 million was classified as special charges and \$0.9 million as cost of goods sold in the consolidated statement of income. These charges related to the consolidation of manufacturing in Canada, a distribution center consolidation in the U.S., a product line elimination and a realignment of the Company's sales operations in the U.K., and a workforce reduction which encompasses plans in all segments and across all geographic areas.

During the year ended November 30, 2002, the Company recorded \$7.5 million (\$5.5 million after-tax) of special charges from continuing operations associated with the 2001 restructuring plan, which could not be accrued at the time of the original announcement in 2001. These charges included the write-off of an investment in an industry purchasing consortium, further lease exit and relocation costs related to the workforce reduction and realignment of the Company's consumer sales operations in the U.S. and further severance and other costs related to the previously discussed workforce reduction. Also included in the 2002 charges were further costs related to the closure of a U.S. distribution center and further costs of the consolidation of manufacturing in Canada, which included the disposition of a manufacturing facility. During 2002, total cash expenditures in connection with the plan were \$6.3 million.

During the year ended November 30, 2003, the Company recorded special charges related to continuing operations of \$5.5 million (\$3.6 million after-tax). The costs recorded in 2003 included additional costs associated with the consolidation of production facilities in Canada, net of a gain on the sale of a manufacturing facility, severance and other costs related to the consolidation of industrial manufacturing in the U.K. and the realignment of the Company's consumer sales operations in Australia. During 2003, total cash expenditures in connection with the plan were \$4.7 million.

During the year ended November 30, 2004, the Company recorded special charges related to continuing operations of \$6.2 million (\$4.3 million after-tax). The costs recorded in 2004 primarily include costs related to the consolidation of industrial manufacturing facilities in the U.K. and Canada, the reorganization of a consumer joint venture and additional severance costs for position eliminations. During 2004, total cash expenditures in connection with the plan were \$4.7 million. Also included in special charges/(credits) is a net gain of \$8.7 million (\$5.5 million after-tax) related to funds received from a class action lawsuit that was settled in the Company's favor in the second quarter of 2004. This matter dated back to 1999 when a number of class action lawsuits were filed against manufacturers and sellers of various flavor enhancers for their violation of antitrust laws. The Company, as a purchaser of such products, participated as a member of the plaintiff class. In the second quarter of 2004, the Company received \$11.1 million as a settlement of this claim and as a result of the settlement, was required to settle claims against the Company for a portion of this gross amount. The net gain recorded was \$8.7 million. This amount was recorded as a special credit and was not allocated to the business segments.

Costs yet to be incurred from the 2001 restructuring plan include the possible reorganization of a joint venture and additional costs related to completion of the reorganization of certain industrial manufacturing facilities in the U.K. These actions are expected to be completed in 2005. The total 2001 restructuring plan, includes severance charges for 392 position reductions. As of November 30, 2004, 389 of the 392 planned position reductions had taken place.

The major components of the special charges and the remaining accrual balance relating to the 2001 restructuring plan as of November 30, 2002, 2003 and 2004 follow:

(millions)	Severance and personnel costs	Asset write-downs	Other exit costs	Total
2001				
Special charges	\$ 5.8	\$ 1.6	\$ 3.8	\$ 11.2
Amounts utilized	—	(1.6)	—	(1.6)
	\$ 5.8	\$ —	\$ 3.8	\$ 9.6
2002				
Special charges	\$ 3.3	\$ 3.3	\$.9	\$ 7.5
Amounts utilized	(4.9)	(3.3)	(3.0)	(11.2)

	\$ 4.2	\$ —	\$ 1.7	\$ 5.9
2003				
Special charges	\$ 4.7	\$ (.6)	\$ 1.4	\$ 5.5
Amounts utilized	(4.2)	.6	(3.0)	(6.6)
	\$ 4.7	\$ —	\$.1	\$ 4.8
2004				
Special charges	\$ 2.2	\$.8	\$ 3.2	\$ 6.2
Amounts utilized	(2.9)	(.8)	(2.9)	(6.6)
	\$ 4.0	\$ —	\$.4	\$ 4.4

5. GOODWILL AND INTANGIBLE ASSETS

Effective December 1, 2001, the Company adopted SFAS No. 142, "Goodwill and Other Intangible Assets," which established financial accounting and reporting for acquired goodwill and other intangible assets. Under SFAS No. 142, goodwill and indefinite-lived intangible assets are no longer amortized but are reviewed at least annually for impairment. Separable intangible assets that have finite useful lives continue to be amortized over their useful lives.

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As of November 30, 2004 and 2003, the Company tested for impairment of goodwill and non-amortizable intangibles using discounted cash flow models. As a result of these tests, the Company was not required to recognize any impairment.

The following table displays the intangible assets that continue to be subject to amortization and intangible assets not subject to amortization as of November 30, 2004 and 2003:

(millions)	2004		2003	
	Gross carrying amount	Accumulated amortization	Gross carrying amount	Accumulated amortization
Amortizable intangible assets	\$.6	\$.3	\$.4	\$.2
Unamortizable intangible assets:				
Brand name	106.4	—	—	—
Goodwill	793.7	80.8	784.0	75.3
Trademark	9.7	1.2	9.1	1.1
	909.8	82.0	793.1	76.4
Total goodwill and intangible assets	\$ 910.4	\$ 82.3	\$ 793.5	\$ 76.6

The changes in the carrying amount of goodwill by segment for the years ended November 30, 2004 and 2003 are as follows:

(millions)	2004		2003	
	Consumer	Industrial	Consumer	Industrial
Beginning of year	\$ 664.9	\$ 43.8	\$ 458.2	\$ 40.5
Goodwill acquired	59.4	—	176.2	—
Goodwill disposed	—	—	(.4)	—
Goodwill transferred	(106.4)	—	—	—
Purchase price adjustment	—	—	(50.0)	—
Foreign currency fluctuations	47.0	4.2	80.9	3.3
End of year	\$ 664.9	\$ 48.0	\$ 664.9	\$ 43.8

The Zatarain's brand was transferred from goodwill to other intangibles in 2004 when the purchase price allocation was completed. The excess of the purchase price over net tangible assets recorded as part of the Silvo acquisition in 2004 above is still subject to finalization of purchase price allocation. The table above excludes \$0.7 million of goodwill that was disposed of in connection with the sale of Packaging in 2003.

6. INVESTMENTS IN AFFILIATES

Summarized year-end information from the financial statements of unconsolidated affiliates representing 100% of the businesses follows:

(millions)	2004		2003		2002	
Net sales	\$ 428.3	\$ 403.0	\$ 403.0	\$ 422.1	\$ 422.1	\$ 422.1
Gross profit	157.3	159.6	159.6	187.2	187.2	187.2
Net income	28.8	32.6	32.6	44.9	44.9	44.9
Current assets	\$ 189.2	\$ 168.2	\$ 168.2	\$ 165.4	\$ 165.4	\$ 165.4
Noncurrent assets	94.1	101.7	101.7	106.5	106.5	106.5
Current liabilities	97.4	100.7	100.7	83.0	83.0	83.0
Noncurrent liabilities	23.4	25.5	25.5	39.4	39.4	39.4

The Company's share of undistributed earnings of the affiliates was \$50.3 million at November 30, 2004. Royalty income from unconsolidated affiliates was \$9.7 million, \$9.3 million and \$10.0 million for 2004, 2003, and 2002, respectively.

7. FINANCING ARRANGEMENTS

The Company's outstanding debt is as follows:

(millions)	2004		2003	
Short-term borrowings				
Commercial paper(1)	\$ 134.4	\$ 139.6	\$ 139.6	\$ 139.6
Other	5.8	14.7	14.7	14.7
	\$ 140.2	\$ 154.3	\$ 154.3	\$ 154.3
Weighted-average interest rate of short-term borrowings at year-end	2.12%	1.51%	1.51%	1.51%
Long-term debt				

5.78% - 7.77% medium-term notes due 2004 to 2006	\$ 79.0	\$ 95.0
6.40% - 6.80% medium-term notes due 2006 to 2008(2)(3)	298.4	298.5
3.35% medium-term notes due 2009(4)	48.6	—
7.63% - 8.12% medium-term notes due 2024	55.0	55.0
Other	17.0	16.8
	<u>498.0</u>	<u>465.3</u>
Less current portion	33.0	16.7
	<u>\$ 465.0</u>	<u>\$ 448.6</u>

- (1) The variable interest rate on \$75 million of commercial paper is hedged by interest rate swaps through 2011. Net interest payments are fixed at 6.35% during this period.
- (2) Interest rate swaps, settled upon the issuance of the medium-term notes, effectively fixed the interest rate on \$294 million of the notes at a weighted average fixed rate of 7.62%.
- (3) The fixed interest rate on \$100 million of 6.40% medium-term notes due in 2006 is effectively converted to a variable rate by interest rate swaps through 2006. Net interest payments are based on LIBOR plus 3.595% during this period.
- (4) The fixed interest rate on \$50 million of 3.35% medium-term notes due in 2009 is effectively converted to a variable rate by interest rate swaps through 2009. Net interest payments are based on LIBOR minus .21% during this period.

Maturities of long-term debt during the years subsequent to November 30, 2005 are as follows (in millions):

2006 - \$196.1	2008 - \$149.9
2007 - \$0.3	2009 - \$49.0
	Thereafter - \$69.7

On April 1, 2004, the Company issued \$50 million of medium-term notes under its existing \$375 million shelf registration statement filed with the Securities and Exchange Commission in January 2001. The \$50 million of medium-term notes mature on April 15, 2009 and pay interest semi-annually at a rate of 3.35%. The proceeds from the new issuance were used to pay off commercial paper debt.

The Company has available credit facilities with domestic and foreign banks for various purposes. The amount of unused credit facilities at November 30, 2004 was \$466.1 million, of

which \$350.0 million supports a commercial paper borrowing arrangement. Of these unused facilities, \$241.1 million expire in 2005 and \$225.0 million expire in 2006. Some credit facilities in support of commercial paper issuance require a commitment fee. Annualized commitment fees at November 30, 2004 and 2003 were \$0.3 million.

Rental expense under operating leases was \$23.5 million in 2004, \$23.0 million in 2003 and \$18.1 million in 2002. Future annual fixed rental payments for the years ending November 30 are as follows (in millions):

2005 - \$13.9	2008 - \$6.3
2006 - \$10.9	2009 - \$4.8
2007 - \$8.3	Thereafter - \$14.6

At November 30, 2004, the Company had guarantees of \$6.6 million with terms ranging from 1 to 5 years. At November 30, 2004 and 2003, the Company had outstanding letters of credit of \$12.3 million and \$24.3 million, respectively. These letters of credit typically act as a guarantee of payment to certain third parties in accordance with specified terms and conditions. The unused portion of the Company's letter of credit facility was \$33.7 million at November 30, 2004.

8. FINANCIAL INSTRUMENTS

The Company utilizes derivative financial instruments to enhance its ability to manage risk, including foreign currency and interest rate exposures, which exist as part of its ongoing business operations. The Company does not enter into contracts for trading purposes, nor is it a party to any leveraged derivative instrument. The use of derivative financial instruments is monitored through regular communication with senior management and the utilization of written guidelines.

All derivatives are recognized at fair value in the consolidated balance sheet. In evaluating the fair value of financial instruments, including derivatives, the Company uses thirdparty market quotes or calculates an estimated fair value on a discounted cash flow basis using the rates available for instruments with the same remaining maturities.

Foreign Currency

The Company is potentially exposed to foreign currency fluctuations affecting net investments, transactions and earnings denominated in foreign currencies. The Company selectively hedges the potential effect of these foreign currency fluctuations by entering into foreign currency exchange contracts with highly-rated financial institutions.

Contracts which are designated as hedges of anticipated purchases denominated in a foreign currency (generally purchases of raw materials in U.S. dollars by operating units outside the U.S.) are considered cash flow hedges. The gains and losses on these contracts are deferred in other comprehensive income until the hedged item is recognized in cost of goods sold, at which time the net amount deferred in other comprehensive income is also recognized in cost of goods sold. Gains and losses from hedges of assets, liabilities or firm commitments are recognized through income, offsetting the change in fair value of the hedged item.

At November 30, 2004, the Company had foreign currency exchange contracts maturing within one year to purchase or sell \$51.1 million of foreign currencies versus \$58.9 million at November 30, 2003. All of these contracts were designated as hedges of anticipated purchases denominated in a foreign currency to be completed within one year or hedges of foreign currency denominated assets or liabilities. Hedge ineffectiveness was not material.

Interest Rates

The Company finances a portion of its operations with both fixed and variable rate debt instruments, primarily commercial paper, notes and bank loans. The Company utilizes interest rate swap agreements to minimize worldwide financing costs and to achieve a desired mix of its variable and fixed rate debt.

In 2004, the Company entered into an interest rate swap contract with a total notional amount of \$50 million to receive interest at 3.356% and pay a variable rate of interest based on six-month LIBOR minus .21%. The Company designated this swap, which expires on April 15, 2009, as a fair value hedge of the changes in fair value of the \$50 million of medium-term notes maturing on April 15, 2009. No hedge ineffectiveness is recognized as the interest rate swap's provisions match the applicable provisions of the debt.

In 2003, the Company entered into interest rate swap contracts for a total notional amount of \$100 million to receive interest at 6.4% and pay a variable rate of interest based on six-month LIBOR plus 3.595%. The Company designated these swaps, which expire on February 1, 2006, as fair value hedges of the changes in fair value of \$100 million of the \$150 million 6.40% fixed rate medium-term notes maturing on February 1, 2006. No hedge ineffectiveness is recognized as the interest rate swaps' provisions match the applicable provisions of the debt.

The variable interest on \$75 million of commercial paper was hedged by forward starting interest rate swaps for the period through 2011. Net interest payments on this commercial paper will be effectively fixed at 6.35% during the period. The unrealized gain or loss on these swaps is recorded in other comprehensive income, as the Company intends to hold these interest rate swaps until maturity. Hedge ineffectiveness was not material.

Subsequent to the starting date of these swaps, the net cash settlements are reflected in interest expense in the applicable period.

The Company incurred a \$14.7 million loss on the settlement of swaps used to hedge the 2001 issuance of \$294 million of medium-term notes. The loss on these swaps was deferred in other comprehensive income and is being amortized over the five to seven year life of the medium-term notes as a component of interest expense. Amounts reclassified from other comprehensive income to interest expense for settled interest rate swaps were \$2.5 million in 2004 and 2003 and are included in the net change in unrealized gain or loss on derivative financial instruments in the statement of shareholders' equity.

Fair Value of Financial Instruments

The carrying amount and fair value of the Company's financial instruments at November 30, 2004 and 2003 are as follows:

(millions)	2004		2003	
	Carrying amount	Fair value	Carrying amount	Fair value
Other investments	\$ 27.2	\$ 27.2	\$ 21.3	\$ 21.3
Long-term debt	498.0	538.2	465.3	523.1
Derivative related to:				
Interest rates	(11.8)	(11.8)	(11.3)	(11.3)
Foreign currencies	(3.9)	(3.9)	(1.7)	(1.7)

Because of their short-term nature, the amounts reported in the consolidated balance sheet for cash and cash equivalents, receivables, short-term borrowings and trade accounts payable approximate fair value. The fair value of long-term debt and derivative financial instruments are based on quoted market prices.

Investments in affiliates are not readily marketable, and it is not practicable to estimate their fair value. Other investments are comprised of fixed income and equity securities held on behalf of employees in certain employee benefit plans and are stated at fair value. The cost of these investments was \$28.6 million and \$24.0 million at November 30, 2004 and 2003, respectively.

Concentrations of Credit Risk

The Company is potentially exposed to concentrations of credit risk with trade accounts receivable, prepaid allowances and financial instruments. Because the Company has a large and diverse customer base with no single customer accounting for a significant percentage of trade accounts receivable and prepaid allowances, there was no material concentration of credit risk in these accounts at November 30, 2004. The Company evaluates the credit worthiness of the counterparties to financial instruments and considers nonperformance credit risk to be remote.

9. PENSION AND 401(k) RETIREMENT PLANS

The Company sponsors defined benefit pension plans in the U.S. and certain foreign locations. In addition, it sponsors 401(k) retirement plans in the U.S. and contributes to government-sponsored retirement plans in locations outside the U.S.

Defined Benefit Pension Plans

A September 30th measurement date is utilized to value plan assets and obligations for all of the Company's defined benefit pension plans.

The significant assumptions used to determine benefit obligations are as follows:

	United States		International	
	2004	2003	2004	2003
Discount rate	6.0%	6.0%	5.3 - 5.8%	5.5 - 6.5%
Salary scale	4.0%	4.0%	3.5 - 4.2%	3.5 - 4.0%
Expected return on plan assets	8.5%	9.0%	6.5 - 8.5%	7.0 - 8.5%

The expected long-term rate of return on assets assumption is based on weighted-average expected returns for each asset class. Expected returns reflect a combination of historical performance analysis and the forward-looking views of the financial markets, and include input from actuaries, investment service firms and investment managers.

The Company's pension expense is as follows:

(millions)	United States			International		
	2004	2003	2002	2004	2003	2002
Service cost	\$ 11.6	\$ 11.0	\$ 9.6	\$ 5.4	\$ 4.6	\$ 3.5
Interest costs	19.8	19.3	16.3	6.7	5.4	4.2
Expected return on plan assets	(18.6)	(17.0)	(17.8)	(7.0)	(6.7)	(5.9)
Amortization of prior service costs	—	—	—	.1	.1	.1
Amortization of transition assets	—	—	.2	(.1)	(.1)	—
Curtailment loss	—	—	—	—	.1	—
Recognized net actuarial loss	11.5	7.4	3.5	.6	—	—
Other retirement plans	—	—	—	—	—	1.5
Less: discontinued operations	—	(2.0)	(2.2)	—	—	—
	\$ 24.3	\$ 18.7	\$ 9.6	\$ 5.7	\$ 3.4	\$ 3.4

Rollforwards of the benefit obligation, fair value of plan assets and a reconciliation of the pension plans' funded status at the measurement date, September 30, follow:

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(millions)	United States		International	
	2004	2003	2004	2003
Change in benefit obligation				
Benefit obligation at beginning of year	\$ 334.4	\$ 280.4	\$ 110.6	\$ 82.5
Service cost	11.6	11.0	5.4	4.6
Interest costs	19.8	19.3	6.7	5.4
Employee contributions	—	—	1.8	2.0
Plan changes and other	—	—	(.9)	.8
Curtailement gain	—	(11.6)	—	(1.3)
Settlement payments	—	—	—	(.5)
Actuarial loss	2.5	45.7	11.3	9.8
Benefits paid	(18.7)	(10.4)	(4.9)	(4.7)
Foreign currency impact	—	—	11.8	12.0
Benefit obligation at end of year	\$ 349.6	\$ 334.4	\$ 141.8	\$ 110.6
Change in fair value of plan assets				
Fair value of plan assets at beginning of year	\$ 205.4	\$ 161.8	\$ 73.0	\$ 56.7
Actual return on plan assets	27.1	30.4	7.5	7.5
Employer contributions	22.0	22.0	6.7	3.6
Employee contributions	—	—	1.8	2.0
Settlement payments	—	—	—	(.5)
Benefits paid	(16.8)	(8.8)	(4.9)	(4.7)
Net transfer in (out)	—	—	(.9)	—
Foreign currency impact	—	—	7.7	8.4
Fair value of plan assets at end of year	\$ 237.7	\$ 205.4	\$ 90.9	\$ 73.0
Funded status	\$ (111.9)	\$ (129.0)	\$ (50.9)	\$ (37.6)
Unrecognized net actuarial loss	139.6	157.0	50.7	36.5
Unrecognized prior service cost	.4	.5	.4	.4
Unrecognized transition liability	—	—	(.1)	(.2)
Employer contributions	—	—	1.0	.7
Net amount recognized	\$ 28.1	\$ 28.5	\$ 1.1	\$ (.2)

Included in the United States in the preceding table is a benefit obligation of \$36.0 million and \$32.4 million for 2004 and 2003, respectively, related to an unfunded pension plan. The accrued liability related to this plan was \$31.7 million and \$27.6 million as of November 30, 2004 and 2003, respectively. The assets related to this plan are held in a Rabbi Trust and accordingly have not been included in the preceding table. These assets were \$19.0 million and \$14.4 million as of November 30, 2004 and 2003, respectively.

Amounts recognized in the consolidated balance sheet consist of the following:

(millions)	United States		International	
	2004	2003	2004	2003
Prepaid pension cost	—	—	\$ 1.3	—
Accrued pension liability	\$ (61.3)	\$ (75.8)	(34.3)	(26.7)
Intangible assets	.4	.5	.3	.3
Deferred income taxes	33.5	38.6	10.2	7.9
Accumulated other comprehensive income	55.5	65.2	23.6	18.3
Net amount recognized	\$ 28.1	\$ 28.5	\$ 1.1	\$ (.2)

The accumulated benefit obligation is the present value of pension benefits (whether vested or unvested) attributed to employee service rendered before the measurement date and based on employee service and compensation prior to that date. The accumulated benefit obligation differs from the projected benefit obligation in that it includes no assumption about future compensation levels. The accumulated benefit obligation for the U.S. pension plans was \$299.1 million and \$281.2 million as of September 30, 2004 and 2003, respectively. The accumulated benefit obligation for the international pension plans was \$124.9 million and \$98.9 million as of November 30, 2004 and 2003, respectively.

Minimum pension liability adjustments result when the accumulated benefit obligation exceeds the fair value of plan assets and are recorded so that the recorded pension liability is at a minimum equal to the accumulated benefit obligation. Minimum pension liability adjustments are noncash adjustments that are reflected as an increase (or decrease) in the pension liability and an offsetting charge to shareholders' equity, net of tax, through comprehensive income rather than net income.

At the September 30, 2004 measurement date, the deficiency of the pension plans' assets compared to the accumulated benefit obligations decreased resulting in a decrease in the minimum pension liability of \$7.3 million. This amount was recorded as a decrease in accrued pension liability, a \$4.4 million increase in other comprehensive income, a \$2.8 million decrease in deferred taxes, and \$0.1 million decrease in intangible assets. At the September 30, 2003 measurement date, the deficiency of the pension plans' assets compared to the accumulated benefit obligations increased resulting in an increase in the minimum pension liability of \$20.6 million. This amount was recorded as an increase in accrued pension liability, a \$14.4 million decrease in other comprehensive income, a \$6.4 million increase in deferred taxes and a \$0.2 million decrease in intangible assets.

The Company's actual and target weighted-average asset allocations of U.S. pension plan assets as of September 30, 2004 and 2003, by asset category, are as follows:

Asset Category	September 30,		Target
	2004	2003	
Equity securities	68.0%	67.8%	70.0%
Debt securities	30.3%	30.4%	30.0%
Other	1.7%	1.8%	—

Total 100.0% 100.0% 100.0%

The average actual and target asset allocations of the international pension plans' assets as of November 30, 2004 and 2003, by asset category, are as follows:

Asset Category	November 30,		Target
	2004	2003	
Equity securities	64.7%	63.9%	64.9%
Debt securities	32.5%	35.3%	34.4%
Real estate	.2%	.4%	.3%
Other	2.6%	.4%	.4%
Total	100.0%	100.0%	100.0%

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The investment objectives of the pension benefit plans are to secure the benefit obligations to participants at a reasonable cost to the Company. The goal is to optimize the long-term return on plan assets at a moderate level of risk, by balancing higher-returning assets such as equity securities, with less volatile assets, such as fixed income securities. The assets are managed by professional investment firms and performance is evaluated quarterly against specific benchmarks.

Equity securities in the U.S. plan included the Company's stock with a fair value of \$33.6 million (0.9 million shares and 13.5% of total U.S. pension plan assets) and \$26.4 million (0.9 million shares and 12.4% of total U.S. pension plan assets) at November 30, 2004 and 2003, respectively. Dividends paid on these shares were \$0.5 million in 2004 and \$0.4 million in 2003.

Pension benefit payments are made from assets of the pension plans. It is anticipated that future benefit payments for the U.S. plans will be as follows:

Fiscal year	United States Expected payments (millions)
2005	\$ 13.0
2006	13.8
2007	15.0
2008	17.3
2009	18.1
2010 - 2014	117.7

It is anticipated that future benefit payments for the international plans will be as follows:

Fiscal year	International Expected payments (millions)
2005	\$ 6.5
2006	4.2
2007	4.5
2008	5.7
2009	6.0
2010 - 2014	36.3

The Company expects to contribute approximately \$28 million to its U.S. pension plans and \$9 million to its international pension plans in 2005.

401(k) Retirement Plans

Effective March 22, 2002, the U.S. McCormick 401(k) Retirement Plan was amended to provide that the McCormick Stock Fund investment option be designated an employee stock ownership plan (ESOP). This designation allows participants investing in McCormick stock to elect to receive, in cash, dividends that are paid on McCormick stock held in their 401(k) Retirement Plan accounts. Dividends may also continue to be reinvested.

For the U.S. McCormick 401(k) Retirement Plan, the Company matches 100% of the participant's contribution up to the first 3% of the participant's salary, and 50% of the next 2% of a participant's salary. Certain U.S. subsidiaries sponsor separate 401(k) retirement plans. Company contributions charged to expense under all 401(k) Retirement Plans were \$5.7 million, \$5.4 million and \$5.5 million in 2004, 2003 and 2002, respectively.

At the participant's election, all 401(k) Retirement Plans held 4.0 million shares, with a fair value of \$144.2 million, of the Company's stock at November 30, 2004. Dividends paid on these shares in 2004 were \$2.3 million.

10. POSTRETIREMENT BENEFITS OTHER THAN PENSIONS

During 2002, the Company changed certain postretirement benefits for employees who retire on or after January 1, 2004. Life insurance benefits changed to a fixed amount, Medicare eligible retirees have a fixed amount for medical plan coverage and the medical cost sharing for dependents increased.

The Company currently provides postretirement medical and life insurance benefits to certain U.S. employees who were covered under the active employees' plan and retire after age 55 with at least 10 years of service (earned after age 45). The benefits provided under these plans are based primarily on age at date of retirement.

The Company's other postretirement benefit expense follows:

(millions)	2004	2003	2002
Service cost	\$ 2.7	\$ 2.9	\$ 3.1
Interest costs	5.3	5.7	5.7
Amortization of prior service cost	(1.1)	(1.4)	(.6)
Amortization of (gains)/losses	1.1	.9	—
One time recognition of curtailment gain	—	(3.5)	—
Discontinued operations	—	1.4	(2.4)
Postretirement benefit expense	\$ 8.0	\$ 6.0	\$ 5.8

Rollforwards of the benefit obligation, fair value of plan assets and a reconciliation of the plans' funded status at November 30, the measurement date, follow:

(millions)	2004	2003
Change in benefit obligation		
Benefit obligation at beginning of year	\$ 95.9	\$ 83.8
Service cost	2.7	2.9
Interest costs	5.3	5.7
Employee contributions	2.6	2.4
Plan changes	—	—
Actuarial (gain)/loss	(6.7)	8.1
Benefits paid	(7.4)	(7.0)
Benefit obligation at end of year	\$ 92.4	\$ 95.9
Change in fair value of plan assets		
Fair value of plan assets at beginning of year	—	—
Employer contributions	\$ 4.8	\$ 4.6
Employee contributions	2.6	2.4
Benefits paid	(7.4)	(7.0)
Fair value of plan assets at end of year	\$ —	\$ —
Funded status		
Unrecognized net actuarial loss	\$ (92.4)	\$ (95.9)
Unrecognized prior service cost	14.6	22.5
Other postretirement benefit liability	(7.7)	(8.8)
	\$ (85.5)	\$ (82.2)

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Estimated future benefit payments for the next 10 years are as follows:

Fiscal Year	Retiree Medical	Retiree Life Insurance	Total (millions)
2005	\$ 5.4	\$.7	\$ 6.1
2006	5.5	.7	6.2
2007	5.8	.8	6.6
2008	6.0	.8	6.8
2009	6.3	.9	7.2
2010 - 2014	36.7	5.0	\$ 41.7

The assumed discount rate was 6.0% for 2004 and 2003, respectively.

The assumed annual rate of increase in the cost of covered health care benefits is 8.0% for 2005. It is assumed to decrease gradually to 4.5% in the year 2011 and remain at that level thereafter. Changing the assumed health care cost trend would have the following effect:

(millions)	1-Percentage- point increase	1-Percentage- point decrease
Effect on total of service and interest cost components in 2004	\$.9	\$ (.8)
Effect on benefit obligation as of November 30, 2004	9.2	(7.7)

In December of 2003, the Medicare Prescription Drug Improvement and Modernization Act of 2003 (the Act) was enacted in the U.S. The Act introduced a prescription drug benefit under Medicare as well as a federal subsidy of 28% of drug costs between \$250 and \$5,000, tax-free (the Subsidy), to sponsors of retiree health benefit plans that provide a benefit that meets certain criteria. The Company's other postretirement plans covering U.S. retirees currently provide certain prescription benefits to eligible participants. The Company's actuaries have determined that one of the Company's prescription drug plans for retirees and their dependents retired prior to January 1, 2004 provides a benefit that is at least actuarially equivalent to Medicare Part D under the Act.

In connection with the adoption of FASB Staff Position 106-2, the Act had the effect of reducing the accumulated postretirement benefit obligation by \$3.0 million. This resulted in an unrecognized net gain to the plan, which is currently being amortized. The annual reduction in the Company's other postretirement benefits expense due to the Subsidy is expected to be approximately \$0.4 million, which includes the amortization of the unrecognized net gain. The provisions of the Act do not have a material effect on the consolidated financial statements.

11. INCOME TAXES

The provision for income taxes consists of the following:

(millions)	2004	2003	2002
Income taxes			
Current			
Federal	\$ 67.4	\$ 48.2	\$ 29.3
State	7.7	4.1	1.4
International	15.6	15.5	17.6
	90.7	67.8	48.3
Deferred			
Federal	1.5	15.3	19.6
State	—	1.4	1.9
International	(3.2)	(1.1)	(.4)
	(1.7)	15.6	21.1
Total income taxes	\$ 89.0	\$ 83.4	\$ 69.4

The components of income from consolidated continuing operations before income taxes follow:

(millions)	2004	2003	2002
Pretax income			
United States	\$ 204.5	\$ 175.6	\$ 140.7
International	89.3	94.4	83.2
	<u>\$ 293.8</u>	<u>\$ 270.0</u>	<u>\$ 223.9</u>

A reconciliation of the U.S. federal statutory rate with the effective tax rate follows:

	2004	2003	2002
Federal statutory tax rate	35.0 %	35.0 %	35.0 %
State income taxes, net of federal benefits	1.7	1.3	1.0
Tax effect of international operations	(5.8)	(5.3)	(4.4)
Tax credits	(.5)	(.8)	(1.2)
Other, net	(.1)	.7	.6
Effective tax rate	<u>30.3 %</u>	<u>30.9 %</u>	<u>31.0 %</u>

Deferred tax assets and liabilities are comprised of the following:

(millions)	2004	2003
Deferred tax assets		
Employee benefit liabilities	\$ 58.0	\$ 56.6
Accrued expenses and other reserves	19.8	18.1
Inventory	3.7	4.9
Net operating and capital loss carryforwards	11.5	7.9
Other	38.5	30.7
Valuation allowance	(13.3)	(7.0)
	<u>118.2</u>	<u>111.2</u>
Deferred tax liabilities		
Depreciation	54.7	49.4
Other	38.4	36.1
	<u>93.1</u>	<u>85.5</u>
Net deferred tax asset	<u>\$ 25.1</u>	<u>\$ 25.7</u>

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At November 30, 2004, non-U.S. subsidiaries of the Company have tax loss carryforwards of \$22.0 million. Of these carryforwards, \$11.6 million expire through 2014 and \$10.4 million may be carried forward indefinitely. The current statutory rates in these countries range from 19% to 35%.

At November 30, 2004, non-U.S. subsidiaries of the Company have capital loss carryforwards of \$15.8 million. Of these carryforwards, \$2.9 million expire in 2009 and \$12.9 million may be carried forward indefinitely. The current statutory rates in these countries range from 30% to 35%.

A valuation allowance has been provided to record deferred tax assets at their net realizable value. The 2004 net change in valuation allowance for deferred tax assets was an increase of \$6.3 million. During 2004, the Company utilized \$2.5 million of non-U.S. subsidiary tax loss carryforwards which previously had valuation allowances. This was offset by \$8.8 million of additions to the valuation allowance for tax assets added in 2004 which may not be realized in future periods.

U.S. income taxes are not provided for unremitted earnings of international subsidiaries and affiliates where the Company's intention is to reinvest these earnings permanently or to repatriate the earnings when it is tax effective to do so. Accordingly, the Company believes that any U.S. tax on repatriated earnings would be substantially offset by U.S. foreign tax credits. Unremitted earnings of such entities were \$230.5 million at November 30, 2004.

12. EMPLOYEE STOCK OPTION AND PURCHASE PLANS

Under the Company's various stock option plans, options to purchase shares of the Company's common stock were granted to employees and directors. The option price for shares granted under these plans is the fair market value on the grant date and the grants have ten-year terms.

The Company has Employee Stock Purchase Plans (ESPP) enabling employees in the U.S. and certain other countries to purchase the Company's Common Stock Non-Voting at the lower of the stock price on the grant date or the exercise date. Similarly, options are granted for certain foreign-based employees in lieu of their participation in the ESPP. Options granted under these plans have two- or three-year terms.

A summary of the Company's stock option activity for the years ended November 30, 2004, 2003 and 2002 follows:

(shares in millions)	2004		2003		2002	
	Shares	Weighted-average exercise price	Shares	Weighted-average exercise price	Shares	Weighted-average exercise price
Beginning of year	17.4	\$ 18.60	14.6	\$ 17.25	13.0	\$ 15.46
Granted	4.1	\$ 30.71	4.6	\$ 22.57	3.8	\$ 21.39
Exercised	(3.9)	\$ 16.75	(1.6)	\$ 17.43	(1.9)	\$ 13.36
Forfeited	(.2)	\$ 24.16	(.2)	\$ 20.58	(.3)	\$ 17.09
End of year	17.4	\$ 21.81	17.4	\$ 18.60	14.6	\$ 17.25
Exercisable — end of year	8.7	\$ 18.24	8.8	\$ 16.69	6.4	\$ 15.67

A summary of the Company's stock options outstanding at November 30, 2004 follows:

(shares in millions)	Options outstanding				Options exercisable	
	Shares	Weighted-average remaining life (yrs)	Weighted-average exercise price	Weighted-average exercise price	Shares	Weighted-average exercise price
Range of exercise price						
\$9.29 - \$16.26	2.7	4.8	\$ 13.38	\$ 13.38	2.7	\$ 13.38
\$16.26 - \$23.23	10.4	6.7	\$ 20.43	\$ 19.64	5.5	\$ 19.64
\$23.23 - \$30.19	.3	1.6	\$ 24.71	\$ 24.49	.3	\$ 24.49

\$30.19 - \$37.16	4.0	8.9	\$ 30.71	.2	\$ 32.16
	<u>17.4</u>	<u>6.8</u>	<u>\$ 21.81</u>	<u>8.7</u>	<u>\$ 18.24</u>

Under all stock purchase and option plans, there were 12.6 million and 9.8 million shares reserved for future grants at November 30, 2004 and 2003, respectively.

Included in stock options exercised are non-cash option swaps and taxes paid with shares of \$12.8 million, \$1.1 million and \$1.7 million for November 30, 2004, 2003 and 2002, respectively. These amounts have been excluded from common stock issued and acquired by purchase in the consolidated cash flow statement as these are non-cash transactions.

13. EARNINGS PER SHARE

The reconciliation of shares outstanding used in the calculation of basic and diluted earnings per share for the years ended November 30, 2004, 2003 and 2002 follows:

(millions)	2004	2003	2002
Average shares outstanding — basic	137.0	139.2	139.5
Effect of dilutive securities:			
Stock options and ESPP	4.3	3.4	2.8
Average shares outstanding — diluted	<u>141.3</u>	<u>142.6</u>	<u>142.3</u>

14. CAPITAL STOCKS

Holders of Common Stock have full voting rights except that (1) the voting rights of persons who are deemed to own beneficially 10% or more of the outstanding shares of Common Stock are limited to 10% of the votes entitled to be cast by all holders of shares of Common Stock regardless of how many shares in excess of 10% are held by such person; (2) the Company has the right to redeem any or all shares of stock owned by such person unless such person acquires more than 90% of the outstanding shares of each class of the Company's common stock; and (3) at such time as such person controls more than 50% of the vote entitled to be cast by the holders of outstanding shares of Common Stock, automatically, on a share-for-share basis, all shares of Common Stock Non-Voting will convert into shares of Common Stock.

Holders of Common Stock Non-Voting will vote as a separate class on all matters on which they are entitled to vote. Holders of Common Stock Non-Voting are entitled to vote on reverse mergers and statutory share exchanges where the capital stock of the Company is converted into other securities or property, dissolution of the Company and the sale of substantially all of the assets of the Company, as well as forward mergers and consolidation of the Company.

15. COMMITMENTS AND CONTINGENCIES

The Company is a party to various pending legal proceedings and claims, tax issues and other matters arising out of the normal course of business. Although the results of pending claims and litigation cannot be predicted with certainty, in management's opinion, the final outcome of these proceedings and claims, tax issues and other matters will not have a material effect on the consolidated results of operations, financial position or cash flows of the Company.

16. BUSINESS SEGMENTS AND GEOGRAPHIC AREAS

Business Segments

The Company operates in two business segments: consumer and industrial. The Company sold its packaging segment during the third quarter of 2003 (see Note 3). The consumer and industrial segments manufacture, market and distribute spices, herbs, seasonings, condiments and other flavors throughout the world. The consumer segment sells to retail outlets, including grocery, drug, dollar and mass merchandise stores under a variety of brands, including McCormick and Zatarain's in the U.S., Ducros, Vahine and Silvo in continental Europe, Club House in Canada, and Schwartz in the U.K. The industrial segment sells to other food processors and the restaurant industry both directly and through distributors and warehouse clubs.

In each of its segments, the Company produces and sells many individual products which are similar in composition and nature. It is impractical to segregate and identify profits for each of these individual product lines.

The Company measures segment performance based on operating income. Although the segments are managed separately due to their distinct distribution channels and marketing strategies, manufacturing and warehousing are often integrated to maximize cost efficiencies. Management does not segregate jointly utilized assets by individual segment for internal reporting, evaluating performance or allocating capital. Asset-related information has been disclosed in aggregate.

Accounting policies for measuring segment operating income and assets are substantially consistent with those described in Note 1, "Summary of Significant Accounting Policies." Because of manufacturing integration for certain products within the segments, products are not sold from one segment to another but rather inventory is transferred at cost. Intersegment sales are not material. Corporate and other includes general corporate expenses and charges not directly attributable to the segments. Corporate assets include cash, deferred taxes, certain investments and fixed assets.

Segment information for the years ended November 30, 2003 and November 30, 2002 has been restated to exclude discontinued operations. Certain fixed overhead charges previously allocated to Packaging were reallocated to other segments.

(millions)	Consumer	Industrial	Total Food	Corporate & Other	Total
2004					
Net sales	\$ 1,339.8	\$ 1,186.4	\$ 2,526.2	—	\$ 2,526.2
Special charges (credits)	1.0	3.0	4.0	\$ (6.5)	(2.5)
Operating income	269.7	113.6	383.3	(50.6)	332.7
Income from unconsolidated operations	12.3	2.3	14.6	—	14.6
Goodwill, net	664.9	48.0	712.9	—	712.9
Assets	—	—	2,179.1	190.5	2,369.6
Capital expenditures	—	—	65.6	4.2	69.8
Depreciation and amortization	—	—	61.1	10.9	72.0
2003					
Net sales	\$ 1,162.3	\$ 1,107.3	\$ 2,269.6	—	\$ 2,269.6
Special charges	1.8	2.3	4.1	\$ 1.4	5.5
Operating income	230.9	108.9	339.8	(44.3)	295.5
Income from unconsolidated operations	14.8	1.6	16.4	—	16.4
Goodwill, net	664.9	43.8	708.7	—	708.7

Assets	—	—	2,003.9	141.6	2,145.5
Capital expenditures	—	—	74.9	16.7	91.6
Depreciation and amortization	—	—	56.1	9.2	65.3
2002					
Net sales	\$ 993.9	\$ 1,051.0	\$ 2,044.9	—	\$ 2,044.9
Special charges	2.7	1.8	4.5	\$ 3.0	7.5
Operating income	191.9	107.3	299.2	(36.8)	262.4
Income from unconsolidated operations	21.2	1.2	22.4	—	22.4
Goodwill, net	458.2	40.5	498.7	—	498.7
Assets (a)	—	—	1,636.7	153.4	1,790.1
Capital expenditures	—	—	86.8	13.6	100.4
Depreciation and amortization	—	—	46.8	6.6	53.4

(a) 2002 amount does not include \$140.7 million of assets related to discontinued operations.

notes to consolidated financial statements

Geographic Areas

The Company has net sales and long-lived assets in the following geographic areas:

(millions)	United States	Europe	Other countries	Total
2004				
Net sales	\$ 1,558.9	\$ 610.5	\$ 356.8	\$ 2,526.2
Long-lived assets (1)	511.5	709.1	94.1	1,314.7
2003				
Net sales	\$ 1,401.4	\$ 538.2	\$ 330.0	\$ 2,269.6
Long-lived assets (1)	519.7	569.3	86.2	1,175.2
2002				
Net sales	\$ 1,312.2	\$ 434.2	\$ 298.5	\$ 2,044.9
Long-lived assets (1)	312.1	510.5	72.7	895.3

(1) Long-lived assets include property, plant and equipment, goodwill and intangible assets, net of accumulated depreciation and amortization.

17. SUPPLEMENTAL FINANCIAL STATEMENT DATA

In 2003, the Company sold its interest in non-strategic royalty agreements for \$5.2 million in cash. This sale resulted in a onetime gain of \$5.2 million which is included in "Other income, net" in the consolidated statement of income for 2003.

Supplemental income statement, balance sheet and cash flow information is as follows:

(millions)	2004	2003
Inventories		
Finished products and work-in-process	\$ 196.7	\$ 190.6
Raw materials	153.5	172.2
	\$ 350.2	\$ 362.8
Property, plant and equipment		
Land and improvements	\$ 28.0	\$ 22.1
Buildings	258.1	227.8
Machinery and equipment	631.2	569.7
Construction in progress	71.7	92.8
Accumulated depreciation	(502.4)	(454.1)
	\$ 486.6	\$ 458.3
Investments and other assets		
Investments in affiliates	\$ 76.2	\$ 70.8
Other investments	27.2	21.3
Other assets	30.7	35.0
	\$ 134.1	\$ 127.1
Other accrued liabilities		
Payroll and employee benefits	\$ 86.5	\$ 83.2
Sales allowances	121.3	98.4
Income taxes	21.0	26.4
Other	175.6	152.2
	\$ 404.4	\$ 360.2
Other long-term liabilities		
Pension	\$ 99.1	\$ 105.5
Postretirement benefits	85.5	82.2
Other	26.6	21.8
	\$ 211.2	\$ 209.5

Depreciation	\$	71.5	\$	64.8	\$	53.0
Interest paid		41.0		39.0		43.1
Income taxes paid		77.6		80.7		57.9
Interest capitalized		2.7		2.7		3.3

(millions)						
Accumulated other comprehensive income, net of tax where applicable				2004		2003
Foreign currency translation adjustment	\$		\$	210.8	\$	117.9
Unrealized loss on foreign currency exchange contracts				(2.8)		(1.8)
Fair value of open interest rate swaps				(6.0)		(6.9)
Unamortized value of settled interest rate swaps				(3.3)		(4.9)
Net unrealized loss on pension assets				—		(.8)
Minimum pension liability adjustment				(79.1)		(83.5)
	\$		\$	119.6	\$	20.0

Dividends paid per share were \$0.56 in 2004, \$0.46 in 2003 and \$0.42 in 2002.

18. SELECTED QUARTERLY DATA (UNAUDITED)

(millions except per share data)						
		First	Second	Third		Fourth
2004						
Net sales	\$	572.4	\$ 596.2	\$ 613.5	\$	744.1
Gross profit		221.7	231.9	239.2		315.1
Operating income		61.4	69.7	74.0		127.6
Net income		38.1	42.9	46.2		87.3
Basic earnings per share		.28	.31	.34		.64
Diluted earnings per share		.27	.30	.33		.62
Dividends paid per share —						
Common Stock and Common Stock Non Voting		.14	.14	.14		.14
Market Price — Common Stock						
High		31.25	35.45	35.97		37.50
Low		28.86	31.22	32.40		33.10
Market price — Common Stock Non Voting						
High		31.27	35.56	36.07		37.41
Low		28.84	31.00	32.25		33.14
2003						
Net sales	\$	485.4	\$ 527.9	\$ 557.6	\$	698.7
Gross profit		186.1	197.8	212.5		302.2
Operating income		55.0	56.4	62.7		121.4
Net income from continuing operations		33.4	38.5	40.1		87.2
Net income		35.1	40.0	51.3		84.4
Basic earnings per share						
Continuing operations		.24	.28	.29		.63
Discontinued operations		.01	.01	.01		—
Gain on sale of discontinued operations		—	—	.07		—
Cumulative effect		—	—	—		(.02)
Net income		.25	.29	.37		.61
Diluted earnings per share						
Continuing operations		.23	.27	.28		.61
Discontinued operations		.01	.01	.01		—
Gain on sale of discontinued operations		—	—	.07		—
Cumulative effect		—	—	—		(.01)
Net income		.25	.28	.36		.59
Dividends paid per share —						
Common Stock and Common Stock Non Voting		.11	.11	.12		.12
Market Price — Common Stock						
High		24.00	26.50	26.80		30.15
Low		22.05	23.00	25.35		26.26
Market price — Common Stock Non Voting						
High		24.04	26.90	27.40		30.21
Low		22.10	23.11	25.30		26.43

In the second quarter of 2004, the Company settled a class action lawsuit in the Company's favor, resulting in a net onetime gain of \$8.7 million, included in special charges/(credits). See Note 4 for further information.

In the fourth quarter of 2003, the Company consolidated the lessor of a leased distribution center in accordance with the provisions of FASB Interpretation No. 46, resulting in a cumulative effect of an accounting change of \$(2.1) million, net of tax. See Note 1 for further information. Also in the fourth quarter of 2003, the Company sold its interest in non-strategic royalty agreements, which resulted in a one-time gain of \$5.2 million.

In the third quarter of 2003, the Company disposed of its U.K. brokerage business and its packaging segment, resulting in a net gain of \$9.0 million. Financial information for previous quarters was reclassified to present the results of these discontinued operations separately from continuing operations. Refer to Note 3 for further information.

historical financial summary

(millions except per share data)	2004	2003	2002	2001	2000	1999	1998	1997	1996	1995	1994
For the year											
Net sales under EITF 01-09 (1)	\$ 2,526.2	\$ 2,269.6	\$ 2,044.9	\$ 1,939.1	\$ 1,863.5	—	—	—	—	—	—
Net sales prior to EITF 01-09 (1)	—	—	—	2,092.9	1,945.1	\$ 1,837.2	\$ 1,722.3	\$ 1,621.1	\$ 1,571.1	\$ 1,543.3	\$ 1,389.1
Percent increase	11.3 %	11.0 %	5.5 %	4.1 %	5.9 %	6.7 %	6.2 %	3.2 %	1.8 %	11.1 %	8.9 %
Operating income	332.7	295.5	262.4	219.6	200.5	149.2	163.9	153.9	92.3	152.2	66.3
Income from unconsolidated operations	14.6	16.4	22.4	21.5	18.6	13.4	6.2	7.7	5.6	2.1	7.9
Net income from continuing operations	214.5	199.2	173.8	137.1	124.5	88.1	95.3	89.4	45.4	77.8	32.1
Net income (2) (3) (4) (5) (6)	214.5	210.8	179.8	146.6	137.5	103.3	103.8	98.4	41.9	97.5	61.2
Per common share (7)											
Earnings per share — diluted											
Continuing operations	\$ 1.52	\$ 1.40	\$ 1.22	\$.98	\$.89	\$.61	\$.65	\$.59	\$.28	\$.48	\$.20
Discontinued operations (2) (5)	—	.09	.04	.07	.09	.07	.06	.06	.03	.12	.18
Extraordinary item	—	—	—	—	—	—	—	—	(.05)	—	—
Accounting change (3) (6)	—	(.01)	—	—	—	.04	—	—	—	—	—
Net income	1.52	1.48	1.26	1.05	.99	.72	.71	.65	.26	.60	.38
Earnings per share — basic (2) (3) (5) (6)	1.57	1.51	1.29	1.06	1.00	.72	.70	.65	.26	.60	.38
Common dividends declared (8)	.58	.49	.425	.405	.385	.350	.325	.305	.285	.265	.245
Market closing price — end of year	36.45	28.69	23.79	21.50	18.63	16.03	16.69	13.25	12.32	11.82	9.50
Book value per share	6.57	5.50	4.23	3.36	2.63	2.72	2.68	2.66	2.88	3.20	3.02
At Year-End (5)											
Total assets	\$ 2,369.6	\$ 2,145.5	\$ 1,930.8	\$ 1,772.0	\$ 1,659.9	\$ 1,188.8	\$ 1,259.1	\$ 1,256.2	\$ 1,326.6	\$ 1,614.3	\$ 1,555.7
Current debt	173.2	171.0	137.3	210.8	551.9	100.6	163.6	121.3	108.9	297.3	214.0
Long-term debt	465.0	448.6	450.9	451.1	157.2	238.4	247.4	276.5	291.2	349.1	374.3
Shareholders' equity	889.7	755.2	592.3	463.1	359.3	382.4	388.1	393.1	450.0	519.3	490.0
Total capital (9)	1,558.9	1,397.0	1,199.4	1,138.0	1,079.8	721.4	799.1	790.9	850.1	1,165.7	1,078.3
Statistics & Ratios											
Percentage of net sales											
Gross profit under EITF 01-09 (1)	39.9 %	39.6 %	39.1 %	38.0 %	35.2 %	—	—	—	—	—	—
Gross profit prior to EITF 01-09 (1)	—	—	—	43.5 %	38.5 %	36.2 %	35.0 %	35.5 %	36.0 %	34.9 %	36.8 %
Operating income under EITF 01-09 (1)	13.2 %	13.0 %	12.8 %	11.3 %	10.8 %	—	—	—	—	—	—
Operating income prior to EITF 01-09 (1)	—	—	—	10.5 %	10.3 %	8.1 %	9.5 %	9.5 %	5.9 %	9.9 %	4.8 %
Net income from continuing operations	8.5 %	8.8 %	8.5 %	7.1 %	6.7 %	4.8 %	5.5 %	5.5 %	2.9 %	5.0 %	2.3 %
Effective tax rate	30.3 %	30.9 %	31.0 %	32.6 %	35.5 %	40.4 %	35.7 %	36.8 %	38.6 %	35.7 %	40.5 %
Depreciation and amortization (4)	\$ 72.0	\$ 65.3	\$ 53.4	\$ 60.7	\$ 49.7	\$ 46.1	\$ 43.7	\$ 38.6	\$ 52.6	\$ 52.2	\$ 52.0
Capital expenditures	\$ 69.8	\$ 91.6	\$ 100.4	\$ 96.8	\$ 42.0	\$ 41.0	\$ 37.8	\$ 34.2	\$ 63.8	\$ 71.3	\$ 71.0
Debt-to-total-capital	40.9 %	44.4 %	49.0 %	58.2 %	65.7 %	47.0 %	51.4 %	50.3 %	47.1 %	55.5 %	54.6 %
Average shares outstanding (7)											
Basic	137.0	139.2	139.5	137.8	137.6	142.8	146.6	151.4	161.2	162.4	162.4
Diluted	141.3	142.6	142.3	140.2	139.2	144.0	147.6	151.8	161.4	162.6	163.2

(1) In 2002, the Company implemented EITF 01-09. Results have been reclassified for 2001 and 2000.

(2) The Company sold both Gilroy Foods, Incorporated and Gilroy Energy Company, Inc. in 1996.

(3) In 1999, the Company changed its actuarial method for computing pension expense.

(4) In 2002, the Company adopted SFAS No. 142, "Goodwill and Other Intangible Assets." Prior year results have not been adjusted.

(5) In 2003, the Company sold its packaging segment and Jenks Sales Brokers in the U.K. All years have been restated for the sale of the packaging segment. Only 2002 and 2001 have been restated for the sale of Jenks.

(6) In 2003, the Company consolidated the lessor of a leased distribution center in accordance with FASB Interpretation No. 46, "Consolidation of Variable Interest Entities," as revised.

(7) All share data adjusted for 2-for-1 stock split effective April 2002.

(8) Includes fourth quarter dividends which, in some years, were declared in December following the close of each fiscal year.

(9) Total capital includes debt, minority interest and shareholders' equity.

investor information

World Headquarters
McCormick & Company, Incorporated

18 Loveton Circle
Sparks, MD 21152-6000
U.S.A.
(410) 771-7301
www.mccormick.com

Stock Information

New York Stock Exchange
Symbol: MKC



Anticipated Dividend Dates — 2005

<u>Record Date</u>	<u>Payment Date</u>
04/04/05	04/15/05
07/08/05	07/22/05
10/07/05	10/21/05
12/30/05	01/20/06

McCormick has paid dividends for 80 consecutive years.

Independent Auditors

Ernst & Young LLP
621 East Pratt Street
Baltimore, MD 21202

Certifications

The Company has filed the Chief Executive Officer and Chief Financial Officer certifications required by Section 302 of the Sarbanes-Oxley Act in its Form 10-K. Additionally, the Chief Executive Officer has provided the required annual certifications to the New York Stock Exchange.

Investor Inquiries

Our website www.mccormick.com has our corporate governance principles, as well as annual reports, SEC filings, press releases, webcasts and other useful Company information.

To obtain **without cost** a copy of the annual report filed with the Securities & Exchange Commission (SEC) on Form 10-K or for general questions about McCormick or information in our annual or quarterly reports, contact Investor Relations at the world headquarters address, website or telephone:

Report ordering:
(800) 424-5855 or (410) 771-7537
Investor and securities analysts' inquiries:
(410) 771-7244

Registered Shareholder Inquiries

For questions on your account, statements, dividend payments, reinvestment and direct deposit, and for address changes, lost certificates, stock transfers, ownership changes or other administrative matters, contact our transfer agent.

Transfer Agent and Registrar

Wells Fargo Bank, N.A.
Shareowner Services
161 North Concord Exchange Street,
South St. Paul, MN 55075-1139
(877) 778-6784, or (651) 450-4064
www.wellsfargo.com/shareownerservices

You may access your account information via the Internet at www.shareowneronline.com

Investor Services Plan (Dividend Reinvestment and Direct Purchase Plan)

The Company offers an Investor Services Plan which provides shareholders of record the opportunity to automatically reinvest dividends, make optional cash purchases of stock through the Company, place stock certificates into safekeeping and sell shares through the Plan. Individuals who are not current shareholders may purchase their initial shares directly through the Plan. All transactions are subject to the limitations set forth in the Plan prospectus, which may be obtained by contacting Wells Fargo Shareowner Services at:

(877) 778-6784 or (651) 450-4064
www.wellsfargo.com/shareownerservices

Stock Price History

<u>3 months ended</u>	<u>High</u>	<u>Low</u>	<u>Close</u>
11/30/04	\$ 37.41	\$ 33.14	\$ 36.45
08/31/04	36.07	32.25	33.55
05/28/04	35.56	31.00	35.45
02/27/04	31.27	28.84	31.27

Annual Meeting

The annual meeting of shareholders will be held at 10 a.m., Wednesday, March 23, 2005, at Marriott's Hunt Valley Inn, 245 Shawan Road (Exit 20A off I-83 north of Baltimore), Hunt Valley, Maryland 21031.

Online Receipt of Annual Report and Proxy Statement

If you are a registered shareholder and would like to access next year's proxy statement and annual report over the Internet, go to www.econsent.com/mkcv/ to enroll for this service.

Trademarks

Use of ® or ™ in this annual report indicates trademarks owned or used by McCormick & Company, Incorporated and its subsidiaries and affiliates.



2005 FLAVOR FORECAST

Debbie Calver
European Technical Manager,
Flavour Group

"I often sprinkle McCormick curry powder along with McCormick coarse sea salt and McCormick cracked black pepper on roasted winter vegetables. This adds interest and excitement to an otherwise bland dish. The curry note works particularly well with a mix of sweet potatoes and bell peppers, and you can use any of the McCormick curry blends depending on your preference for hot or aromatic flavor."

This report is printed on recyclable paper. Adler Design Group designed this year's report.



McCormick & Company Incorporated
18 Loveton Circle
Sparks, Maryland 21152-6000 U.S.A.
410-771-7301

Subsidiaries of The Registrant

The following is a listing of Subsidiaries of the Registrant including the name under which they do business and their jurisdictions of incorporation. Certain subsidiaries are not listed since, considered in the aggregate as a single subsidiary, they would not constitute a significant subsidiary as of December 31, 2004.

Company Name	Jurisdiction of Incorporation
Mojave Foods Corporation	Maryland
McCormick de Centro America, S.A. de C.V.	El Salvador
McCormick Europe, Ltd.	United Kingdom
McCormick International Holdings Ltd.	United Kingdom
McCormick France Holdings S.A.S.	France
McCormick France, S.A.S.	France
Dessert Products International S.A.S.	France
McCormick (U.K.) Ltd.	Scotland
McCormick Glenthams (Proprietary) Limited	South Africa
McCormick Foods Australia Pty. Ltd.	Australia
McCormick (Guangzhou) Food Company Limited	People's Republic of China
Shanghai McCormick Foods Company Limited	People's Republic of China
McCormick Ingredients Southeast Asia Private Limited	Republic of Singapore
McCormick Pesa, S.A. de C.V.	Mexico
La Cie McCormick Canada Co.	Province of Nova Scotia, Canada
McCormick Global Ingredients Limited	Cayman
McCormick Cyprus Limited	Cyprus
McCormick Hungary Group Financing Limited	Hungary
Zatarain's Brands, Inc.	Louisiana
Uniqsauces	United Kingdom
McCormick Netherlands Holdings B.V.	The Netherlands

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in this Annual Report (Form 10-K) of McCormick & Company, Incorporated and subsidiaries of our reports dated January 25, 2005, with respect to the consolidated financial statements of McCormick & Company, Incorporated and subsidiaries, management's assessment of the effectiveness of internal control over financial reporting, and the effectiveness of internal control over financial reporting, included in the 2004 Annual Report to Shareholders of McCormick & Company, Incorporated.

Our audits also included the financial statement schedule of McCormick & Company, Incorporated and subsidiaries listed in Item 15(a). This schedule is the responsibility of the Company's management. Our responsibility is to express an opinion based on our audits. In our opinion, the financial statement schedule referred to above, when considered in relation to the basic financial statements taken as a whole, presents fairly in all material respects the information set forth therein.

We also consent to the incorporation by reference in the following Registration Statements of McCormick & Company, Incorporated and in the related Prospectuses (if applicable):

Form	Registration Number	Date Filed
S-8	333-114094	3/31/2004
S-8	333-104084	3/28/2003
S-3/A	333-46490	1/23/2001
S-8	333-93231	12/21/99
S-8	333-74963	3/24/99
S-3	333-47611	3/9/98
S-8	333-23727	3/21/97
S-3	33-66614	7/27/93
S-3	33-40920	5/29/91
S-8	33-33724	3/2/90
S-3	33-32712	12/21/89
S-3	33-24660	3/16/89
S-3	33-24659	9/15/88
S-8	33-24658	9/15/88

of our report dated January 25, 2005, with respect to the consolidated financial statements incorporated herein by reference, our report dated January 25, 2005, with respect to management's assessment of the effectiveness of internal control over financial reporting, and the effectiveness of internal control over financial reporting, incorporated herein by reference, and our report included in the preceding paragraph with respect to the financial statement schedule included in this Annual Report (Form 10-K) of McCormick & Company, Incorporated.

/s/ Ernst & Young LLP

Baltimore, Maryland
January 25, 2005

CERTIFICATION

I, Robert J. Lawless, Chairman, President and Chief Executive Officer of McCormick & Company, Incorporated, certify that:

1. I have reviewed this report on Form 10-K of McCormick & Company, Incorporated (the registrant”);
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal controls 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 controls over financial reporting.

Date: January 27, 2005

/s/ Robert J. Lawless
 Robert J. Lawless
 Chairman, President & Chief
 Executive Officer

CERTIFICATION PURSUANT TO RULE 13a-14(a)/15d-14(a)

I, Francis A. Contino, Executive Vice President – Strategic Planning & Chief Financial Officer of McCormick & Company, Incorporated, certify that:

1. I have reviewed this report on Form 10-K of McCormick & Company, Incorporated (the “registrant”);
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant’s other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) Evaluated the effectiveness of the registrant’s disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) Disclosed in this report any change in the registrant’s internal control over financial reporting that occurred during the registrant’s most recent fiscal quarter (the registrant’s fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant’s internal control over financial reporting; and

5. The registrant’s other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant’s auditors and the audit committee of the registrant’s board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal controls 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 controls over financial reporting.

Date: January 27, 2005

/s/ Francis A. Contino

Francis A. Contino
Executive Vice President – Strategic
Planning & Chief Financial Officer

**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 Annual Report of McCormick & Company, Incorporated (the "Company") on Form 10-K for the period ending November 30, 2004, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Robert J. Lawless, Chairman, President & Chief Executive Officer of the Company, certify, 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.

/s/ Robert J. Lawless

Robert J. Lawless
Chairman, President & Chief
Executive Officer

Date: January 27, 2005

**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 Annual Report of McCormick & Company, Incorporated (the "Company") on Form 10-K for the period ending November 31, 2004, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Francis A. Contino, Executive Vice President, Chief Financial Officer & Supply Chain of the Company, certify, 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.

/s/ Francis A. Contino

Francis A. Contino
Executive Vice President – Strategic
Planning & Chief Financial Officer

Date: January 27, 2005
