

OREGON STEEL MILLS INC
Form S-3
September 14, 2004

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As filed with the Securities and Exchange Commission on September 13, 2004

Registration No.

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-3

REGISTRATION STATEMENT
UNDER THE SECURITIES ACT OF 1933

OREGON STEEL MILLS, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

**1000 S.W. Broadway, Suite 2200
Portland, Oregon 97205
(503) 223-9228**

(Address, including zip code, and
telephone number, including
area code, of registrant's
principal executive offices)

**L. Ray Adams, Vice President, Finance
Oregon Steel Mills, Inc.
1000 S.W. Broadway, Suite 2200
Portland, Oregon 97205**

(Name, address, including zip code, and telephone number, including area code, of agent for service)

94-0506370
(I.R.S. Employer
Identification No.)

Copies to:

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4 Times Square
New York, New York 10036
(212) 735-3000**

Approximate date of commencement of proposed sale to the public: *As soon as practicable after this Registration Statement becomes effective.*

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being offered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, please check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of earlier effective registration statement for the same offering.

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If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box.

Calculation of Registration Fee

Title of Each Class of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price Per Share	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Common Stock, \$0.01 par value	8,625,000 shares(2)	\$14.80(1)	\$127,650,000(1)	\$16,173.26(3)

- (1) This estimate is based on the average of the high and low sales prices of the common stock of Oregon Steel Mills, Inc., as reported on the New York Stock Exchange on September 7, 2004 pursuant to Rule 457(c), solely for purposes of determining the registration fee.
- (2) Includes up to 1,125,000 shares which may be issued upon exercise of the underwriters' over-allotment option.
- (3) The registration fee is being offset by \$6,953.30 previously paid in connection with an S-3 registration statement filed by Oregon Steel Mills, Inc. on July 26, 2004 (SEC File No. 333-117672) and later withdrawn.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until this Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

The information in this preliminary prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This preliminary prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

Subject to completion, dated September 13, 2004

PRELIMINARY PROSPECTUS

7,500,000 Shares

OREGON STEEL MILLS, INC.

Common Stock

We are offering 7,500,000 shares of our common stock.

Our common stock is traded on the New York Stock Exchange under the symbol "OS." The closing sale price on _____, 2004 as reflected on the New York Stock Exchange, was \$ _____ per share.

Investing in our common stock involves risks. See "Risk Factors" beginning on page 8.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these shares or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

	Per Share	Total
Price to the public	\$	\$
Underwriting discount		
Proceeds to us		

We have granted the underwriters an option to purchase up to 1,125,000 additional shares of our common stock to cover over-allotments.

The underwriters are offering the common stock as set forth under "Underwriting." Delivery of the shares will be made on or about _____, 2004.

CIBC World Markets

UBS Investment Bank

Jefferies & Company, Inc.

KeyBanc Capital Markets

D.A. Davidson & Co.

The date of this prospectus is _____, 2004

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PROSPECTUS SUMMARY

This summary highlights information contained in other parts of this prospectus. Because it is a summary, it does not contain all of the information that you should consider before investing in the shares. You should read this entire prospectus carefully. Unless the context otherwise requires, references to "we," "us" or "our" refer collectively to Oregon Steel Mills, Inc. and its subsidiaries.

Our Company

We are a leading minimill steel producer with one of the broadest lines of specialty and commodity steel products of any domestic minimill company. We own two steel mills and have nine finishing facilities in the Western United States and Alberta, Canada.

We are focused on serving customers operating in diverse end markets west of the Mississippi River and in Western Canada. Our geographic location enables us to capitalize on a transportation cost competitive advantage in our market and contributes to the stability of our operating results. This market typically exhibits a favorable supply / demand balance as there are few competitors producing in the geographic area. There is a significant transportation cost associated with shipping steel products from other domestic and overseas locations into our market. Our manufacturing flexibility enables us to meet demanding customer specifications in a timely fashion and actively manage our product mix in response to changes in customer demand and individual product cycles.

Through strategic acquisitions and selective capital additions, we have: (i) increased shipments of steel products from approximately 750,000 tons in 1991 to over 1.6 million tons in 2003, (ii) expanded our range of finished products from two in 1991, discrete plate and large diameter welded pipe, to nine currently by adding electric resistance welded ("ERW") pipe, rail, rod, bar, seamless pipe, coiled plate, and structural tubing, (iii) increased our emphasis on higher margin specialty steel products, and (iv) focused on our primary selling region west of the Mississippi River and Western Canada.

Our two business units are the Oregon Steel Division and the Rocky Mountain Steel Mills ("RMSM") Division.

The Oregon Steel Division is centered on our Portland mill, a steel minimill with a Steckel combination mill that produces steel plate and coil for the division's steel plate heat treating, structural tubing, and large diameter and ERW pipe finishing facilities. Our Portland mill is the only hot rolled steel plate mill in the 11 Western states and is focused on selling plate and coil in the core markets of the Pacific Northwest.

The RMSM Division consists of the steelmaking and finishing facilities of CF&I Steel, L.P. located in Pueblo, Colorado. The Pueblo mill is a steel minimill which supplies steel for our rail, rod and bar, and seamless tubular finishing mills. The Pueblo mill operates the only rail facility west of the Mississippi River, and is one of only two established rail manufacturers in North America.

For 2004, we expect to ship approximately 1.72 million tons of steel products and generate approximately \$1 billion in sales. The Oregon Steel Division expects to ship approximately 615,000 tons of plate and coil, 175,000 tons of welded pipe, and 70,000 tons of structural tubing. The RMSM Division expects to ship approximately 362,000 tons of rail and 500,000 tons of rod and bar products.

Our Recent Initiatives

In May 2003, we closed our Portland mill melt shop, thereby eliminating a significant percentage of our Portland mill's fixed costs. We are currently producing finished product by processing semi-finished steel slab ("steel slab") purchased on the open market. We believe this revised business strategy will help stabilize our financial performance by substantially lowering fixed costs and allowing us to manage the margin between finished product selling prices and the cost of steel slab.

On July 31, 2003, we named James E. Declusin President and Chief Executive Officer. Mr. Declusin has over 30 years of experience in the steel industry. In 2000, Mr. Declusin joined our board of directors after a successful career with California Steel Industries where he was Senior Executive Vice President and Chief Operating Officer.

In October 2003, we leased, with an option to buy, Columbia Structural Tubing ("CST"), a structural tubing facility close to our Portland mill. CST is the former LTV Structural Tube Facility and was not operating at the time of the lease. CST provides significant operational synergies with our Portland mill by increasing capacity utilization and yields, helping to reduce overall costs per ton. In addition, CST's structural tubing sales have enhanced our operating income. Since October 2003, we have increased tons sold from this facility each month as we further develop the structural tubing market in our primary selling region.

On January 15, 2004, we announced a tentative agreement to settle the six-year labor dispute between the United Steelworkers of America (the "Union") and CF&I Steel, L.P. ("CF&I"). On March 12, 2004, the Union voted to accept the proposed agreement. On September 10, 2004, we finalized the settlement, and we now have new five-year collective bargaining agreements in place. This settlement represents a breakthrough in employee relations for us and we believe it will help provide additional operational stability.

In June 2004, we announced that we would be indefinitely idling our Napa, California large diameter steel pipe mill and fabrication facility. This will further reduce our fixed costs and improve our operational efficiencies. The steel plate that was being allocated to the Napa pipe mill from the Portland mill will be redirected to our plate and coil customers and our structural tubing and Canadian line pipe businesses.

In July 2004, our board of directors approved the construction of a spiral weld facility at or near our Portland mill. The project as approved would consist of two pipe mills with a capacity of approximately 150,000 tons, depending on product mix, capable of producing large diameter line pipe from 20" to 60" in diameter, in wall thicknesses of 1/4" to 1", and in lengths of up to 80 feet. The approved budget for the project is approximately \$35 million and we expect the project to be completed during the fourth quarter of 2005. We intend to use a portion of the net proceeds from this offering for the project. See "Use of Proceeds."

Our Strengths

Flexible and Diverse Product Portfolio: We currently have nine finishing facilities centered on our two primary steel operations. As a result, we are able to adjust our product mix as market conditions change to the products that generate higher margins. This allows us to produce a variety of specialty and commodity products, more efficiently balance capacity utilization, take advantage of niche market opportunities, and meet diverse customer needs not serviced by our competitors. For example, we can shift production at our Portland mill among specialty plate, commodity plate, and coiled plate. In addition, the Portland mill can produce coiled plate for structural tubing at CST and discrete plate and coil for line pipe at our pipe mills. At RMSM, we are able to switch production between our rail, rod and bar, and seamless tubular finishing facilities. We believe we are better able

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to weather downturns in particular end markets than some of our less diversified competitors, reducing our sensitivity to economic cycles.

High Margin Specialty Steel Products: We plan to continue our emphasis on specialty steel products, which enable us to focus on markets with barriers to entry, premium pricing, and less competition. Our specialty products include structural tubing, heat treated and other specialty plate, welded line pipe, high-carbon rod, and deep head-hardened ("DHH") rail, a highly durable rail product that commands a higher price than standard rail. We are one of only two established North American producers of rail for the railroads and the sole North American licensee of Nippon Steel's proprietary DHH rail technology. The recently leased CST facility produces high margin structural tubing by further processing coil provided almost exclusively by the Portland mill.

Market Focus: Our Portland mill is the only plate mill in the 11 Western states and our Pueblo mill is the only rail facility west of the Mississippi River. Competition from Midwestern and Eastern United States steel manufacturers is limited by the significant additional transportation costs to be incurred if they decided to ship products to the West Coast. We are currently facing only limited competition from imports due to the weak United States dollar, high ocean freight rates, and substantial demand for steel products in Asia.

Variable Cost Structure: In May 2003, we shut down our Portland mill melt shop. The determination to close the melt shop was based, in part, on high energy costs and yield losses associated with the inefficient casting technology in use at the Portland mill. We are currently producing finished product by processing steel slab purchased on the open market. This initiative significantly lowered our fixed costs and helped to stabilize our operation. We are now focused on managing the margin between finished product selling prices and the cost of steel slab.

We produce steel at our minimill at the Pueblo mill utilizing an electric arc furnace ("EAF"). The EAF method of producing steel provides numerous advantages over integrated steel producers using blast furnaces. Minimills have more efficient labor utilization and lower ratios of fixed costs to variable costs than integrated steel producers.

Efficient and Modern Manufacturing Facilities: Over the past ten years, we have invested approximately \$450 million in capital expenditures for our production facilities, including steelmaking upgrades and a combination rod and bar mill at the Pueblo mill, a Steckel combination mill at the Portland mill and a temper mill cut-to-length line adjacent to the Portland mill built as part of a joint venture with Feralloy Corporation. Additionally, in October 2003, we leased CST, a nearby state-of-the-art structural tubing facility that was constructed in 2000. These investments have increased yields, improved efficiency, and diversified our product mix, and will allow us to incur minimal capital expenditures in the near future.

Experienced Management Team: We have a strong and experienced senior management team who have an average of 24 years of experience in the steel industry. See "Management." In 2003, we hired several experienced senior managers for our Portland mill which has been an important factor in the improved operational performance of our Oregon Steel Division.

Our Strategy

We aim to continue to improve our position as a cost-efficient producer of specialty and commodity steel products. We strive to identify and implement programs to reduce production costs, diversify our product mix, enhance performance, and improve operating margins through:

using free cash flow generation to improve our liquidity;

operating manufacturing facilities capable of responding to changes in customer demand and individual product cycles;

emphasizing the production of higher margin specialty steel products;

investing in efficient and flexible manufacturing technology; and

maintaining tight cost and quality controls.

Corporate Information

We were founded in 1926 by William G. Gilmore and were incorporated in California in 1928. We were reincorporated in Delaware in 1974. Our executive offices are located at 1000 SW Broadway, Suite 2200, Portland, Oregon 97205, and our telephone number is (503) 223-9228.

The Offering

Common stock offered by Oregon Steel Mills, Inc.	7,500,000 shares
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Common stock to be outstanding after this offering	34,197,504 shares
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NYSE symbol	OS
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Use of proceeds	We estimate that the net proceeds to us from this offering will be approximately \$ _____, assuming an offering price of \$ _____ per share. We intend to use (1) \$ _____ of the net proceeds to satisfy an obligation in connection with the settlement of the labor dispute with the Union and (2) approximately \$35 million of the net proceeds to construct a spiral weld pipe mill at our Portland mill. We will use the remaining net proceeds for general corporate purposes, which may include capital expenditures, including completion of the conversion to the new furnace at the Pueblo mill, possible acquisitions of businesses, technologies, products or assets complementary to our business, funding of working capital, enhancement of liquidity, or reduction of debt. See "Use of Proceeds."
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Over-allotment option	We have granted the underwriters a 30-day option to purchase up to 1,125,000 additional shares of our common stock to cover over-allotments.
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Risk factors	You should read carefully the "Risk Factors" beginning on page 8 of this prospectus before making an investment in our common stock.
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The number of shares of our common stock to be outstanding after this offering is based on the number of shares of our common stock outstanding as of the date of this prospectus and does not include:

options to acquire an aggregate of 649,468 shares outstanding as of August 31, 2004; and

shares that may be purchased by the underwriters to cover over-allotments, if any.

Unless otherwise stated, all information contained in this prospectus assumes no exercise of the over-allotment option granted to the underwriters. See "Underwriting."

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Summary Consolidated Financial Data

The following table presents our summary consolidated financial data as of the end of and for each year in the three-year period ended December 31, 2003, which have been derived from our consolidated financial statements that have been audited by KPMG LLP as of the end of and for the year ended December 31, 2003 and PricewaterhouseCoopers LLP as of December 31, 2002 and for each of the two years in the period then ended. The table also presents our summary consolidated financial data for the six months ended June 30, 2004 and 2003, which are derived from our unaudited condensed consolidated financial statements which, in our opinion, reflect all adjustments necessary for a fair presentation. The consolidated balance sheets as of December 31, 2003 and 2002 and June 30, 2004, and the related consolidated statements of income, changes in stockholders' equity, and cash flows for each of the three years ended December 31, 2003 and the six months ended June 30, 2004 and 2003 and the notes thereto appear elsewhere in this prospectus. Results for the six months ended June 30, 2004 are not necessarily indicative of results for the full year. The summary consolidated financial data presented below should be read in conjunction with, and are qualified in their entirety by, "Selected Consolidated Financial Data," "Management's Discussion and Analysis of Financial Condition and Results of Operations," our consolidated financial statements and the notes thereto, and other financial information included elsewhere in this prospectus.

	Six Months Ended June 30		Year Ended December 31		
	2004	2003	2003	2002	2001
	(unaudited)				
	(in thousands, except tonnage, per ton, and per share amounts)				
Income Statement Data:					
Sales	\$ 534,165	\$ 365,576	\$ 723,297	\$ 904,950	\$ 780,887
Cost of sales	427,372	359,607	713,601	783,940	694,941
Fixed and other asset impairment charges		36,113	36,113		
Labor dispute settlement charges	38,868		31,089		
Selling, general and administrative expenses	27,683	24,925	50,477	58,600	64,300
Settlement of litigation					(3,391)
Loss (gain) on sale of assets	(293)	(274)	(1,835)	(1,283)	(10)
Incentive compensation	5,088	339	354	3,761	244
Operating income (loss)	35,447	(55,134)	(106,502)	59,932	24,803
Interest expense	(17,029)	(16,561)	(33,620)	(36,254)	(35,595)
Minority interests	1,614	2,462	6,108	(3,036)	(339)
Other income, net	1,472	735	1,448	961	3,044
Income (loss) before tax	21,504	(68,498)	(132,566)	21,603	(8,087)
Income tax benefit (expense)	41	7,525	6,617	(9,244)	2,159
Net income (loss) before cumulative effect of change in accounting principle	21,545	(60,973)	(125,949)	12,359	(5,928)
Cumulative effect of change in accounting principle, net of tax				(17,967)	
Net income (loss)	\$ 21,545	\$ (60,973)	\$ (125,949)	\$ (5,608)	\$ (5,928)
Common Stock Information:					
Basic earnings (loss) per share	\$ 0.81	\$ (2.31)	\$ (4.77)	\$ (0.21)	\$ (0.22)
Diluted earnings (loss) per share	\$ 0.81	\$ (2.31)	\$ (4.77)	\$ (0.21)	\$ (0.22)
Cash dividends declared per share	\$	\$	\$	\$	\$
Weighted average common shares and common equivalents outstanding:					

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	Six Months Ended June 30		Year Ended December 31		
Basic	26,535	26,388	26,392	26,388	26,378
Diluted	26,704	26,388	26,392	26,621	26,378

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	Six Months Ended June 30		Year Ended December 31		
	2004	2003	2003	2002	2001
(unaudited)					
(in thousands, except tonnage, per ton and per share amounts)					
Other Data:					
Capital expenditures	\$ 9,461	\$ 11,618	\$ 19,754	\$ 18,246	\$ 12,933
Depreciation and amortization	19,499	21,691	40,809	45,868	46,097
EBITDA	58,032	(30,246)	(58,137)	85,758	73,605
EBITDA excluding effects of fixed and other asset impairment charges, labor dispute settlement charges, and settlement of litigation	\$ 96,900	\$ 5,867	\$ 9,065	\$ 85,758	\$ 70,214
Total tonnage sold:					
Oregon Steel Division	447,200	364,800	740,700	947,000	829,700
RMSM Division	460,500	456,800	894,100	836,500	780,900
Total tonnage sold	907,700	821,600	1,634,800	1,783,500	1,610,600
Revenue per ton sold	\$ 588	\$ 445	\$ 442	\$ 507	\$ 485
EBITDA per ton sold	\$ 64	\$ (37)	\$ (36)	\$ 48	\$ 46
EBITDA excluding effects of fixed and other asset impairment charges, labor dispute settlement charges, and settlement of litigation, per ton sold	\$ 107	\$ 7	\$ 6	\$ 48	\$ 44
Operating income (loss) per ton sold	\$ 39	\$ (67)	\$ (65)	\$ 34	\$ 15
As of June 30, 2004 (in thousands)					
			Actual	As Adjusted(1)	
					(unaudited)
Balance Sheet Data:					
Cash and cash equivalents			\$ 52,958		
Net working capital			178,536		
Net property, plant and equipment			482,189		
Total assets			823,557		
Long-term debt, including current portion			311,550		
Total stockholders' equity			209,118		

- (1) Gives effect to the sale by us of 7,500,000 shares of common stock in this offering (without giving effect to the exercise of the underwriters' over-allotment option), at the assumed public offering price of \$ _____ per share, our receipt of the estimated net proceeds therefrom, and the use of \$ _____ of those net proceeds to satisfy an obligation in connection with the settlement of the labor dispute with the Union. See "Capitalization."

EBITDA, as used in the table above, is defined as the sum of consolidated net income (loss), consolidated depreciation and amortization expenses, consolidated interest expense, and consolidated income tax expense or benefit. This definition of EBITDA may not be the same as that of similarly named measures used by other companies or the definition used in any of our debt agreements.

We believe that EBITDA is useful to investors because it is a basis upon which we assess our financial performance, it provides useful information regarding our ability to service our debt, and because it is a commonly used financial analysis tool for measuring and comparing companies in several areas of liquidity, operating performance, and leverage. We believe EBITDA excluding effects of fixed and other asset impairment charges, labor dispute settlement charges, and settlement of litigation is useful to investors because we believe the excluded items

are nonrecurring, except for

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additional labor dispute settlement charges that may occur based on the market value of our shares of common stock issued as part of the settlement. See "Business Labor Matters." Therefore, we believe this financial measure is more useful to investors when comparing the reported results to previous periods.

Neither of these measures is determined in accordance with generally accepted accounting principles, are unaudited and should not be considered an alternative to, or more meaningful than, net income or income from operations, as an indicator of our operating performance, or cash flows from operating activities, as a measure of liquidity.

The following table provides a reconciliation of net income (loss) to (1) EBITDA and (2) EBITDA excluding effects of fixed and other asset impairment charges, labor dispute settlement charges, and settlement of litigation:

	Six Months Ended June 30		Year Ended December 31		
	2004	2003	2003	2002	2001
	(unaudited)				
	(in thousands)				
Net income (loss)	\$ 21,545	\$ (60,973)	\$ (125,949)	\$ (5,608)	\$ (5,928)
Income tax provision (benefit)	(41)	(7,525)	(6,617)	9,244	(2,159)
Interest expense, net	17,029	16,561	33,620	36,254	35,595
Depreciation and amortization	19,499	21,691	40,809	45,868	46,097
EBITDA	58,032	(30,246)	(58,137)	85,758	73,605
Add back (less):					
Fixed and other asset impairment charges		36,113	36,113		
Labor dispute settlement charges	38,868		31,089		
Settlement of litigation					(3,391)
EBITDA excluding effects of fixed and other asset impairment charges, labor dispute settlement charges, and settlement of litigation	\$ 96,900	\$ 5,867	\$ 9,065	\$ 85,758	\$ 70,214

RISK FACTORS

You should carefully consider the following risk factors, together with other information contained or incorporated by reference in this prospectus, in evaluating whether to invest in our shares.

Risks Related to Our Business

Until recently, the steel industry had been experiencing weak demand for products, excess capacity and low prices, and if those conditions return we could be required to reduce prices for our products and our profitability could be adversely impacted.

In recent years, the steel industry has faced weakened demand, overcapacity and low prices for products, and these conditions caused a significant number of domestic companies in the steel industry to file for bankruptcy, including some that are substantially larger than us. Our operating results were affected in 2003 by, among other things, reduced demand and pricing for welded pipe products and increased pricing pressure in plate and coil products and higher scrap and energy costs. The specialty and commodity plate and coil markets have been impacted by both new sources of domestic supply and continued imports from foreign suppliers, which have adversely affected average selling prices for our plate products. In addition, we believe that high fixed costs motivate steel producers to maintain high output levels even in the face of falling prices, thereby increasing further downward pressures on selling prices.

Demand for steel products in Asia, a weak United States dollar, high ocean freight cost, improving conditions in the manufacturing economy, and reduced United States steel production capacity have significantly reduced worldwide oversupply and excess capacity. As a result, in 2004, we, and the domestic steel industry in general, have seen significant increases in the selling price of steel products and as a result, our net revenues and profitability have significantly increased.

However, if the domestic steel industry again experiences reduced demand, overcapacity and reduced selling prices for steel products, our ability to realize our target profit margins will be impaired and our results of operations could be materially and adversely affected.

The inputs used to produce our products are subject to price fluctuations that could increase our costs of production and adversely affect our profitability.

Our principal raw material for the Pueblo mill is ferrous scrap metal derived from, among other sources, junked automobiles, railroad cars and railroad track materials and demolition scrap from obsolete structures, containers, and machines. In addition, direct-reduction iron, hot-briquetted iron, and pig iron (collectively "alternate metallica") can substitute for a limited portion of the scrap used in EAF steel production, although the sources and availability of alternate metallica are substantially more limited than those of scrap. The purchase prices for scrap and alternate metallica are affected by cyclical, seasonal, and other market factors. Prices also fluctuate on the basis of factors affecting supply, such as demand from domestic and foreign steel producers, periodic shortages, freight costs, speculation by brokers, export markets, and other conditions. Most of these factors are beyond our control. The cost of scrap and alternate metallica to us can vary significantly, and our product prices often cannot be adjusted, especially in the short-term, to recover the costs of increases in scrap and alternate metallica prices. In addition, an increase in specific utility or service costs could have an adverse effect on our margins if we are unable to pass along the higher costs to our customers.

In recent years, we purchased material quantities of steel slabs on the open market for use in the production of plate and coiled plate. Due to the closure of our melt shop, we expect steel slab purchases to represent 100% of our production needs for plate and coiled plate in 2004 and into

the foreseeable future. We purchase steel slabs on the spot market. While we do have ongoing procurement relationships, we do not have any long-term steel slab supply agreements. The steel slab market and pricing are subject to significant volatility, and steel slabs may not be available at reasonable prices in the future or at the times and in the quantities we need to satisfy our customers. The recent increase in demand in Asia, a weak United States dollar, and the increase in ocean freight costs have added to price volatility, and we expect this situation to remain unsettled until demand in Asia stabilizes.

Supply limitations or delays, including as a result of trade tariffs or quotas or port closures, would constrain our production and could materially and adversely affect our sales and profitability.

As described above, we purchase material quantities of steel slabs on the open market for use in the production of plate and coiled plate because, following the addition of the Steckel combination mill to the Portland mill in 1998, the production of steel plate and coiled plate has exceeded the steel slab production of the Portland mill. Due to the closure of our melt shop, we expect steel slab purchases to represent 100% of our production needs for plate and coiled plate in 2004 and into the foreseeable future.

The imposition of tariffs pursuant to trade laws and regulations can have an adverse impact on our business by placing tariffs and tariff-rate quotas on the import of steel slabs and raising the prices of steel slabs which we require as raw material for our production. On March 5, 2002, President Bush announced temporary measures on imports of ten categories of steel products. These measures took the form of tariffs ranging from 8 to 30 percent, as well as a tariff-rate quota on steel slab. On December 4, 2003, President Bush announced his decision to terminate the safeguard measures fifteen months before the scheduled end date of March 5, 2005, but reserved the option of introducing new measures should steel imports again surge into the United States. Since the lifting of the tariffs, the United States steel industry has seen dramatic increases in both the cost of raw materials and the selling price of most steel products. Future impositions of tariffs or quotas could limit our access to steel slabs at reasonable cost, or at all, and could consequently have a material adverse effect on our production, sales levels, operating margins, and profitability.

We purchase steel slab from a number of foreign producers. Any interruption or reduction in the supply of steel slab may make it difficult or impossible to satisfy customers' delivery requirements, which could have a material adverse effect on our results of operations. Thus far in 2004, our major suppliers of steel slab have been Ispat Mexicana S.A. de C. V. of Mexico and Companhia Siderúrgica de Tubarão, a Brazilian company. Any interruption of supply from these suppliers could have a material adverse effect on our results of operations. Most of the steel slabs we purchase are delivered by ship. Any disruption to port operations, including those caused by a labor dispute involving longshoremen or terrorism, could materially impact the supply or the cost of steel slabs, which could have a material adverse effect on our production, sales levels, and profitability.

In addition, there may be interruption or limitations in supply in the future. A disruption or curtailment in the supply of any of these or other inputs could constrain our production in general or require us to reallocate resources, thereby constraining our production of more profitable products.

We service cyclical industries and generally do not have long-term contracts with our customers, and therefore any downturn in these industries could reduce our revenue and profitability.

We sell many products to cyclical industries, such as the rail transportation, construction, capital equipment, oil and gas, and durable goods segments. Their demand for our products changes as a

result of economic conditions, energy prices or other factors beyond our control. For example, the demand for our rail products is impacted by seasonal demand, as dictated by the major railroads' procurement schedules. Demand for oil country tubular goods, which includes seamless pipe, can be subject to seasonal factors. Overall demand for these goods also is subject to significant fluctuations due to the volatility of the oil and gas prices and North American drilling activities, as well as other factors such as competition from imports. As a result of the volatility of the industries we serve, we may have difficulty increasing or maintaining our sales and profitability if we are not able to divert sales of our products to customers in other industries when one or more of our customers' industries is experiencing a decline.

We do not have any significant ongoing contracts with customers, and orders placed with us generally are cancelable by the customer prior to production. We do have contracts ranging from one year to three years with the major railroads, but these customers may not take delivery of their projected requirements or may terminate their contract with less than 60 days' advance notice. In addition, many of our contracts may be terminated by us or the customer before delivery of the full contracted amount.

Our product mix and levels of production and sales therefore are subject to fluctuations and curtailments in the demands of our customers for our products. For example, we made the decision to shut down our seamless pipe operation from November 2001 to April 2002, from mid-August 2002 to mid-September 2002, and from mid-November 2003 to date and the Napa pipe mill in July 2004 because of weakened demand in the oil and gas sector. Changes in our product mix can materially affect our operating results due to variation in the selling prices and profit margins of products.

Increased levels of imports could have an adverse effect on our business.

Foreign competition historically has adversely affected product prices in the United States and the tonnage sold by domestic producers. Fluctuations in the value of the United States dollar against several other currencies substantially affect the intensity of foreign competition. Foreign governments control or subsidize many foreign steel producers. Decisions by these producers concerning production and exports may be influenced, in part, by political and social policy considerations as well as by prevailing market conditions and profit opportunities. Economic and currency dislocations in foreign markets may encourage importers to target the United States with excess capacity at aggressive prices. Moreover, existing trade laws and regulations may be inadequate to prevent unfair trade practices concerning these imports that could pose increasing problems for us and the rest of the domestic steel industry. Any such competition may have an adverse effect on our production, sales, operating margins, and profitability.

Our substantial amount of debt could materially and adversely affect our financial health in a number of ways, including limiting our ability to obtain additional financing and reducing our ability to use cash flow for purposes other than debt payments, and prevent us from fulfilling our obligations under our outstanding debt.

At June 30, 2004, we had \$311.6 million of total debt, \$823.6 million of total assets and \$209.1 million of total stockholders' equity, and our total debt as a percentage of total capitalization was approximately 59.8%. All of our debt is secured by our and our subsidiaries' assets.

This debt could have material adverse consequences for you and for us, including but not limited to:

making it more difficult for us to satisfy our obligations with respect to our outstanding debt;

increasing our vulnerability to adverse economic and industry conditions or a downturn in our business;

limiting our ability to obtain additional financing;

requiring a substantial portion of our cash flow from operations to be used for debt payments and reducing our ability to use cash flow to fund working capital, capital expenditures, development projects, acquisitions, and other general corporate purposes;

requiring us to comply with restrictive covenants and limitations;

limiting our flexibility in planning for, or reacting to, changes in our business and our industry; and

placing us at a disadvantage to competitors with less debt or greater resources.

If we are unable to satisfy our obligations under our debt, it could result in all of our debt becoming immediately due and payable and could permit our lenders to foreclose on our and our subsidiaries' assets securing the debt.

We may not be able to generate sufficient cash flow to service our debt which could prevent us from fulfilling our obligations under our outstanding debt.

We may not be able to generate sufficient cash flow to service our debt, to repay our debt when due or to meet unanticipated capital needs. We plan to service interest payments on our debt with cash from operations. Our cash from operations, however, may not be sufficient to repay the principal of our debt when due.

Our ability to generate sufficient cash flow to satisfy our obligations will depend on our future performance, which is subject to many economic, political, competitive, regulatory, and other factors that are beyond our control. In addition, we face potential costs and liabilities associated with environmental compliance and remediation issues. If cash from operations is not sufficient to satisfy our obligations, we may need to seek additional financing in the debt or equity markets, refinance our debt, sell selected assets or reduce or delay planned activities and capital expenditures. Any such financing, refinancing or sale of assets might not be available on economically favorable terms, if at all. If we cannot meet our debt service requirements an event of default would occur under our debt instruments. This could result in all of our debt becoming immediately due and payable and could permit our lenders to foreclose on our and our subsidiaries' assets securing the debt.

We face significant competition in our principal markets, and increased competition could reduce our gross margins and net income.

The principal markets that we serve are highly competitive. We compete with other steel manufacturers primarily on the basis of product quality, price, and responsiveness to customer needs. Many of our competitors are larger and have substantial capital resources. Consolidation of our competitors and the purchase by our competitors of assets of producers that have exited the industry has increased the size of some of our competitors. Foreign producers have had, and may in the future have, a significant impact on our ability to compete, depending upon various factors, including the level of domestic prices, global and regional steel demand, exchange rates, import restrictions, and foreign subsidies. While we are one of two established North American manufacturers of rail for the railroads, foreign suppliers compete with us in the domestic rail market. In addition, one United States steel company has announced that it plans to start shipping non-specialty rail sometime in 2004. Increased competition, especially combined with excess production capacity in some products, could force us to lower our prices or to offer increased services at a higher cost to us, which would reduce our gross margins and net income.

Unplanned repairs or equipment outages could interrupt production and reduce income or cash flow.

Our operations depend upon critical pieces of equipment, such as electric arc furnaces, semi-finished casters, and rolling mills that may occasionally be out of service due to routine scheduled maintenance or equipment failures. Any unplanned unavailability of critical equipment would interrupt our production capabilities and reduce our sales and profitability. Although we have not recently experienced any equipment failures that have resulted in the complete shutdown of a major portion of our production for a significant period, we have experienced unscheduled equipment outages in the past and we could have material shutdowns in the future.

The resolution of pending environmental actions and our costs of compliance with environmental orders and regulations may materially and adversely affect our competitiveness and profitability.

We are subject to extensive federal, state, and local environmental laws and regulations concerning, among other things, wastewater, stormwater, air emissions, toxic use reduction and hazardous materials storage, handling, and disposal. Like other similar steel mills in the industry, the Pueblo mill generates, and the Portland mill has in the past generated, hazardous waste from the melting operation of the electric arc furnaces, primarily dust containing heavy metals. We are subject to increasingly stringent environmental standards, including those relating to air emissions, waste water and stormwater discharge and hazardous materials use, storage, handling, and disposal, and will likely be required to make additional expenditures, which could be significant, relating to environmental matters on an ongoing basis. Furthermore, although we have established reserves for environmental remediation, the cost of remedial measures that might eventually be required by environmental authorities may exceed those reserves. In addition, additional environmental claims, requiring further remedial expenditures in excess of our reserves, might be asserted by environmental authorities or private parties. We also may be subject to legal proceedings brought by private parties or governmental agencies with respect to environmental matters. Expenditures related to these matters could have a material adverse effect on our business.

Expenditures or proceedings of the nature described above, or other expenditures or liabilities resulting from hazardous substances located on our property or used or generated in the conduct of our business, or resulting from circumstances, actions, proceedings or claims relating to environmental matters, may have a material adverse effect on us by reducing profitability and cash available for other uses. At June 30, 2004, our financial statements reflected total accrued liabilities of \$31.0 million to cover future costs arising from environmental issues relating to our properties. Our actual future expenditures, however, for installation of and improvements to environmental control facilities, remediation of environmental conditions existing at our properties and other similar matters cannot be conclusively determined and expenditures in excess of our accrual could have a material adverse effect on our business by reducing our profitability and cash available for other uses.

We own or have owned properties and conduct or have conducted operations at properties which have been assessed as contaminated with hazardous or other controlled substances or as otherwise requiring remedial action under federal, state or local environmental laws or regulations. As a result, we are subject to several actual or potential environmental remediation obligations and potential environmental related liabilities, including the following:

We entered into a Voluntary Clean-up Agreement with the Oregon Department of Environmental Quality ("DEQ") in May 2000 committing us to conduct a full remedial investigation of, whether and to what extent, past or present operations at the Portland mill might have affected sediment quality in the Willamette River. Based on preliminary findings,

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we are conducting a full remedial investigation ("RI"), including areas of investigation throughout the Portland mill, and we have committed to implement source control if required. Our best estimate for costs of the RI study is \$853,000 over the next two years. Accordingly, we have accrued a liability of \$853,000 as of June 30, 2004. Based on the results of the RI, the DEQ may require us to incur costs associated with additional phases of investigation, remedial action or implementation of source controls. While insurance is covering the costs of the investigation, subject to a standard reservation of rights, any additional actions we are required to take by the DEQ could cause us to incur costs either in excess of available insurance amounts or not covered by insurance, which could have a material adverse effect on our results of operations.

We, along with 68 other entities, have been identified by the United States Environmental Protection Agency ("EPA") in a general notice letter as a potentially responsible party ("PRP") under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") with respect to contamination in a portion of the Willamette River that has been designated as the "Portland Harbor Superfund Site." The letter advised us that we may be liable for costs of remedial investigation and remedial action at the site, which liability, under CERCLA, may be joint and several with other PRPs. The letter also advised us that we may be liable for natural resource damages that may be associated with any releases of contaminants, principally at the Portland mill site, for which we have liability. We have agreed, along with nine other PRPs, to fund certain investigations relating to the environmental condition of the site and to the assessment of damages to natural resources. In connection with these matters, we could incur costs associated with remedial action, natural resource damage, and natural resource restoration, which could have a material adverse effect on our results of operations.

In connection with the acquisition of the Pueblo mill, our subsidiary, CF&I, accrued a liability of \$36.7 million for environmental remediation related to the prior owner's operations. In addition, as part of the postclosure permit requirements for hazardous waste units at the Pueblo mill, CF&I must conduct a corrective action program for the 82 solid waste management units at the facility and continue to address projects on a prioritized corrective action schedule. At June 30, 2004, the accrued liability was \$27.5 million, of which \$23.8 million was classified as non-current in our consolidated balance sheet. If the cost of remediation exceeds our accrual, or if regulatory authorities decide to accelerate the corrective action program schedule, our results of operations could be materially and adversely affected.

In May 2000, the EPA issued a final determination that one of the two electric arc furnaces at the Pueblo mill was subject to federal New Source Performance Standards Subpart AA ("NSPS AA"). This determination was contrary to an earlier "grandfather" determination first made in 1996 by the Colorado Department of Public Health and Environment ("CDPHE"). CF&I appealed the EPA determination in the federal Tenth Circuit Court of Appeals. The issue has been resolved by entry of a Consent Decree on November 26, 2003, and the Tenth Circuit dismissed the appeal on December 10, 2003. In that Consent Decree and overlapping with the commitments made to the CDPHE, CF&I committed to the conversion to the new furnace (to be completed approximately 21 months after permit approval and expected to cost, with all related emission control improvements, approximately \$25.0 million) and to pay approximately \$450,000 in penalties and fund certain supplemental environmental projects valued at approximately \$1.1 million, including the installation of additional pollution control equipment at the Pueblo mill. Under this settlement, and a related settlement with the CDPHE, we are subject to certain stipulated penalties if we fail to comply. In March 2004, the CDPHE notified CF&I of alleged violations of the state consent decree relating to opacity. In June 2004, the CDPHE assessed stipulated penalties of \$270,000. On July 26, 2004, CF&I sought judicial review of the determination. At this time, no date for a hearing has been set.

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In addition to these assessed penalties, we may in the future incur additional penalties related to these matters. Such penalties may materially and adversely affect our results of operations and cash flows.

Approximately 795 of our employees belong to unions; any labor disruptions, work stoppages or significant negotiated wage increases could reduce our sales or increase our costs, and accordingly could have an adverse effect on our business.

Most of the employees at our Pueblo mill and our Camrose pipe mill belong to unions. Accordingly, CF&I and Camrose Pipe Company, our 60%-owned subsidiary, negotiate collective bargaining agreements with these unions. Any failure to reach agreement on new labor agreements when required might result in a work stoppage that could, depending upon the operations affected and the length of the work stoppage, have a material adverse effect on our operations. In addition, a contract may be renegotiated with significant increases in wages or other adverse economic terms, which would increase our costs and could reduce our profitability. Moreover, as part of the 2004 settlement with the Union, we will remain neutral, that is, we will not in any way, directly or indirectly, involve ourselves in any matter which involves the unionization of production and maintenance employees, starting on January 1, 2005 for the Portland mill and January 1, 2006 for the Napa pipe mill and CST. Our unionized employees consist primarily of hourly production workers.

We may be unable to satisfy regulatory requirements relating to internal controls over financial reporting.

Section 404 of the Sarbanes-Oxley Act of 2002 requires that we evaluate and report on our internal controls over financial reporting and have our auditor attest to such evaluation. We have prepared an internal plan of action for compliance and we are in the process of documenting and testing our system of internal controls to provide the basis for our report. Due to ongoing evaluation and testing of our internal controls and the uncertainties of the interpretation of these new requirements, we cannot assure you that there may not be significant deficiencies or material weaknesses that would be required to be reported.

Senior management may be difficult to replace if they leave.

The loss of the services of one or more members of our senior management team or the inability to attract, retain and maintain additional senior management personnel could harm our business, financial condition, results of operations and future prospects. Our operations and prospects depend in large part on the performance of our senior management team, including our chief executive officer and president, James E. Declusin, our chief financial officer, L. Ray Adams, and the other members of the senior management team. We may not be able to find qualified replacements for any of these individuals if their services are no longer available. We do not have key man insurance on any executive.

Risks Relating to Our Common Stock

Certain provisions of our charter documents, Delaware law, and our stockholder rights plan could discourage potential acquisition proposals and could delay, defer or prevent a change in control of our company that our stockholders consider favorable and could depress the market value of our common stock.

Certain provisions of our certificate of incorporation and bylaws, provisions of the Delaware General Corporation Law, as well as our stockholder rights plan, could have the effect of deterring takeovers

or delaying, deferring or preventing changes in control or management of our company that our stockholders consider favorable and could depress the market value of our common stock.

Our certificate of incorporation and bylaws provide for a classified board, that directors can only be removed for cause, and require advance notice of certain stockholder proposals and director nominations. These provisions may be deemed to have an anti-takeover effect and may delay, defer or prevent a tender offer or takeover attempt that a stockholder might consider in its best interest, including those attempts that might result in a premium over the market price for the stockholder's shares.

We are a Delaware corporation subject to the provisions of Section 203 of the Delaware General Corporation Law, an anti-takeover law. Generally, this statute prohibits a publicly-held Delaware corporation from engaging in a business combination with an interested stockholder for a period of three years after the date of the transaction in which such person became an interested stockholder, unless the business combination is approved in a prescribed manner. A business combination includes a merger, asset sale or other transaction resulting in a financial benefit to the stockholder. We anticipate that the provisions of Section 203 may encourage parties interested in acquiring us to negotiate in advance with our board of directors because the stockholder approval requirement would be avoided if a majority of the directors then in office approve either the business combination or the transaction that results in the stockholder becoming an interested stockholder.

In addition, we have adopted a stockholder rights plan. The rights plan is designed to protect our stockholders in the event of unsolicited offers to acquire us and other coercive takeover tactics, which, in our board of directors' opinion, would impair its ability to represent our stockholders' interests. The rights plan may make an unsolicited takeover more difficult or less likely to occur or may prevent a takeover, even though a takeover may offer our stockholders the opportunity to sell their stock at a price above the prevailing market rate and may be favored by a majority of our stockholders.

Future sales of our common stock could depress our market price and diminish the value of your investment.

Future sales of shares of our common stock could adversely affect the prevailing market price of our common stock. If one of our existing stockholders sells a large number of shares, or if we issue a large number of shares, the market price of our common stock could significantly decline. Moreover, the perception in the public market that a stockholder might sell shares of common stock could depress the market for our common stock.

Although, we, our officers, and our directors have entered into lock-up agreements with CIBC World Markets Corp. and UBS Securities LLC, as representatives of the underwriters, whereby we and they will not offer, sell, contract to sell, pledge, grant or otherwise dispose of, directly or indirectly, any shares of our common stock or securities convertible into or exchangeable or exercisable for shares of our common stock, except for the shares of common stock to be sold in this offering and certain other exceptions, for a period of 90 days from the date of this prospectus, without the prior written consent of CIBC World Markets Corp. and UBS Securities LLC, we or any of these persons may be released from this obligation, in whole or in part, by CIBC World Markets Corp. and UBS Securities LLC in their sole discretion at any time with or without notice.

The price of our common stock may fluctuate substantially.

The market price of our common stock is likely to be highly volatile and may fluctuate substantially due to many factors, including:

actual or anticipated fluctuations in our results of operations;

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variance in our financial performance from the expectations of market analysts;

conditions and trends in the end markets we serve and changes in the estimation of the size and growth rate of these markets;

announcements of significant contracts by us or our competitors;

loss of one or more of our significant customers;

legislation;

changes in market valuation or earnings of our competitors;

trading volume of our common stock; and

general economic conditions.

In addition, the stock market in general, and the New York Stock Exchange and the market for steel companies in particular, have experienced extreme price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of particular companies affected. These broad market and industry factors may materially harm the market price of our common stock, regardless of our operating performance. In the past, following periods of volatility in the market price of a company's securities, securities class-action litigation has often been instituted against that company. Such litigation, if instituted against us, could result in substantial costs and a diversion of management's attention and resources.

We currently do not intend to pay dividends on our common stock and, consequently, your best opportunity to achieve a return on your investment is if the price of our common stock appreciates.

We currently do not plan to declare dividends on shares of our common stock in the foreseeable future. Further, the payment of dividends by us is restricted by the indenture governing our 10% First Mortgage Notes due 2009 and by our credit facility. Consequently, your best opportunity to achieve a return on your investment in our company will be if the market price of our common stock appreciates and you sell your shares at a profit.

FORWARD-LOOKING STATEMENTS

This prospectus contains "forward-looking statements," as defined by federal securities laws, with respect to our financial condition, results of operations and business, and our expectations or beliefs concerning future events. Statements made in this prospectus that are not statements of historical fact are forward-looking statements. In addition, from time to time, we and our representatives may make statements that are forward-looking. This section provides you with cautionary statements identifying important factors that could cause our actual results to differ materially from those contained in forward-looking statements made in this prospectus or otherwise made by us or on our behalf. You can identify these forward-looking statements by forward-looking words such as, but not limited to, "expect," "anticipate," "believe," "intend," "plan," "seek," "forecast," "estimate," "continue," "may," "will," "would," "could," "likely," and similar expressions.

All forward-looking statements involve risks and uncertainties. Many risks and uncertainties are inherent in the steel industry. Others are more specific to our operations. The occurrence of any of the events described, and the achievement of the expected results, depend on many events, some or all of which are not predictable or within our control. Because of such risks, uncertainties and assumptions, actual results may differ materially from expected results, and the forward-looking events described in the forward-looking statements may not occur. The following are some of the factors that could cause actual results to differ from our expectations:

changes in market supply and demand for steel, including the effect of changes in general economic conditions and imports;

changes in the availability and costs of steel scrap, steel scrap substitute materials, steel slab and billets and other raw materials or supplies used by us, as well as the availability and cost of electricity and other utilities;

downturns in the industries we serve, including the rail transportation, construction, capital equipment, oil and gas, and durable goods segments;

increased levels of steel imports;

our substantial indebtedness, debt service requirements, and liquidity constraints;

our highly leveraged capital structure and the effect of restrictive covenants in our debt instruments on our operating and financial flexibility;

availability and adequacy of our cash flow to meet our requirements;

actions by our domestic and foreign competitors;

unplanned equipment failures and plant outages;

costs of environmental compliance and the impact of governmental regulations;

risks related to pending environmental matters, including the risk that costs associated with such matters may exceed our expectations or available insurance coverage, if any, and the risk that we may not be able to resolve any matter as expected;

risks relating to our relationship with our current unionized employees and the possibility of future unionization at our Portland mill;

changes in our relationship with our workforce;

inability to satisfy regulatory requirements relating to internal controls over financial reporting;

changes in United States or foreign trade policies affecting steel imports or exports; and

other factors disclosed under "Risk Factors" in this prospectus and that may be disclosed from time to time in our SEC filings or otherwise.

All future written and verbal forward-looking statements attributable to us or any person acting on our behalf are expressly qualified in their entirety by the cautionary statements contained or referred to in this section. We caution you that any forward-looking statement reflects only our belief at the time the statement is made. We undertake no obligation to update any forward-looking statement to reflect events or circumstances after the date on which the statement is made.

USE OF PROCEEDS

We estimate that the net proceeds from the sale of the shares of common stock we are offering will be approximately \$ million (\$ million if the underwriters fully exercise the over-allotment option). "Net proceeds" is what we expect to receive after paying the underwriting discount and other expenses of the offering. For the purpose of estimating net proceeds, we are assuming that the public offering price will be \$ per share (the closing sale price of our common stock on , 2004).

We intend to use (1) \$ of the net proceeds to satisfy an obligation in connection with the settlement of the labor dispute with the Union and (2) approximately \$35 million of the net proceeds to construct a spiral weld pipe mill at our Portland mill. We will use the remaining net proceeds for general corporate purposes, which may include capital expenditures, including completion of the conversion to the new furnace at the Pueblo mill, possible acquisitions of businesses, technologies, products or assets complementary to our business, funding of working capital, enhancement of liquidity, or reduction of debt. Although we currently have no commitments or agreements to make any additional material acquisitions, we may make acquisitions in the future. Pending our use of any excess proceeds, we intend to invest such excess proceeds of this offering in short-term, interest-bearing investment-grade or government securities.

CAPITALIZATION

The following table sets forth our cash and cash equivalents and capitalization as of June 30, 2004:

on an actual basis; and

as adjusted to give effect to the sale by us of 7,500,000 shares of our common stock in this offering, our receipt of the estimated net proceeds therefrom, and the use of \$ of those net proceeds to satisfy an obligation in connection with the settlement of the labor dispute with the Union as described in "Use of Proceeds."

You should read this table together with "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our consolidated financial statements and the notes thereto included elsewhere in this prospectus.

	As of June 30, 2004	
	Actual	As Adjusted(3)
	(in thousands)	
Cash and cash equivalents	\$ 52,958	
Long-term debt (including current portion):		
10% First Mortgage Notes due 2009	\$ 305,000	
Less unamortized discount on 10% First Mortgage Notes due 2009	(2,950)	
Oregon Feralloy Partners Term Loan(1)	9,500	
Total long-term debt (including current portion)	311,550	
Stockholders' equity:		
Preferred stock, par value \$0.01 per share; 1,000 shares authorized; none issued		
Common stock, \$0.01 par value, 45,000 shares authorized, 26,656 shares issued and outstanding; 34,156 shares issued and outstanding as adjusted(2)	266	
Additional paid-in capital	228,747	
Accumulated deficit	(4,794)	
Accumulated other comprehensive income (deficit)	(15,101)	
Total stockholders' equity	209,118	
Total capitalization	\$ 520,668	

(1) Includes current portion of \$2,000,000.

(2) Excludes (i) an aggregate of 612,718 shares subject to outstanding options under our 2000 Nonqualified Stock Option Plan of as of June 30, 2004 at a weighted average exercise price of \$2.29 per share and (ii) an aggregate of 58,750 shares subject to outstanding options under our 2002 Non-Employee Director Stock Option Plan as of June 30, 2004 at a weighted average exercise price of \$4.17 per share.

(3) Does not give effect to the exercise of the underwriters' over-allotment option.

PRICE RANGE OF COMMON STOCK

Our common stock trades on the New York Stock Exchange under the symbol "OS." The following table shows, for the quarterly periods indicated, the high and low prices for the common stock as reported on the New York Stock Exchange.

	Stock Price	
	High	Low
Year ended December 31, 2002		
First Quarter	\$ 7.60	\$ 4.70
Second Quarter	8.13	5.00
Third Quarter	7.46	5.62
Fourth Quarter	6.50	3.81
Year ended December 31, 2003		
First Quarter	\$ 4.07	\$ 2.08
Second Quarter	3.50	2.11
Third Quarter	3.55	2.53
Fourth Quarter	6.02	2.95
Year ended December 31, 2004		
First Quarter	\$ 7.56	\$ 4.84
Second Quarter	14.74	6.74
Third Quarter (through _____, 2004)		

On _____, 2004, the closing price of our common stock on the New York Stock Exchange was \$ _____ per share. As of June 30, 2004, there were 1,010 holders of record of our common stock.

DIVIDEND POLICY

We have not declared cash dividends on our common stock since the third quarter of 2000. The indenture under which our 10% First Mortgage Notes due 2009 were issued contains restrictions on new indebtedness and various types of disbursements, including common stock dividends. One of the restrictions on cash dividends is based on the cumulative amount of our consolidated net income, as defined. Under that restriction, there was no amount available for cash dividends at June 30, 2004. In addition, our revolving credit facility does not allow us to pay cash dividends without the approval from the lenders. See Note 5 to the Consolidated Financial Statements as of June 30, 2004 and "Management's Discussion and Analysis of Financial Condition and Results of Operations Liquidity and Capital Resources."

SELECTED CONSOLIDATED FINANCIAL DATA

The following table presents our selected consolidated financial data as of the end of and for each year in the five-year period ended December 31, 2003, which have been derived from our consolidated financial statements that have been audited by KPMG LLP as of and for the year ended December 31, 2003 and PricewaterhouseCoopers LLP as of December 31, 2002 and for each of the four years in the period then ended. The table also presents our summary consolidated financial data for the six months ended June 30, 2004 and 2003, which are derived from our unaudited condensed consolidated financial statements which, in our opinion, reflect all adjustments necessary for a fair presentation. The consolidated balance sheets as of December 31, 2003 and 2002 and June 30, 2004, and the related consolidated statements of income, changes in stockholders' equity, and cash flows for each of the three years ended December 31, 2003 and the six months ended June 30, 2004 and 2003 and the notes thereto appear elsewhere in this prospectus. Results for the six months ended June 30, 2004 are not necessarily indicative of results for the full year. The selected consolidated financial data presented below should be read in conjunction with, and are qualified in their entirety by, "Management's Discussion and Analysis of Financial Condition and Results of Operations," our consolidated financial statements and the notes thereto and other financial information included elsewhere in this prospectus.

	Six Months Ended June 30		Year Ended December 31				
	2004	2003	2003	2002	2001	2000	1999
	(unaudited)						
	(in thousands, except tonnage, per ton and per share amounts)						
Income Statement Data:							
Sales	\$ 534,165	\$ 365,576	\$ 723,297	\$ 904,950	\$ 780,887	\$ 672,017	\$ 884,649
Cost of sales	427,372	359,607	713,601	783,940	694,941	619,016	756,461
Fixed and other asset impairment charges		36,113	36,113				
Labor dispute settlement charges	38,868		31,089				
Selling, general and administrative expenses	27,683	24,925	50,477	58,600	64,300	51,486	55,992
Settlement of litigation					(3,391)		(7,027)
Loss (gain) on sale of assets	(293)	(274)	(1,835)	(1,283)	(10)	(290)	501
Incentive compensation	5,088	339	354	3,761	244	698	10,540
Operating income (loss)	35,447	(55,134)	(106,502)	59,932	24,803	1,107	68,182
Interest expense	(17,029)	(16,561)	(33,620)	(36,254)	(35,595)	(34,936)	(35,027)
Minority interests	1,614	2,462	6,108	(3,036)	(339)	(7)	(1,475)
Other income, net	1,472	735	1,448	961	3,044	4,355	1,290
Income (loss) before tax	21,504	(68,498)	(132,566)	21,603	(8,087)	(29,481)	32,970
Income tax benefit (expense)	41	7,525	6,617	(9,244)	2,159	11,216	(13,056)
Net income (loss) before cumulative effect of change in accounting principle	21,545	(60,973)	(125,949)	12,359	(5,928)	(18,265)	19,914
Cumulative effect of change in accounting principle, net of tax				(17,967)			
Net income (loss)	\$ 21,545	\$ (60,973)	\$ (125,949)	\$ (5,608)	\$ (5,928)	\$ (18,265)	\$ 19,914

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	Six Months Ended		Year Ended December 31											
	June 30													
Common Stock Information:														
Basic earnings (loss) per share	\$	0.81	\$	(2.31)	\$	(4.77)	\$	(0.21)	\$	(0.22)	\$	(0.69)	\$	0.76
Diluted earnings (loss) per share	\$	0.81	\$	(2.31)	\$	(4.77)	\$	(0.21)	\$	(0.22)	\$	(0.69)	\$	0.76
Cash dividends declared per share	\$		\$		\$		\$		\$		\$	0.06	\$	0.56
Weighted average common shares and common equivalents outstanding:														
Basic		26,535		26,388		26,392		26,388		26,378		26,375		26,375
Diluted		26,704		26,388		26,392		26,621		26,378		26,375		26,375

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	Six Months Ended June 30		Year Ended December 31				
	2004	2003	2003	2002	2001	2000	1999
	(unaudited)						
	(in thousands, except tonnage, per ton and per share amounts)						
Other Data:							
Capital expenditures	\$ 9,461	\$ 11,618	\$ 19,754	\$ 18,246	\$ 12,933	\$ 16,684	\$ 15,908
Depreciation and amortization	19,499	21,691	40,809	45,868	46,097	46,506	47,411
EBITDA	58,032	(30,246)	(58,137)	85,758	73,605	51,961	115,408
EBITDA excluding effects of fixed and other asset impairment charges, labor dispute settlement charges, and settlement of litigation	\$ 96,900	\$ 5,867	\$ 9,065	\$ 85,758	\$ 70,214	\$ 51,961	\$ 108,381
Total tonnage sold:							
Oregon Steel Division	447,200	364,800	740,700	947,000	829,700	871,500	969,800
RMSM Division	460,500	456,800	894,100	836,500	780,900	757,000	734,900
Total tonnage sold	907,700	821,600	1,634,800	1,783,500	1,610,600	1,628,500	1,704,700
Revenue per ton sold	\$ 588	\$ 445	\$ 442	\$ 507	\$ 485	\$ 413	\$ 519
EBITDA per ton sold	\$ 64	\$ (37)	\$ (36)	\$ 48	\$ 46	\$ 32	\$ 68
EBITDA excluding effects of fixed and other asset impairment charges, labor dispute settlement charges, and settlement of litigation, per ton sold	\$ 107	\$ 7	\$ 6	\$ 48	\$ 44	\$ 32	\$ 64
Operating income (loss) per ton sold	\$ 39	\$ (67)	\$ (65)	\$ 34	\$ 15	\$ 1	\$ 40

As of June 30, 2004

Balance Sheet Data (at end of period):

	Actual	As Adjusted(1)					
Cash and cash equivalents	\$ 52,958		\$ 5,770	\$ 28,008	\$ 12,278	\$ 3,370	\$ 9,270
Net working capital	178,536		126,727	171,521	62,145	108,753	101,177
Net property, plant and equipment	482,189		477,581	523,378	551,054	583,875	613,363
Total assets	823,557		\$ 763,978	\$ 844,320	\$ 869,576	\$ 880,354	\$ 877,254
Long-term debt, including current portion	311,550		301,832	301,428	243,006	322,981	306,190
Total stockholders' equity	209,118		187,252	306,990	318,586	331,645	352,402

- (1) Gives effect to the sale by us of 7,500,000 shares of common stock in this offering (without giving effect to the exercise of the underwriters' over-allotment option), at the assumed public offering price of \$ per share, our receipt of the estimated net proceeds therefrom, and the use of \$ of those net proceeds to satisfy an obligation in connection with the settlement of the labor dispute with the Union. See "Capitalization."

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EBITDA, as used in the table above, is defined as the sum of consolidated net income (loss), consolidated depreciation and amortization expenses, consolidated interest expense, and consolidated income tax expense or benefit. This definition of EBITDA may not be the same as that of similarly named measures used by other companies or the definition used in any of our debt agreements.

We believe that EBITDA is useful to investors because it is a basis upon which we assess our financial performance, it provides useful information regarding our ability to service our debt, and because it is a commonly used financial analysis tool for measuring and comparing companies in several areas of liquidity, operating performance, and leverage. We believe EBITDA excluding effects of fixed and other asset impairment charges, labor dispute settlement charges, and settlement of litigation is useful to investors because we believe the excluded items are nonrecurring, except for additional labor dispute settlement charges that may occur based on the market value of our shares of common stock issued as part of the settlement. See "Business Labor Matters." Therefore, we believe this financial measure is more useful to investors when comparing the reported results to previous periods.

Neither of these measures is determined in accordance with generally accepted accounting principles, are unaudited and should not be considered an alternative to, or more meaningful than, net income or income from operations, as an indicator of our operating performance, or cash flows from operating activities, as a measure of liquidity.

The following table provides a reconciliation of net income (loss) to (1) EBITDA and (2) EBITDA excluding effects of fixed and other asset impairment charges, labor dispute settlement charges, and settlement of litigation:

	Six Months Ended June 30		Year Ended December 31				
	2004	2003	2003	2002	2001	2000	1999
	(unaudited)						
	(in thousands)						
Net income (loss)	\$ 21,545	\$ (60,973)	\$ (125,949)	\$ (5,608)	\$ (5,928)	\$ (18,265)	\$ 19,914
Income tax provision (benefit)	(41)	(7,525)	(6,617)	9,244	(2,159)	(11,216)	13,056
Interest expense, net	17,029	16,561	33,620	36,254	35,595	34,936	35,027
Depreciation and amortization	19,499	21,691	40,809	45,868	46,097	46,506	47,411
EBITDA	58,032	(30,246)	(58,137)	85,758	73,605	51,961	115,408
Add back (less):							
Fixed and other asset impairment charges		36,113	36,113				
Labor dispute settlement charges	38,868		31,089				
None							
Total	175,738	\$ 6.70	9,318				

(1) This plan has expired and is no longer effective, except as to outstanding awards.

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STOCKHOLDER PROPOSALS FOR PRESENTATION AT THE ANNUAL MEETING

Any stockholder of the Company wishing to have a proposal considered for inclusion in the Company's 2009 proxy solicitation materials must set forth such proposal in writing and file it with the Secretary of the Company on or before January 19, 2009. The Board of Directors will review any stockholder proposals which are filed as required and will determine whether such proposals meet applicable criteria for inclusion in the proxy solicitation materials and for consideration at the Annual Meeting. Except for director nominations, any stockholder may make any proposal at the 2009 Annual Meeting and the same may be discussed and considered, but unless stated in writing and filed with the Secretary of the Company on or before May 26, 2009, such proposal may only be voted upon at a meeting held at least 30 days after the Annual Meeting at which it is presented. Stockholder director nominations must be received by the Company no earlier than March 27, 2009 and no later than April 26, 2009.

Under the Company's Bylaws, stockholder nominations for election of directors may only be made pursuant to timely notice in writing to the Secretary of the Company not less than 60 days nor more than 90 days prior to the anniversary date of the previous year's Annual Meeting (between March 27, 2009 and April 26, 2009) to be considered at the Annual Meeting in year 2009. Such notice must state the nominee's name, age and business and residence addresses, the nominee's principal occupation or employment, and the class and number of shares of Common Stock beneficially owned by the nominee on the date of the notice. The required notice must also disclose certain information relating to the nominee of the type required to be disclosed in a proxy statement and in certain other filings under federal securities laws.

ANNUAL REPORT AND FORM 10-KSB

The 2007 Annual Report to Stockholders containing the consolidated financial statements of the Company for the year ended December 31, 2007 accompanies this proxy statement.

Stockholders may obtain, without charge, a copy of the Company's Annual Report on Form 10-KSB for the fiscal year ended December 31, 2007 as filed with the Securities and Exchange Commission, without accompanying exhibits, by writing to Daniele Johnson, Investor Relations Representative, Broadway Financial Corporation, 4800 Wilshire Boulevard, Los Angeles, California 90010. Stockholders may obtain any of the exhibits that are referred to in the list of exhibits in the Form 10-KSB upon payment to the Company of the cost of furnishing them.

BY ORDER OF THE BOARD OF DIRECTORS

Daniele Johnson
Secretary

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EXHIBIT A

BROADWAY FINANCIAL CORPORATION 2008 LONG-TERM INCENTIVE PLAN

SECTION 1

GENERAL

1.1. *Purpose.* The Broadway Financial Corporation 2008 Long-Term Incentive Plan (the *Plan*) has been established by Broadway Financial Corporation (the *Company*) to (i) attract and retain persons eligible to participate in the Plan; (ii) motivate Participants, by means of appropriate incentives, to achieve long-range goals; (iii) provide incentive compensation opportunities that are competitive with those of other similar companies; and (iv) further identify Participants' interests with those of the Company's other shareholders through compensation that is based on the Company's common stock; and thereby promote the long-term interest of the Company and the Subsidiaries, including the growth in value of the Company's equity and enhancement of long-term shareholder return.

1.2. *Participation.* Subject to the terms and conditions of the Plan, the Committee shall determine and designate, from time to time, from among the Eligible Individuals, those persons who will be granted one or more Awards under the Plan, and thereby become Participants in the Plan.

1.3. *Operation, Administration, and Definitions.* The operation and administration of the Plan, including the Awards made under the Plan, shall be subject to the provisions of Section 5 (relating to operation and administration). Capitalized terms in the Plan shall be defined as set forth in the Plan (including the definition provisions of Section 9).

SECTION 2

OPTIONS AND SARs

2.1. *Definitions.*

(a) The grant of an *Option* entitles the Participant to purchase shares of Stock at an Exercise Price established by the Committee. Any Option granted under this Section 2 may be either an incentive stock option (an *ISO*) or a non-qualified option (an *NQO*), as determined in the discretion of the Committee. An *ISO* is an Option that is intended to satisfy the requirements applicable to an incentive stock option described in section 422(b) of the Code. An *NQO* is an Option that is not intended to be an incentive stock option as that term is described in section 422(b) of the Code. Each Option granted under this Plan shall be an *NQO*, unless the Option satisfies all of the requirements of an *ISO* and the Committee designates such Option as an *ISO*.

(b) A stock appreciation right (an *SAR*) entitles the Participant to receive, in cash or Stock (as determined in accordance with subsection 5.7), value equal to (or otherwise based on) the excess of: (a) the Fair Market Value of a specified number of shares of Stock at the time of exercise; over (b) an Exercise Price established by the Committee.

2.2. *Exercise Price.* The Exercise Price of each Option and SAR granted under this Section 2 shall be established by the Committee or shall be determined by a method established by the Committee at the time the Option or SAR is granted. The Exercise Price shall not be less than 100% of the Fair Market Value of a share of Stock on the date of grant (or, if greater, the par value of a share of Stock).

2.3. *Exercise.* An Option and an SAR shall be exercisable in accordance with such terms and conditions and during such periods as may be established by the Committee. In no event, however, shall an Option or SAR expire later than ten years after the date of its grant.

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2.4. *Payment of Option Exercise Price.* The payment of the Exercise Price of an Option granted under this Section 2 shall be subject to the following:

- (a) Subject to the following provisions of this subsection 2.4, the full Exercise Price for shares of Stock purchased upon the exercise of any Option shall be paid at the time of such exercise, except that, in the case of an exercise arrangement approved by the Committee and described in paragraph 2.4(c) payment may be made as soon as practicable after the exercise.
- (b) Subject to applicable law, the Exercise Price shall be payable in cash, by promissory note or by tendering, either by actual delivery of shares or by attestation, shares of Stock acceptable to the Committee, including shares otherwise distributable pursuant to the exercise of the Option, and valued at Fair Market Value as of the day of exercise, or in any combination thereof, as determined by the Committee.
- (c) Subject to applicable law, the Committee may permit a Participant to elect to pay the Exercise Price upon the exercise of an Option by irrevocably authorizing a third party to sell a sufficient portion of the shares of Stock acquired upon exercise of the Option and remit to the Company a sufficient portion of the sale proceeds to pay the entire Exercise Price and any tax withholding resulting from such exercise.

2.5. *No Repricing.* Except for adjustments pursuant to paragraph 5.2(f) (relating to the adjustment of shares) or reductions of the Exercise Price approved by the Company's stockholders, the Exercise Price for any outstanding Option or SAR may not be decreased after the date of grant nor may an outstanding Option or SAR granted under the Plan be surrendered to the Company as consideration for the grant of a replacement Option or SAR with a lower exercise price.

2.6. *Grants of Options and SARs.* An Option may, but need not be, in tandem with an SAR and an SAR may, but need not be in tandem with an Option, in either case, regardless of whether the original award was granted under this Plan or another plan or arrangement. If an Option is in tandem with an SAR, the exercise price of both the Option and SAR shall be the same, and the exercise of the Option or SAR with respect to a share of Stock shall cancel the corresponding tandem SAR or Option right with respect to such share. If an SAR is in tandem with an Option but is granted after the grant of the Option, or if an Option is in tandem with an SAR but is granted after the grant of the SAR, the later granted tandem Award shall have the same exercise price as the earlier granted Award, and the exercise price for the later granted Award may be less than the Fair Market Value of the Stock at the time of such grant.

SECTION 3

FULL VALUE AWARDS

3.1. *Definition.* A Full Value Award is a grant of one or more shares of Stock or a right to receive one or more shares of Stock in the future, with such grant being made subject to one or more of the following, as determined by the Committee:

- (a) The grant shall be in consideration of a Participant's previously performed services, or surrender of other compensation that may be due.
- (b) The grant shall be contingent on the achievement of performance or other objectives during a specified period.
- (c) The grant shall be subject to a risk of forfeiture or other restrictions that will lapse upon the achievement of one or more goals relating to completion of service by the Participant, or achievement of performance or other objectives.

The grant of Full Value Awards may also be made subject to such other conditions, restrictions and contingencies, as the Committee shall determine.

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3.2. *Restrictions on Awards.*

- (a) The Committee may designate a Full Value Award granted to any Participant as Performance-Based Compensation. To the extent required by Code section 162(m), any Full Value Award so designated shall be conditioned on the achievement of one or more performance objectives. The performance objectives shall be based on the Performance Measures selected by the Committee. For Awards under this Section 3 intended to be Performance-Based Compensation, the grant of the Awards and the establishment of the Performance Measures shall be made during the period required under Code section 162(m).

- (b) If the right to become vested in a Full Value Award is conditioned on the completion of a specified period of service with the Company or the Subsidiaries, without achievement of Performance Measures or other performance objectives (whether or not related to Performance Measures) being required as a condition of vesting, and without the Full Value Award being granted in lieu of other compensation, then the required period of service for full vesting shall be not less than three years (subject to acceleration of vesting, to the extent permitted by the Committee, in the event of the Participant's death, disability, retirement, change in control or involuntary termination). However, the Committee may grant Full Value Awards that do not condition vesting on achievement of performance objectives, and such Awards shall not be subject to the limits of foregoing provisions of this paragraph (b), provided that the aggregate number of shares subject to Full Value Awards granted pursuant to this paragraph (b) (excluding any such Awards to the extent that they have been forfeited or cancelled) may not exceed 5% of the limit imposed by paragraph 5.2(b) (relating to the limit on shares granted under the Plan).

SECTION 4

CASH INCENTIVE AWARDS

A Cash Incentive Award is the grant of a right to receive a payment of cash (or in the discretion of the Committee, Stock having value equivalent to the cash otherwise payable) that is contingent on achievement of performance objectives over a specified period established by the Committee. The grant of Cash Incentive Awards may also be made subject to such other conditions, restrictions and contingencies as may be determined by the Committee. The Committee may designate a Cash Incentive Award granted to any Participant as Performance-Based Compensation as that term is used in section 162(m) of the Code. To the extent required by Code section 162(m), any such Award so designated shall be conditioned on the achievement of one or more Performance Measures selected by the Committee. For Awards under this Section 4 intended to be Performance-Based Compensation, the grant of the Awards and the establishment of the Performance Measures shall be made during the period required under Code section 162(m). Except as otherwise provided in the applicable plan or arrangement, distribution of any bonus awards by the Company or its Subsidiaries (whether granted pursuant to this Plan or otherwise) for a performance period ending in a calendar year, shall be made to the participant not later than March 15 of the following calendar year; provided, however, that for purposes of determining compliance with Code section 409A, a payment will be considered to satisfy the requirement of this sentence if distribution is made no later than the end of the calendar year following the end of the applicable performance period.

SECTION 5

OPERATION AND ADMINISTRATION

5.1. *Effective Date.* Subject to the approval of the shareholders of the Company at the Company's 2008 annual shareholders meeting, the Plan shall be effective as of May 8, 2008 (the Effective Date); provided, however, that Awards may be granted contingent on approval of the Plan by the shareholders of the Company at such annual meeting. In the event of Plan termination, the terms of the Plan shall remain in effect as long as any Awards under it are outstanding; provided, however, that no Awards may be granted under the Plan after the ten-year anniversary of the Effective Date.

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5.2. *Shares and Other Amounts Subject to Plan.* The shares of Stock for which Awards may be granted under the Plan shall be subject to the following:

- (a) The shares of Stock with respect to which Awards may be made under the Plan shall be shares currently authorized but unissued or, to the extent permitted by applicable law, currently held or acquired by the Company as treasury shares, including shares purchased in the open market or in private transactions.
- (b) Subject to the following provisions of this subsection 5.2, the maximum number of shares of Stock that may be delivered to Participants and their beneficiaries under the Plan shall be equal to the sum of: (i) 351,718 shares of Stock; and (ii) any shares of Stock that are represented by awards granted under the Broadway Financial Corporation Long Term Incentive Plan, as amended through June 19, 2002, and the Broadway Financial Corporation Stock Option Plan for Outside Directors, as amended through April 21, 1999 (the *Prior Plans*) that are forfeited, expire or are canceled after the Effective Date without delivery of shares of Stock or which result in the forfeiture of the shares of Stock back to the Company to the extent that such shares would have been added back to the reserve under the terms of the applicable Prior Plan. However, the limit under this paragraph (b), as well as the limits under paragraph (e) below, shall not apply to Awards granted pursuant to subsection 5.5 in replacement of awards granted under plans other than this Plan.
- (c) To the extent provided by the Committee, any Award may be settled in cash rather than Stock.
- (d) Shares of Stock with respect to an Award will be treated as delivered for purposes of the determination under paragraph (b) above, subject to the following:
 - (i) To the extent any shares of Stock covered by an Award are not delivered to a Participant or beneficiary because the Award is forfeited or canceled, such shares shall not be deemed to have been delivered for purposes of the determination under paragraph (b) above.
 - (ii) Subject to the provisions of paragraph (i) above, the total number of shares covered by an Award will be treated as delivered for purposes of this paragraph (b) to the extent payments or benefits are delivered to the Participant with respect to such shares. Accordingly (A) if an Award denominated in shares of Stock is settled in cash, the total number of shares with respect to which such payment is made shall be considered to have been delivered; (B) if shares covered by an Award are used to satisfy the applicable tax withholding obligation, the number of shares held back by the Company to satisfy such withholding obligation shall be considered to have been delivered; (C) if the exercise price of any Option granted under the Plan is satisfied by tendering shares of Stock to the Company (by either actual delivery or by attestation), the number of shares tendered to satisfy such exercise price shall be considered to have been delivered; and (D) if cash or shares of Stock are delivered in settlement of the exercise of an SAR, the total number of shares with respect to which such SAR is exercised shall be deemed delivered.
- (e) Subject to paragraph 5.2(f), the following additional maximums are imposed under the Plan.
 - (i) The maximum number of shares of Stock that may be delivered to Participants and their beneficiaries with respect to ISOs granted under the Plan shall be 351,718 shares.
 - (ii) The maximum number of shares that may be covered by Awards granted to any one Participant during any one calendar-year period pursuant to Section 2 (relating to Options and SARs) shall be 120,000 shares. For purposes of

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this paragraph (ii), if an Option is in tandem with an SAR, such that the exercise of the Option or SAR with respect to a share of Stock cancels the tandem SAR or

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Option right, respectively, with respect to such share, the tandem Option and SAR rights with respect to each share of Stock shall be counted as covering but one share of Stock for purposes of applying the limitations of this paragraph (ii).

(iii) The maximum number of shares of Stock that may be issued in conjunction with Awards granted pursuant to Section 3 (relating to Full Value Awards) and Section 4 (relating to Cash Incentive Awards, but only to the extent they are settled in Stock) shall be 175,859 shares.

(iv) For Full Value Awards that are intended to be Performance-Based Compensation, no more than 120,000 shares of Stock may be delivered pursuant to such Awards granted to any one Participant during any one calendar-year period (regardless of whether settlement of the Award is to occur prior to, at the time of, or after the time of vesting); provided that Awards described in this paragraph (iv) that are intended to be Performance-Based Compensation shall be subject to the following:

(A) If the Awards are denominated in Stock but an equivalent amount of cash is delivered in lieu of delivery of shares of Stock, the foregoing limit shall be applied to the Stock based on the methodology used by the Committee to convert the number of shares of Stock into cash.

(B) If delivery of Stock or cash is deferred until after shares of Stock have been earned, any adjustment in the amount delivered to reflect actual or deemed investment experience after the date the shares are earned shall be disregarded.

(v) For Cash Incentive Value Awards that are intended to be Performance-Based Compensation, the maximum amount payable to any Participant with respect to any performance period shall equal \$83,333 multiplied by the number of calendar months included in the performance period; provided that Awards described in this paragraph (v) that are intended to be Performance-Based Compensation, shall be subject to the following:

(A) If the Awards are denominated in cash but an equivalent amount of Stock is delivered in lieu of delivery of cash, the foregoing limit shall be applied to the cash based on the methodology used by the Committee to convert the cash into shares of Stock.

(B) If delivery of Stock or cash is deferred until after cash has been earned, any adjustment in the amount delivered to reflect actual or deemed investment experience after the date the cash is earned shall be disregarded.

(f) In the event of a corporate transaction involving the Company (including, without limitation, any stock dividend, stock split, extraordinary cash dividend, recapitalization, reorganization, merger, consolidation, split-up, spin-off, sale of assets or subsidiaries, combination or exchange of shares), the Committee shall adjust Awards to preserve the benefits or potential benefits of the Awards. Action by the Committee may include: (i) adjustment of the number and kind of shares which may be delivered under the Plan; (ii) adjustment of the number and kind of shares subject to outstanding Awards; (iii) adjustment of the Exercise Price of outstanding Options and SARs; and (iv) any other adjustments that the Committee determines to be equitable (which may include, without limitation, (I) replacement of Awards with other Awards which the Committee determines have comparable value and which are based on stock of a company resulting from the transaction, and (II) cancellation of the Award in return for cash payment of the current value of the Award, determined as though the Award is fully vested at the time of payment, provided that in the case of an Option or SAR, the amount of such payment may be the excess of value of the Stock subject to the Option or SAR at the time of the transaction over the exercise price). However, in no event shall this paragraph (f) be construed to permit a modification (including a replacement) of an Option or SAR if such modification either: (A) would result in accelerated recognition of income or imposition of additional tax under Code section 409A; or (B) would cause the Option or SAR subject to the modification (or cause a replacement Option or SAR) to be subject to Code section 409A, provided that the restriction of this clause (B) shall not apply to any Option or SAR that, at the time it is granted or otherwise, is designated as being deferred compensation subject to Code section 409A.

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5.3. *General Restrictions.* Delivery of shares of Stock or other amounts under the Plan shall be subject to the following:

- (a) Notwithstanding any other provision of the Plan, the Company shall have no obligation to deliver any shares of Stock or make any other distribution of benefits under the Plan unless such delivery or distribution complies with all applicable laws (including, without limitation, the requirements of the Securities Act of 1933), and the applicable requirements of any securities exchange or similar entity.
- (b) To the extent that the Plan provides for issuance of stock certificates to reflect the issuance of shares of Stock, the issuance may be effected on a non-certificated basis, to the extent not prohibited by applicable law or the applicable rules of any stock exchange.

5.4. *Tax Withholding.* All distributions under the Plan are subject to withholding of all applicable taxes, and the Committee may condition the delivery of any shares or other benefits under the Plan on satisfaction of the applicable withholding obligations. Except as otherwise provided by the Committee, such withholding obligations may be satisfied (i) through cash payment by the Participant; (ii) through the surrender of shares of Stock which the Participant already owns; or (iii) through the surrender of shares of Stock to which the Participant is otherwise entitled under the Plan, provided, however, that such shares under this clause (iv) may be used to satisfy not more than the Company's minimum statutory withholding obligation (based on minimum statutory withholding rates for Federal and state tax purposes, including payroll taxes, that are applicable to such taxable income).

5.5. *Grant and Use of Awards.* In the discretion of the Committee, a Participant may be granted any Award permitted under the provisions of the Plan, and more than one Award may be granted to a Participant. Subject to subsection 2.5 (relating to repricing), Awards may be granted as alternatives to or replacement of awards granted or outstanding under the Plan, or any other plan or arrangement of the Company or a Subsidiary (including a plan or arrangement of a business or entity, all or a portion of which is acquired by the Company or a Subsidiary). Subject to the overall limitation on the number of shares of Stock that may be delivered under the Plan, the Committee may use available shares of Stock as the form of payment for compensation, grants or rights earned or due under any other compensation plans or arrangements of the Company or a Subsidiary, including the plans and arrangements of the Company or a Subsidiary assumed in business combinations. Notwithstanding the provisions of subsection 2.2, Options and SARs granted under the Plan in replacement for awards under plans and arrangements of the Company, Subsidiaries, or other companies that are assumed in business combinations may provide for exercise prices that are less than the Fair Market Value of the Stock at the time of the replacement grants, if the Committee determines that such exercise price is appropriate to preserve the economic benefit of the award. The provisions of this subsection shall be subject to the provisions of subsection 5.15.

5.6. *Dividends and Dividend Equivalents.* An Award (including without limitation an Option or SAR Award) may provide the Participant with the right to receive dividend or dividend equivalent payments with respect to Stock subject to the Award (both before and after the Stock subject to the Award is earned, vested, or acquired), which payments may be either made currently or credited to an account for the Participant, and may be settled in cash or Stock, as determined by the Committee. Any such settlements, and any such crediting of dividends or dividend equivalents or reinvestment in shares of Stock, may be subject to such conditions, restrictions and contingencies as the Committee shall establish, including the reinvestment of such credited amounts in Stock equivalents. The provisions of this subsection shall be subject to the provisions of subsection 5.15.

5.7. *Settlement of Awards.* The obligation to make payments and distributions with respect to Awards may be satisfied through cash payments, the delivery of shares of Stock, the granting of replacement Awards, or combination thereof as the Committee shall determine. Satisfaction of any such obligations under an Award, which is sometimes referred to as settlement of the Award, may be subject to such conditions, restrictions and contingencies as the Committee shall determine. The Committee may permit or require the deferral of any Award payment or distribution, subject to such rules and procedures as it may establish, which may include provisions

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for the payment or crediting of interest or dividend equivalents, and may include converting such credits into deferred Stock equivalents. Except for Options and SARs designated at the time of grant or otherwise as intended to be subject to Code section 409A, this subsection 5.7 shall not be construed to permit the deferred settlement of Options or SARs if such settlement would result in deferral of compensation under Treas. Reg. §1.409A-1(b)(5)(i)(A)(3) (except as permitted in paragraphs (i) and (ii) of that section). Each Subsidiary shall be liable for payment of cash due under the Plan with respect to any Participant to the extent that such benefits are attributable to the services rendered for that Subsidiary by the Participant. Any disputes relating to liability of a Subsidiary for cash payments shall be resolved by the Committee. The provisions of this subsection shall be subject to the provisions of subsection 5.15.

5.8. *Transferability.* Except as otherwise provided by the Committee, Awards under the Plan are not transferable except as designated by the Participant by will or by the laws of descent and distribution.

5.9. *Form and Time of Elections.* Unless otherwise specified herein, each election required or permitted to be made by any Participant or other person entitled to benefits under the Plan, and any permitted modification, or revocation thereof, shall be in writing filed with the Committee at such times, in such form, and subject to such restrictions and limitations, not inconsistent with the terms of the Plan, as the Committee shall require.

5.10. *Agreement With Company.* An Award under the Plan shall be subject to such terms and conditions, not inconsistent with the Plan, as the Committee shall, in its sole discretion, prescribe. The terms and conditions of any Award to any Participant shall be reflected in such form of written (including electronic) document as is determined by the Committee. A copy of such document shall be provided to the Participant, and the Committee may, but need not require that the Participant sign a copy of such document. Such document is referred to in the Plan as an Award Agreement regardless of whether any Participant signature is required.

5.11. *Action by Company or Subsidiary.* Any action required or permitted to be taken by the Company or any Subsidiary shall be by resolution of its board of directors, or by action of one or more members of the board (including a committee of the board) who are duly authorized to act for the board, or (except to the extent prohibited by applicable law or applicable rules of any stock exchange) by a duly authorized officer of such company.

5.12. *Gender and Number.* Where the context admits, words in any gender shall include any other gender, words in the singular shall include the plural and the plural shall include the singular.

5.13. *Limitation of Implied Rights.*

- (a) Neither a Participant nor any other person shall, by reason of participation in the Plan, acquire any right in or title to any assets, funds or property of the Company or any Subsidiary whatsoever, including, without limitation, any specific funds, assets, or other property which the Company or any Subsidiary, in its sole discretion, may set aside in anticipation of a liability under the Plan. A Participant shall have only a contractual right to the Stock or amounts, if any, payable under the Plan, unsecured by any assets of the Company or any Subsidiary, and nothing contained in the Plan shall constitute a guarantee that the assets of the Company or any Subsidiary shall be sufficient to pay any benefits to any person.
- (b) The Plan does not constitute a contract of employment, and selection as a Participant will not give any participating employee or other individual the right to be retained in the employ of the Company or any Subsidiary or the right to continue to provide services to the Company or any Subsidiary, nor any right or claim to any benefit under the Plan, unless such right or claim has specifically accrued under the terms of the Plan. Except as otherwise provided in the Plan, no Award under the Plan shall confer upon the holder thereof any rights as a shareholder of the Company prior to the date on which the individual fulfills all conditions for receipt of such rights.

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5.14. *Evidence.* Evidence required of anyone under the Plan may be by certificate, affidavit, document or other information which the person acting on it considers pertinent and reliable, and signed, made or presented by the proper party or parties.

5.15. *Limitations under Section 409A.* The provisions of the Plan shall be subject to the following:

- (a) Neither subsection 5.5 nor any other provision of the Plan shall be construed to permit the grant of an Option or SAR if such action would cause the Option or SAR being granted or the option or stock appreciation right being replaced to be subject to Code section 409A, provided that this paragraph (a) shall not apply to any Option or SAR (or option or stock appreciation right granted under another plan) being replaced that, at the time it is granted or otherwise, is designated as being deferred compensation subject to Code section 409A.
- (b) Except with respect to an Option or SAR that, at the time it is granted or otherwise, is designated as being deferred compensation subject to Code section 409A, no Option or SAR shall condition the receipt of dividends with respect to an Option or SAR on the exercise of such Award, or otherwise provide for payment of such dividends in a manner that would cause the payment to be treated as an offset to or reduction of the exercise price of the Option or SAR pursuant Treas. Reg. §1.409A-1(b)(5)(i)(E).
- (c) The Plan shall not be construed to permit a modification of an Award, or to permit the payment of a dividend or dividend equivalent, if such actions would result in accelerated recognition of taxable income or imposition of additional tax under Code section 409A.

SECTION 6

CHANGE IN CONTROL

- (a) Unless determined otherwise by the Committee, upon a Participant's termination of employment within the twelve months following a Change in Control, all unvested Full Value Awards shall become fully vested and all Options and SARs shall be exercisable for a period ending on the earlier of the Expiration Date of the Option or SAR or the first anniversary of the Participant's termination of employment. Notwithstanding the foregoing provisions of this Section 6, in the event of a Change in Control as the result of a Terminating Event, a Participant's Options, SARs, and Full Value Awards will become vested and exercisable pursuant to this paragraph only if no provision has been made in writing in connection with such Terminating Event for the continuance of this Plan and for the assumption of the awards theretofore granted hereunder, or the substitution for such awards of new awards issued by the successor corporation or, if applicable, the publicly traded entity that is the parent entity of the successor corporation, with such appropriate adjustments as may be determined or approved by the Committee, in which event this Plan and the awards theretofore granted or substituted therefore shall continue in the manner and under the terms so provided.
- (b) As used in this Plan, a "Change in Control" of the Company shall mean an event of a nature that (i) would be required to be reported in response to Item 1 of a current report filed on Form 8-K pursuant to Section 13 or 15(d) of the Exchange Act as in effect on the Effective Date of this Plan; or (ii) results in any person acquiring control of the Bank or the Holding Company within the meaning of the Home Owners' Loan Act of 1933, as amended and the rules and regulations promulgated by the Office of Thrift Supervision (OTS) (or its predecessor agency), as in effect on the Effective Date of

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this Plan, (provided, that in applying the definition of change in control as set forth under the rules and regulations of the OTS, the Board shall substitute its judgment for that of the OTS); and, without limitation, such a change in control shall be deemed to have occurred at such time as (A) any person (as that term is used in Sections 13(d) and 14(d) of the Exchange Act and the regulations of the SEC thereunder, each as in effect on the date of the adoption of this Plan by the Board of Directors of the Holding Company, and including any such persons that may be deemed to be acting in concert with respect to the Bank or the Holding Company, or the acquisition, ownership or voting of Bank or Holding Company Securities) is or becomes the beneficial owner (as defined in Rule 13d-3 under the Exchange Act and the regulations of the SEC thereunder, each as in effect on the date of the adoption of this Plan by the Board of Directors of the Holding Company), directly or indirectly, of securities of the Bank or the Holding Company representing 20% or more of the Bank's or the Holding Company's outstanding securities except for any securities of the Bank purchased by the Holding Company in connection with the conversion of the Bank to the stock form and any securities purchased by any tax qualified employee benefit plan of the Bank; or (B) individuals who constitute the Board on the date of the adoption of this Plan by the Board of Directors of the Holding Company (the Incumbent Board) cease for any reason to constitute at least a majority thereof, provided that any person becoming a director subsequent to the date hereof whose election was approved by a vote of at least three-quarters of the directors then comprising the Incumbent Board, or whose nomination for election by the Holding Company's stockholders was approved by the same Nominating Committee serving under an Incumbent Board, shall be, for purposes of this clause (B), considered as though he were a member of the Incumbent Board; or (C) a plan of liquidation reorganization, merger, consolidation, sale of all or substantially all the assets of the Bank or the Holding Company or similar transaction in which the Bank or Holding Company is not the resulting entity (a Terminating Event) is approved by the Board and the stockholders or otherwise occurs; or (D) solicitations of stockholders of the Holding Company, by someone other than the Incumbent Board of the Holding Company, seeking stockholder approval of a plan of reorganization, merger or consolidation of the Holding Company or Bank or similar transaction with one or more corporations as a result of which the outstanding shares of the class of securities then subject to this Plan are exchanged for or converted into cash or property or securities not issued by the Bank or the Holding Company shall be distributed; or (E) a tender offer is made for 20% or more of the voting securities of the Bank or the Holding Company; or (F) any other event, transaction or series of transactions occurs as a result of which any person may be deemed to acquire control of the Bank or the Holding Company (as such terms are defined in the regulations of the OTS set forth at 12 C.F.R. Part 574 as in effect on the effective date of this Plan).

SECTION 7**COMMITTEE**

7.1. Administration. The authority to control and manage the operation and administration of the Plan shall be vested in a committee (the Committee) in accordance with this Section 7. The Committee shall be selected by the Board, and shall consist solely of two or more members of the Board. If the Committee does not exist, or for any other reason determined by the Board, and to the extent not prohibited by applicable law or the applicable rules of any stock exchange, the Board may take any action under the Plan that would otherwise be the responsibility of the Committee.

7.2. Powers of Committee. The Committee's administration of the Plan shall be subject to the following:

- (a) Subject to the provisions of the Plan, the Committee will have the authority and discretion to select from among the Eligible Employees those persons who shall receive Awards, to determine the time or times of receipt, to determine the types of Awards and the number of shares covered by the Awards, to establish the terms, conditions, performance criteria, restrictions, and other provisions of such Awards, and (subject to the restrictions imposed by Section 8) to amend, cancel, or suspend Awards.

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- (b) To the extent that the Committee determines that the restrictions imposed by the Plan preclude the achievement of the material purposes of the Awards in jurisdictions outside the United States, the Committee will have the authority and discretion to modify those restrictions as the Committee determines to be necessary or appropriate to conform to applicable requirements or practices of jurisdictions outside of the United States.
- (c) The Committee will have the authority and discretion to interpret the Plan, to establish, amend, and rescind any rules and regulations relating to the Plan, to determine the terms and provisions of any Award Agreement made pursuant to the Plan, and to make all other determinations that may be necessary or advisable for the administration of the Plan.
- (d) Any interpretation of the Plan by the Committee and any decision made by it under the Plan is final and binding on all persons.
- (e) In controlling and managing the operation and administration of the Plan, the Committee shall take action in a manner that conforms to the articles and by-laws of the Company, and applicable state corporate law.
- (f) The Committee shall take such actions as it determines to be necessary or appropriate with respect to this Plan, and the Awards granted under the Plan, to avoid acceleration of income recognition or imposition of penalties under Code section 409A.
- (g) Notwithstanding any other provision of the Plan, no benefit shall be distributed under the Plan unless the Committee, in its sole discretion, determines that such person is entitled to benefits under the Plan.

7.3. Delegation by Committee. Except to the extent prohibited by applicable law or the applicable rules of a stock exchange, the Committee may allocate all or any portion of its responsibilities and powers to any one or more of its members and may delegate all or any part of its responsibilities and powers to any person or persons selected by it. Any such allocation or delegation may be revoked by the Committee at any time.

7.4. Information to be Furnished to Committee. The Company and Subsidiaries shall furnish the Committee with such data and information as it determines may be required for it to discharge its duties. The records of the Company and Subsidiaries as to an employee's or Participant's employment (or other provision of services), termination of employment (or cessation of the provision of services), leave of absence, reemployment and compensation shall be conclusive on all persons unless determined to be incorrect. Participants and other persons entitled to benefits under the Plan must furnish the Committee such evidence, data or information as the Committee considers desirable to carry out the terms of the Plan.

7.5. Applicable Law. The provisions of the Plan shall be construed in accordance with the laws of the State of California, without regard to the conflict of law provisions of any jurisdiction.

SECTION 8

AMENDMENT AND TERMINATION

The Board may, at any time, amend or terminate the Plan, and the Board or the Committee may amend any Award Agreement, provided that no amendment or termination may, in the absence of written consent to the change by the affected Participant (or, if the Participant is not then living, the affected beneficiary), adversely affect the rights of any Participant or beneficiary under any Award granted under the Plan prior to the date such amendment is adopted by the Board (or the Committee, if applicable); and further provided that adjustments pursuant to paragraph 5.2(f) shall not be subject to the foregoing limitations of this Section 8; and further provided that the provisions of subsection 2.5 (relating to Option and SAR repricing) cannot be amended unless the amendment is approved by the Company's stockholders. No amendment or termination shall be adopted or effective if it would result in accelerated recognition of income or imposition of additional tax under Code section 409A or, except as otherwise provided in the amendment, would cause amounts that were not otherwise subject to Code section 409A to become subject to section 409A.

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SECTION 9

DEFINED TERMS

In addition to the other definitions contained herein, the following definitions shall apply:

- (a) *Award*. The term *Award* means any award or benefit granted under the Plan, including, without limitation, the grant of Options, SARs, Full Value Awards, and Cash Incentive Awards.
- (b) *Board*. The term *Board* means the Board of Directors of the Company.
- (c) *Code*. The term *Code* means the Internal Revenue Code of 1986, as amended. A reference to any provision of the Code shall include reference to any successor provision of the Code.
- (d) *Eligible Individual*. For purposes of the Plan, the term *Eligible Individual* means any employee of the Company or a Subsidiary, and any consultant, director, or other person providing services to the Company or a Subsidiary; provided, however, that an ISO may only be granted to an employee of the Company or a Subsidiary. An Award may be granted to an employee or other individual providing services, in connection with hiring, retention or otherwise, prior to the date the employee first performs services for the Company or the Subsidiaries, provided that such Awards shall not become vested prior to the date the employee or service provider first performs such services.
- (e) *Fair Market Value*. Except as otherwise provided by the Committee, for purposes of determining the *Fair Market Value* of a share of Stock as of any date means the average of the high and low bid prices of the Stock as reported by the Nasdaq Stock Market (as published by the Wall Street Journal, if then so published) or, if the Common Stock is then listed on or quoted through a stock exchange or transaction reporting system on or through which actual sale prices are regularly reported, the closing sale price of the Common Stock, on the grant date, or if the Common Stock was not traded on such date, on the next preceding day on which the Common Stock was quoted or traded, as the case may be.
- (f) *Performance-Based Compensation*. The term *Performance-Based Compensation* shall have the meaning ascribed to it under Code section 162(m) and the regulations thereunder.
- (g) *Performance Measures*. The *Performance Measures* shall be based on any one or more of the following Company, Subsidiary, operating unit or division performance measures: net sales; revenue; revenue growth or product revenue growth; operating income (before or after taxes); pre- or after-tax income (before or after allocation of corporate overhead and bonus); earnings per share; net income (before or after taxes); return on equity; efficiency ratio; total shareholder return; return on assets or net assets; appreciation in and/or maintenance of the price of the shares or any other publicly-traded securities of the Company; market share; gross profits; earnings (including earnings before taxes, earnings before interest and taxes or earnings before interest, taxes, depreciation and amortization); economic value-added models or equivalent metrics; comparisons with various stock market indices; reductions in costs; cash flow or cash flow per share (before or after dividends); return on capital (including return on total capital or return on invested capital); cash flow return on investment; improvement in or attainment of expense levels or working capital levels; operating or interest rate margins, gross margins or cash margin; year-end cash; debt reductions; shareholder equity; market share; regulatory achievements; and implementation, completion or attainment of measurable objectives with respect to research, development, products or projects, production volume levels, acquisitions and divestitures and recruiting and maintaining personnel; or any combination thereof. Each goal may be expressed on an absolute and/or relative basis, may be based on or otherwise employ comparisons based on internal targets, the past performance of the Company and/or the past or current performance of other companies, and in the case of earnings-based measures, may use or employ comparisons relating to capital, shareholders equity and/or shares outstanding, investments or to assets or net assets, and may (but need not) provide for adjustments for restructurings,

extraordinary, and other unusual, non-recurring, or similar charges.

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- (h) *Stock*. The term *Stock* means shares of common stock, \$0.01 par value of the Company.
- (i) *Subsidiaries*. For purposes of the Plan, the term *Subsidiary* means any corporation, partnership, joint venture or other entity during any period in which at least a fifty percent voting or profits interest is owned, directly or indirectly, by the Company (or by any entity that is a successor to the Company), and any other business venture designated by the Committee in which the Company (or any entity that is a successor to the Company) has a significant interest, as determined in the discretion of the Committee.
- (j) *Termination of Service*. With respect to Awards that constitute Deferred Compensation, references to the Participant's termination of employment (including references to the Participant's employment termination, and to the Participant terminating employment, a Participant's separation from service, and other similar reference) and references to a Participant's termination as a director (including separation from service and other similar references) shall mean, respectively, the Participant ceasing to be employed by, or ceasing to perform director services for, the Company and the Affiliates, subject to the following:
- (i) The employment relationship or director relationship will be deemed to have ended at the time the Participant and the applicable company reasonably anticipate that a level of bona fide services the Participant would perform for the Company and the Affiliates after such date would permanently decrease to no more than 20% of the average level of bona fide services performed over the immediately preceding 36 month period (or the full period of service to the Company and the Affiliates if the Participant has performed services for the Company and the Affiliates for less than 36 months). In the absence of an expectation that the Participant will perform at the above-described level, the date of termination of employment or termination as a director will not be delayed solely by reason of the Participant continuing to be on the Company's and the Affiliates' payroll after such date.
- (ii) The employment or director relationship will be treated as continuing intact while the Participant is on a bona fide leave of absence (determined in accordance with Treas. Reg. §409A-1(h)).
- (iii) The determination of a Participant's termination of employment or termination as a director by reason of a sale of assets, sale of stock, spin-off, or other similar transaction of the Company or an Affiliate will be made in accordance with Treas. Reg. §1.409A-1(h).
- (iv) If a Participant performs services both as an employee of the Company or an Affiliate, and a member of the board of directors of the Company or an Affiliate, the determination of whether termination of employment or termination of service as a director shall be made in accordance with Treas. Reg. §1.409A-1(h)(5) (relating to dual status service providers).
- (v) The term *Affiliates* means all persons with whom the Company is considered to be a single employer under section 414(b) of the Code and all persons with whom the Company would be considered a single employer under section 414(c) thereof.
- (vi) The term *Deferred Compensation* means payments or benefits that would be considered to be provided under a nonqualified deferred compensation plan as that term is defined in Treas. Reg. §1.409A-1.

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